Portfolio Committee No. 4 – Legal Affairs

Fire and Emergency Services Levy

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Terms of reference

1. That Portfolio Committee No. 4 - Legal Affairs inquire into and report on the funding of fire and emergency services, and in particular:

   (a) the policy process and financial modelling underlying the provisions of the *Fire and Emergency Services Levy Act 2017*,

   (b) the policy and financial implications for all stakeholders of repealing this Act,

   (c) alternative models for ensuring that fire and emergency services are fully funded in a fair and equitable manner; and

   (d) any other related matter.

The terms of reference were self-referred by the committee on 22 June 2017.[1]

1 *Minutes*, NSW Legislative Council, 22 June 2017, pp 1795-1796.

Committee details

Committee members

The Hon Robert Borsak MLC	Shooters, Fishers and Farmers Party	*Chair*
Mr David Shoebridge MLC	The Greens	*Deputy Chair*
The Hon David Clarke MLC	Liberal Party	
The Hon Catherine Cusack MLC	Liberal Party	
The Hon Trevor Khan MLC	The Nationals	
The Hon Shaoquett Moselmane MLC	Australian Labor Party	
The Hon Lynda Voltz MLC	Australian Labor Party	

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Chair's foreword

Firstly, the committee acknowledges the important work undertaken by our fire and emergency services. We believe it is critical to ensure these organisations receive the appropriate funding.

Currently, fire and emergency services are funded through three sources: a levy on insurers (who often pass on the fee to owners of home and contents, motor vehicle, and commercial property insurance policies); a levy on local councils; and general revenue. Indeed, approximately 85.4 per cent of the funding for these agencies are recovered from insurers (73.7 per cent) and local councils (11.7 per cent) through an Emergency Services Levy (ESL).

Following numerous reports suggesting that the current funding system is deficient, particularly around key issues such as fairness, affordability, and transparency, in December 2015, the NSW Government announced its intention to move away from the insurance-based levy to a property-based levy to fund fire and emergency services.

Following extensive work and the investment of significant funds and resources by NSW Treasury, the NSW Valuer General, local councils, insurers and other stakeholders, in April 2017, the Fire and Emergency Services Bill received assent. The Bill introduced the new property-based levy, known as the Fire and Emergency Services Levy (FESL), which was to commence on 1 July 2017.

After the FESL was announced, the NSW Government conducted an advertising and information campaign, including the release of a FESL calculator, to familiarise the community with the new levy. At this time, community feedback suggested that many property owners would be significantly worse off under the new system. On 30 May 2017, the NSW Government deferred the introduction of the FESL citing concerns that the levy failed to meet the desired policy outcomes, that is, it unfairly placed an excessive funding burden on a small number of property owners in New South Wales.

As a result, the ESL remains in place while the government considers how to reintroduce a more equitable system.

The committee has found the NSW Government's failed implementation of the FESL was a poor public policy decision, undertaken without adequate understanding of the complexities of the issue or the impacts of the proposed reforms. Additionally, we found that the government's failed implementation and late deferral of FESL has caused significant and avoidable costs to local government and the insurance industry. It is unclear why the NSW Government chose to pursue the FESL in its 2017 form when it was clearly not going to meet its policy objectives. It was an unnecessary waste of millions of dollars which could have been used to fund hospitals, schools, or fire and emergency services.

The committee understands that while the 2017 FESL is 'dead, buried and cremated', the NSW Government is likely to introduce a new property-based levy should it be re-elected in 2019. The committee has therefore made six recommendations in this report which seek to ensure that any new levy is fair, equitable and transparent.

I would like to thank my committee colleagues and inquiry stakeholders for their involvement in this inquiry. I also extend my thanks to the committee secretariat for their assistance with this inquiry.

Hon Robert Borsak MLC
Committee Chair

Findings and recommendations

Finding 1 **8**

That the NSW Government's failed implementation of the Fire and Emergency Services Levy was a poor public policy decision, undertaken without adequate understanding of the complexities of the issue or the impacts of the proposed reforms.

Finding 2 **46**

The NSW Government's failed implementation and late deferral of the Fire and Emergency Services Levy has caused significant and avoidable costs to local government and the insurance industry.

Recommendation 1 **23**

That the NSW Government provide greater oversight and accountability to ensure that the budgets for fire and emergency services agencies are appropriate.

Recommendation 2 **38**

That NSW Treasury continue to work to minimise the number of 'known unknowns' and conduct a full, and transparent re-modelling of any new Fire and Emergency Services Levy.

Recommendation 3 **38**

That the NSW Government consider making Revenue NSW responsible for administering any new Fire and Emergency Services Levy.

Recommendation 4 **63**

That no future NSW Government should move to implement a Fire and Emergency Services Levy unless it considers:

- use of capital improved value of land for calculation of levy
- differential levy rates, fixed charges, discounts and caps
- better aligned land classifications between council and the Fire and Emergency Services Levy
- inclusion of motor vehicles
- the removal of 11.7 per cent contribution by councils
- addressing the impact of the Fire and Emergency Services Levy on lower socio economic households who are currently unable to afford building and contents insurance.

Recommendation 5 **63**

That the NSW Government ensure appropriate consultation with key stakeholders during the development or re-modelling of any new Fire and Emergency Services Levy.

Recommendation 6 **65**

That the NSW Government revisit the role and funding arrangements for the Emergency Services Levy Insurance Monitor to ensure that, if the Fire and Emergency Services Levy is re-introduced, the Monitor's role continues past June 2020.

Conduct of inquiry

The terms of reference for the inquiry were self-referred by the committee on 22 June 2017.

The committee received 25 submissions.

The committee held two public hearings at Parliament House in Sydney.

Inquiry related documents are available on the committee's website, including submissions, hearing transcripts, tabled documents and answers to questions on notice.

Chapter 1 Background

This chapter outlines the funding for fire and emergency services agencies in New South Wales. It then discusses the introduction, and subsequent deferment, of the Fire and Emergency Services Levy.

Funding for fire and emergency services agencies

1.1 Three organisations in New South Wales are responsible for the provision of fire and related emergency services: Fire & Rescue NSW, the NSW Rural Fire Service and the NSW State Emergency Service.

1.2 There was consensus during the inquiry about the important role of fire and emergency services and the need for adequate funding. Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, stated:

> … the work undertaken by our fire and emergency services agencies is vital to the safety of the community—and to the economy as well ... The importance of these agencies can be judged by the volume of services they provide.
>
> In 2016-17 Fire and Rescue NSW responded to over 123,000 emergencies, the NSW Rural Fire Service responded to over 24,000 incidents and the NSW State Emergency Service responded to over 118,000 calls.[2]

1.3 In 2017-2018, the total budgeted expenses for fire and emergency services was $1.2 billon with capital expenditure totaling $118 million.[3] The table below outlines the budgeted expenditures of these agencies in 2017-2018.

Table 1 Budgeted expenditures of the NSW Fire and Emergency Services agencies in 2017-18

Agency	Expenses ($Mill)	Capital expenditure ($Mill)
Fire and Rescue NSW	710	52
NSW Rural Fire Service	386	37
State Emergency Services	107	29
Total*	**1,202**	**118**

**Components may not add to totals due to rounding. Submission 22, NSW Government, p 1.*

2 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

3 Submission 22, NSW Government, p 1.

1.4 In recognition of the fact that the entire community benefits from these services, the NSW Government funds fire and emergency services through:

- general revenue
- a broad based hypothecated levy placed on insurers (who often include the fee on home and contents, motor vehicle, and commercial property insurance policies)
- a levy on local government.[4]

1.5 The NSW Government determines contributions provided by these groups by setting a 'funding target' that is equal to the cost of the fire and emergency services, less depreciation and own source revenues.[5] The NSW Government advised that insurers contribute 73.7 per cent of the funding for fire and emergency services, and local government provide 11.7 per cent of the funding:

> The government recovers 85.4 per cent of the funding target from levies on insurers (73.7 per cent) and local government (11.7 per cent).
>
> In addition to the direct contribution by insurers and local government, the levy on insurers is estimated to increase stamp duty revenue by the equivalent of 7.3 per cent of the cost of the fire and emergency services agencies. Together these sources contribute 92.7 per cent of the net cost of the fire and emergency services with the balance provided by way of other general state revenues.[6]

1.6 The Emergency Services Levy (ESL) for insurers is allocated based on their New South Wales market shares. Market shares are determined by weighting different types of insurance products for each insurer. For example, 80 per cent for commercial property premiums, 50 per cent for household property premiums.[7]

1.7 The NSW Government does not regulate how insurers pass on the cost of the levy to policyholders, however, insurers often impose a different percentage mark-up for each insurance type in line with the contribution of that policy type to the insurer's levy liability.[8] The difficulties of setting levy rates is examined in Chapter 2.

1.8 The Insurance Council of Australia informed the committee that in 2017-2018, general insurers will contribute approximately $793.75 million to the emergency services budget.[9]

1.9 In December 2017, the NSW Government provided the table on the following page estimating the insurance-based ESL contributed by the various property sectors.

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4 Submission 22, NSW Government, pp 4-5.

5 Submission 22, NSW Government, p 2.

6 Submission 22, NSW Government, p 2. Also see, Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

7 Submission 22, NSW Government, p 2. Also see, Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 8.

8 Submission 22, NSW Government, p 2. Also see, Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

9 Submission 18, Insurance Council of Australia, p 6.

Table 2 ESL Revenue shares by sector

Sector	Share of revenue
Residential	56.45 per cent
Non-residential	
• Farm	4.36 per cent
• Other	39.19 per cent

Submission 22, NSW Government, p 8.

1.10 The NSW Government provided estimates of the cost of ESL payments across residential and farm properties:

- most insured residential properties currently pay between $100 and $300 with a significant number of properties paying in excess of $300 per annum, however, the average payment across all residential properties in 2015-16 was estimated to be $233
- most farm owners paid approximately $380 per property per annum.[10]

1.11 The NSW Government explained that various factors make it difficult to determine average ESL payments for other non-residential properties:

> Matching insurance data is complicated by a number of factors which are significantly more prevalent in the non-residential sector. In particular:
> - Differences between insured property address and address of the policy holder
> - Insurers do not always hold the addresses of individual insured properties when the property is part of a large portfolio (eg major supermarket chains, banks, etc)
> - The presence of multiple businesses within a single property (eg office blocks, industrial estates, etc).[11]

1.12 The NSW Government advised that the insurer-based levy has significant shortcomings including:

- the apparent lack of fairness in requiring that fully insured property owners carry most of the financial burden for funding fire and emergency services
- the added impost of the ESL makes insurance too expensive and thus discourages property owners from being fully insured.[12]

1.13 Additionally, stakeholders argued that the structure of the ESL makes it difficult for insurers to set levy rates which leads to under and over-collection of the levy, and that the system lacks

10 Submission 22, NSW Government, pp 8-9.

11 Submission 22, NSW Government, pp 9-10.

12 Submission 22, NSW Government, pp 5-7; Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2 and p 6.

transparency.[13] Consequently, many inquiry participants supported moving from an insurance-based levy to a property-based levy. These arguments are examined in Chapter 2.

1.14 Local council ESL contributions are calculated for each agency as follows:

- Fire and Rescue NSW – considers the expenditure in each fire district with land values used to allocate the levy burden to each local government area within each fire district
- NSW Rural Fire Service – reflects the 20 year average of Rural Fire Service expenditure in each local government area
- NSW State Emergency Services – considers the population of each local government area.[14]

1.15 Local Government NSW informed the committee that in 2017-2018, councils will provide approximately $155 million to the emergency service levy through the 11.7 per cent levy.[15]

Moving to a property-based levy

1.16 In December 2015, the NSW Government announced its intention to introduce a property-based levy, known as the Fire and Emergency Services Levy (FESL) to replace insurance-based funding of the fire and emergency services.[16] The Fire and Emergency Service Levy Bill received assent on 4 April 2017.[17]

1.17 The levy was to be collected by local government on behalf of the state.[18] The levy would have been listed as a separate line item on rates notices. The levy would have been payable each financial year from 1 July 2017, and councils would be responsible for transferring the funds received each quarter to the Office of State Revenue.[19]

1.18 The FESL was to be determined based on a combination of the following components:

- the classification of the property by the council (residential land, farmland, industrial land, commercial land and public benefit land)
- the land value of the property as determined by the NSW Valuer General

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13 See, Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, Insurance Australia Group, 13 August 2018, p 30; Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42; Submission 15, Local Government, p 4; Submission 2, Woollahra Municipal Council, p 3.

14 Submission 22, NSW Government, p 2. Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

15 Submission 15, Local Government NSW, p 3.

16 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

17 Parliament of New South Wales, Fire and Emergency Services Levy Bill 2017, https://www.parliament.nsw.gov.au/bills/Pages/bill-details.aspx?pk=3372.

18 Submission 22, NSW Government, p 4.

19 *Hansard*, NSW Legislative Assembly, 7 March 2017, pp 35-36 (Dominic Perrottet).

- a fixed levy per property depending on the classification of the property as determined by the Treasurer
- an ad valorem levy determined by the Treasurer based on the land value and the classification of each property.[20]

1.19 The table below sets out the fixed and ad valorem rates for the various sectors in 2017-2018.

Table 3 Fire and Emergency Services Levy rates for 2017-18 (now deferred)

Property Type	Fixed Levy $	Ad Valorem per $100,000 of unimproved land value
Residential	100	21.90
Farmland	200	23.50
Public Benefit	100	21.90
Commercial	200	197.10
Industrial	200	268.70

Submission 22, NSW Government, p 11.

1.20 The levy included certain concessions. For example, vacant land was to receive a 50 per cent reduction in the levy and pensioners would receive a $50 discount.[21] Stakeholders' concerns with the design of the FESL are examined in Chapter 2.

1.21 To ensure that a consistent set of land values was used to calculate the levy, the *Fire and Emergency Services Act 2017* required that councils move to a common three-year cycle of land values, commencing in 2017-2018. The NSW Government supported councils in implementing these changes by reimbursing councils for reasonable start-up and ongoing costs, providing an operating manual for use by council staff, and rolling out a comprehensive training program.[22] This process is examined in Chapter 2.

1.22 The NSW Government advised that the new levy was anticipated to generate funding equivalent to 81 per cent of the estimated costs of the fire and emergency services, the same as that generated by the insurance levy, and the remaining 19 per cent would be met by existing arrangements that included contributions from councils and the NSW Government.[23]

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20 Submission 8, NSW Valuer General, p 1. Note, Government land and local government land would be exempt from the levy.

21 *Hansard*, NSW Legislative Assembly, 7 March 2017, p 35 (Dominic Perrottet).

22 *Hansard*, NSW Legislative Assembly, 7 March 2017, p 36 (Dominic Perrottet).

23 *Hansard*, NSW Legislative Assembly, 7 March 2017, p 35 (Dominic Perrottet).

1.23 The NSW Government estimated that the average fully insured residential property owner would see a saving of $47 per annum following the introduction of the FESL.[24]

1.24 As part of the reform, the *Emergency Services Levy Insurance Monitor Act 2016* was passed by the NSW Parliament on 31 May 2016. The Act provides for the appointments of an Emergency Services Levy Insurance Monitor (the Insurance Monitor) and Deputy Monitor. The Insurance Monitor is an independent statutory authority responsible for ensuring that insurers pass on the benefits of abolishing the ESL to households and businesses in the form of lower insurance premiums.[25]

Community feedback

1.25 In early 2017, the NSW Government conducted an advertising and information campaign, including the release of a FESL calculator, to familiarise the community with the new levy:

> As part of the reform process there was an advertising and information campaign to inform the community of the changes, including the timing and their purpose. In addition, as part of informing the community about these changes and providing transparency on the impacts, a calculator was published on the FESL website to allow individual households and businesses to determine their expected levy liabilities for 2017-18.[26]

1.26 The NSW Government advised that following the community feedback it became clear that the FESL would not meet the desired policy outcomes:

> The FESL was designed to be a more equitable mechanism for funding fire and emergency services …
>
> However, prior to implementation of the FESL, it became clear to the Government that in practice the FESL would result in similarly inequitable outcomes [to the ESL], unfairly placing an excessive funding burden on a small number of property owners in NSW.[27]

1.27 According to the NSW Government, key concerns regarding the FESL arose from:

- commercial and industrial landlords who did not recognise the ESL savings accruing to tenants and their ability to pass on a component of the FESL
- the owners of under-capitalised properties, such as those who own an industrial property operating in an area zoned for high density residential development, as FESL liabilities may represent a significant proportion of net business income
- the owners of under-insured properties, particularly those who own residential properties

24 Submission 22, NSW Government, p 12.

25 *Hansard*, NSW Legislative Assembly, 3 May 2016, pp 34-35. (Gladys Berejiklian).

26 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

27 Submission 22, NSW Government, p 1. Also see, Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

- property owners in the commercial/industrial sectors that have adopted a high level of policy deductible (or excess) or act as self-insurers
- property owners renewing insurance when ESL was a low component of their premiums.[28]

1.28 Inquiry participants' concerns about the levy are examined in detail in Chapter 2.

1.29 On 30 May 2017, the NSW Government deferred the introduction of the FESL.[29] Despite this deferral, the NSW Government remains committed to reforming the funding for fire and emergency services:

> The Government remains committed to establishing a more equitable model for funding fire and emergency services, and is currently working with stakeholders to consider whether issues identified prior to the implementation of FESL can be adequately addressed.[30]

1.30 The NSW Government noted that the ESL will remain in place while these matters are being considered.[31]

1.31 Additionally, the powers of the ESL Insurance Monitor were extended until 2020 to ensure insurers collected the ESL appropriately:

> The powers of the Emergency Services Levy Insurance Monitor, originally created to oversee the implementation of the FESL, have been extended until July 2020 to oversee the reinstatement of the ESL and to ensure that New South Wales customers pay no more than the permitted amounts. This will mean the consumer protection role of the Insurance Monitor continues over the period. In addition, the Insurance Monitor will be required to ensure that ESL collections from insurance policyholders during this period have not exceeded their payment obligations to the Government.[32]

Committee comment

1.32 The committee acknowledges that the insurance-based levy contributes a significant proportion of the funds for fire and emergency services, and the NSW Government's concerns about the inadequacies of the current system. The alternative property-based levy system is examined in Chapter 2.

1.33 Given all the resources available to the government and the more recent experience from similar schemes in other states, it is remarkable that the government did not anticipate the impacts of their proposed reforms. It is difficult to understand how the reform advanced so far without

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28 Submission 22, NSW Government, p 13.

29 Submission 22, NSW Government, p 4.

30 Submission 22, NSW Government, p 1. Also see, Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

31 Submission 22, NSW Government, p 13.

32 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

the Ministers and senior policy makers responsible knowing that whole classes of property owners would be severely disadvantaged by the reforms.

1.34 As discussed in the following chapters, deferring the implementation of the FESL has resulted in a significant economic cost to the NSW Government and other stakeholders, particularly insurers and local councils. The committee finds that the NSW Government's failed implementation of the FESL was a poor public policy decision, undertaken without adequate understanding of the complexities of the issue or the impacts of the proposed reforms.

Finding 1

That the NSW Government's failed implementation of the Fire and Emergency Services Levy was a poor public policy decision, undertaken without adequate understanding of the complexities of the issue or the impacts of the proposed reforms.

Chapter 2 Policy process and financial modelling underlying the provisions of the *Fire and Emergency Services Act 2017*

This chapter examines the policy process and financial modelling underlying the provisions of the *Fire and Emergency Services Act 2017*. First it considers the NSW Government's rationale for the reform, and then discusses some of the issues raised about the levy including its structure, the modelling used by the NSW Government to determine the levy rates, and the decision to require local governments to administer the levy.

Discussion in this chapter predominately reflects the alternatives of an insurance-based levy and a property-based levy.

Rationale for reform

2.1 As noted in Chapter 1, in New South Wales fire and emergency services are primarily funded through the Emergency Services Levy (ESL), which is a levy imposed on insurers and local councils. The NSW Government briefly summarised some more general issues with insurance-based levies:

> Insurance-based levies broadly reflect the value of property protected and the risks of fire, floods or other emergencies. However, insurance premiums cover a multitude of risks unrelated to the operations of the fire and emergency services agencies. Critically, payment of an insurance-based levy by a property owner cannot be mandated as it depends on a decision by the property owner to take out insurance. This results in insurance-based taxes having a significant economic cost through changing consumer behaviour, as compared with direct property-based levies.[33]

2.2 The committee heard that the policy intent to reform funding for the fire and emergency services has been considered over an extended period.[34] The NSW Government identified a raft of reports that supported moving towards a property-based levy for fire and emergency services, including:

- Royal Commission into the collapse of HIH (2003)
- Public Accounts Committee Report and Government response (2004)
- Independent Pricing and Regulatory Tribunal of NSW Review of state taxes (2008)
- Victorian Bushfires Royal Commission (2009)
- Henry Tax Review (2010)
- NSW Election Commitment (2011).[35]

33 Submission 22, NSW Government, p 4.

34 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2.

35 Submission 22, NSW Government, pp 3-4; Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2. Also see, Submission

2.3 The NSW Government first canvassed the possibility of moving towards a property-based levy in a 2012 discussion paper *Funding our Emergency Services*.[36]

2.4 As noted in Chapter 1, in December 2015, the NSW Government announced that the ESL would be replaced with a land value-based property levy, known as the Fire and Emergency Services Levy (FESL).[37]

2.5 The NSW Government argued this policy change would more effectively share the levy burden, and decrease the cost of insurance. According to stakeholders, the change would also address concerns about the ESL, specifically the difficulty setting levy rates and the lack of transparency around the ESL process. These arguments are examined in the following sections.

Increasing fairness

2.6 The NSW Government advised that the primary rationale for moving from an ESL to the FESL was to ensure fairer funding for fire and emergency services, that is, all property owners not just those with home and contents insurance would be required to pay the levy. For example, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, described using land properties as an efficient means of spreading the cost of fire and emergency services amongst the community:

> The objective of the FESL was to spread the cost of the fire and emergency services across the community, not just on insurance policyholders. From the perspective of efficiently raising the funding of the fire and emergency services, land properties are an efficient and fair way of allocating the costs of fire and emergency services. Landholders in New South Wales benefit from the services and capabilities of a fire and emergency services.[38]

2.7 The NSW Government observed that the insurance-based ESL results in inequity between fully insured property owners and other property owners:

> Insurance-based levy results in inequity between fully insured property owners and:
> - Property owners who choose to be uninsured (including property owners who choose to be self-insured)
> - Property owners who are under-insured
> - Property owners who choose a high policy excess or policy deductible.
>
> An indirect levy on property owners through insurance premiums also opens up the potential for evasion through a property owner choosing an offshore insurer.[39]

15, Local Government NSW, p 8; Submission 16, National Insurance Brokers of Australia, p 2; Submission 18, Insurance Council of Australia, p 6.

36 Submission 22, NSW Government, pp 3-4;

37 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 2. Also see, Evidence, Mr Simon Gilkes, New South Wales Valuer General, 13 August 2018, p 16.

38 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, pp 9-10.

39 Submission 22, NSW Government, p 5.

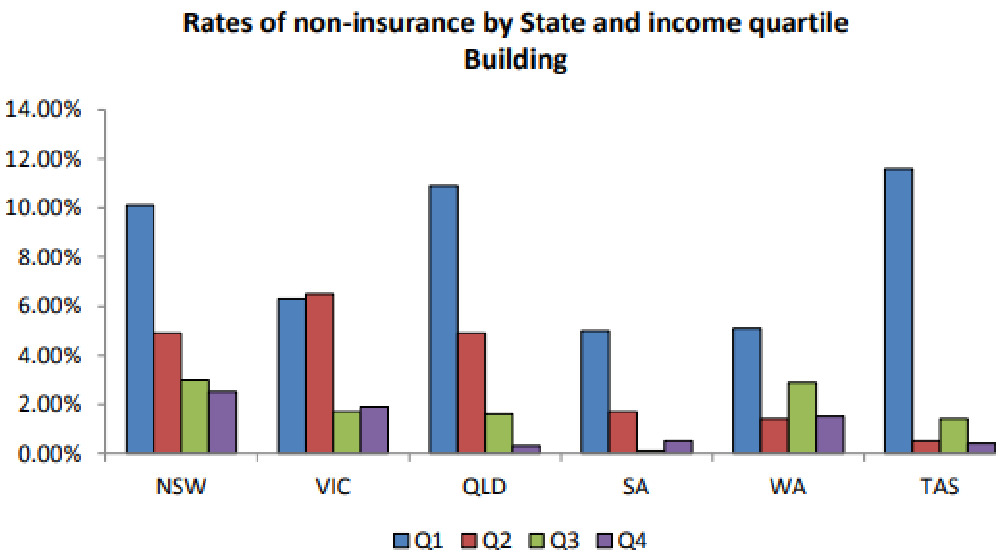
2.8 The NSW Government also noted that there are opportunities for businesses to avoid an insurance-based levy: '… it is likely that as a business grows in size, its capacity to fully self-insure (and completely avoid the insurance levy), insure with a high policy excess or deductible (and reduce its insurance levy) or negotiate favourable insurance terms (and reduce its insurance levy) increases'.[40]

2.9 The NSW Government noted that ABS data from 2009-2010 suggested that 5 per cent of home owners do not have building insurance and 36 per cent of households do not have contents insurance thus avoid their levy liabilities:

> Based on NSW data from the 2009-10 ABS Household Expenditure Survey, 5 per cent of home owners chose not to have building insurance while 36 per cent of households chose to not take out contents insurance. In addition, a proportion of the community either actively or inadvertently choose to be under insured and, as a consequence, reduce their levy liabilities.[41]

2.10 Moreover, the NSW Government informed the committee that New South Wales has a higher proportion of uninsured and underinsured property owners than other jurisdictions.[42] The Insurance Council of Australia provided the graphs below demonstrating the rates of non-insurance for buildings by State and income quartile and the rates of non-insurance for contents by State and income quartile.

Figure 1 Rates of non-insurance by State and income quartile: Building



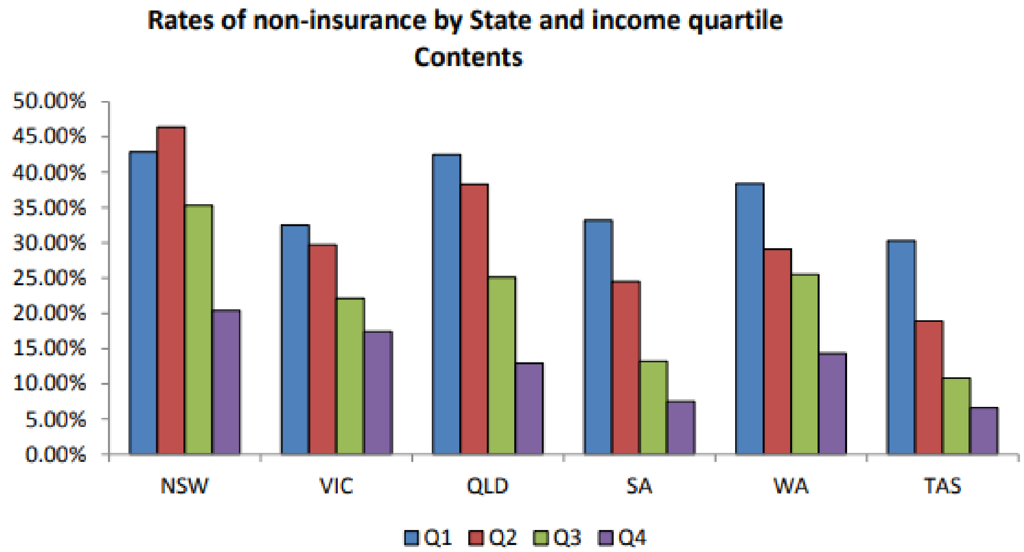
Submission 18, Insurance Council of Australia, p 11.

40 Submission 22, NSW Government, p 6.

41 Submission 22, NSW Government, p 5.

42 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 7.

Figure 2 Rates of non-insurance by State and income quartile: Contents



Submission 18, Insurance Council of Australia, p 12.

2.11 The NSW Government acknowledged that certain inequities can be exacerbated by a property-based levy for funding fire and emergency services agencies, for example that revenue is not collected from residential and commercial tenants and motor vehicle owners, despite these groups benefiting from the provision of fire and emergency services:

> A direct levy on real estate property owners has the advantage of being difficult to avoid but fails to capture some classes of property that are also protected by fire and emergency services. For example, a direct property-based levy does not collect revenue from residential and commercial tenants and motor vehicle owners, despite these groups benefiting from the provision of fire and emergency services. Arguably these groups contribute indirectly to funding fire and emergency services through higher rents and the fact that most property owners also own motor vehicles. It is also not feasible to establish a direct property levy that reflects property-specific risks of fire or other emergencies.[43]

2.12 Many inquiry participants agreed with the NSW Government and argued that the ESL is 'unfair, inequitable and inefficient'.[44] For example, Local Government NSW advocated that the current system is unfair because 'free-riders', that is uninsured and underinsured property owners, access fire and emergency services but do not contribute to their funding:

> … the current funding system is heavily reliant on contributions collected by insurance companies from policy holders providing 73.7 per cent of funding. Inequity arises as a significant proportion of the population is either uninsured or under-insured, thereby failing to make a fair contribution- they are commonly referred to as free-riders.[45]

43 Submission 22, NSW Government, pp 4-5.

44 Submission 21, Mr David Singer, p 1.

45 Submission 15, Local Government, p 4. Also see, Submission 10, Mid-Western Council, p 2; Submission 12, Central NSW Councils, Attachment 3, p 2; Submission 2, Woollahra Municipal Council, p 3.

2.13 Insurance organisations concurred with the 'free-riders' argument, suggesting it is unfair for those who are insured to carry the financial burden of funding fire and emergency services agencies. The Insurance Council of Australia stated:

> The current ESL regime in NSW imposes a tax on people who protect their property, businesses and personal possessions by insuring them. The owners of non-insured properties make no direct contribution to the funding of NSWFES, while the owners of under insured properties pay less than the owners of fully insured properties when levies on the insurance industry are the main mechanism for funding NSWFES. This raises significant equity concerns and operates as a disincentive for property owners to purchase adequate insurance coverage.[46]

2.14 The National Insurance Brokers Association of Australia said it was 'illogical, seriously unfair and quite absurd' to require insured properties to fund emergency services agencies when uninsured properties also use their service.[47]

2.15 The Property Owners Association of NSW described the ESL as an 'iniquitous and inefficient' means of funding fire and emergency services, arguing 'it is grossly unfair in that only a small portion, through their insurance levy, are required to carry the bulk of the burden of these essential services' and is a 'disincentive for NSW residents to take out appropriate insurance coverage'.[48]

2.16 One of the concerns about the proposed model was that, unlike the land based tax models in other jurisdictions, the proposed NSW model is based on the unimproved value of the land. Having a levy on the improved value of land was said to include a connection between risk and levy in that the more valuable the improvements the higher the levy in circumstances where it is the improvements on land that is at risk from fire and other hazards. As Mr Read from the Fire Brigade Employees Union noted:

> It is another problematic aspect of the model as presented. I was told by senior Fire and Rescue management that the view of government and Treasury at the time was it should be on improved property value and not unimproved, and that is the case with, I think, all other jurisdictions in the State, that the estimate at the time, according to this person who told me this, was that it would have delayed the introduction of the FESL by up to two years and cost over a million dollars to accumulate the improved property value.[49]

2.17 The evidence before the committee was the cost of reviewing the land values across New South Wales to move from unimproved to improved valuations was closer to $140 million.[50]

46 Submission 18, Insurance Council of Australia, p 10. Also see, Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26; Submission 17, IAG, p 4. Submission 16, National Insurance Brokers Association of Australia, p 3.

47 Submission 16, National Insurance Brokers Association of Australia, p 4.

48 Submission 9, Property Owners Association of NSW, p 1.

49 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 18.

50 Submission 22, NSW Government, p 10.

2.18 The Combined Pensioners & Superannuants Association of NSW noted that 2007 report from the Insurance Council of Australia provided information of the type of residential property owners who were not fully insured:

- most houses not covered by building insurance are priced below the median
- 97 per cent of households without contents insurance rent on the private market; 70 per cent of those households consist of young singles
- 6 per cent of retiree households have no building insurance and 13 per cent have no contents insurance
- non-insurance is closely linked to income, that is, the lower a household's income, the more likely it is to forego building and contents insurance.[51]

2.19 The Combined Pensioners & Superannuants Association of NSW concluded: 'This suggested that those who did not insure pre-dominantly could not *afford* to insure. Changing the levy to one imposed on property owners directly would cause further financial hardship on uninsured residential property owners'.[52]

2.20 The committee also heard that further inequities arise from the method of determining insurance premiums. Insurance Australia Group (IAG), noted that premiums are determined based on the insured value of a home and its contents, which is determined by various factors, however it can lead to property owners who have a very low fire risk paying a higher levy than those at greater risk of events requiring fire and emergency services:

> … the proportion of premium attributable to each kind of risk varies considerably between postcodes, based on local factors and claims experience. At an individual household level, the premium amount, and levy amount paid, is determined by the insured value of the home and/or its contents together with other price setting factors such as loyalty and no claim discounts. This method of determining premiums means that areas with very low fire risk can contribute substantially more on a per household basis to total levy collections than other areas of the state with much higher peril risks such as bushfire or flood.[53]

2.21 According to Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, additional inequities are caused by the fact that '… customers pay a proportion of their premium that would be allocated towards funding theft costs, flood costs, many other perils and non-weather-related events that would not be responded to by the emergency services teams'.[54]

2.22 However, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, argued that one of the advantages of the ESL is that it directly links risks, costs, and insurance:

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51 Submission 20, Combined Pensioners & Superannuants Association of NSW, p 4.

52 Submission 20, Combined Pensioners & Superannuants Association of NSW, p 4 [emphasis as per original].

53 Submission 17, IAG, p 4.

54 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, 13 August 2018, p 35.

> … what we see as one of the advantages of the current model is that it actually connects risk and value with contribution by virtue of linking your contributions, your payments, towards the system to your insurance policies. So the greater the risk the higher the insurance you will pay and you pay therefore directly. There is a nexus under the current model which is being severed and lost altogether under the new model.[55]

Affordability and encouraging insurance

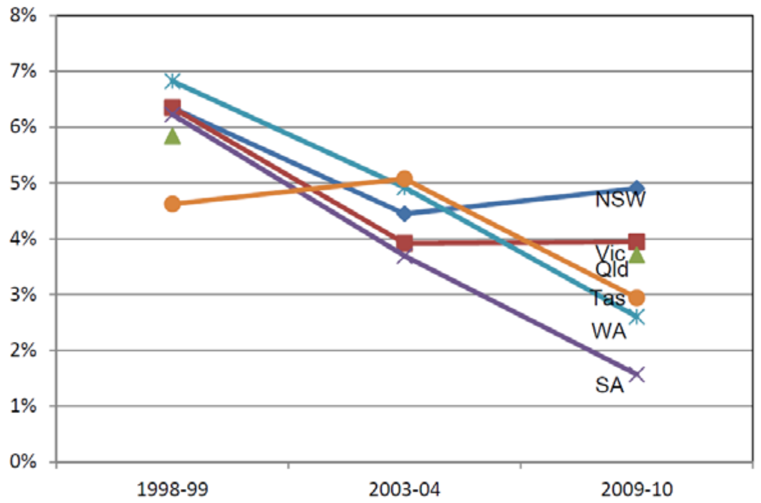
2.23 The NSW Government advised that a property-based levy will make insurance more affordable and, consequently, encourage more people to be fully insured. For example, the NSW Government advised:

> Improving the affordability of property insurance was a key policy objective of the FESL reform package. In reducing the cost of property insurance, more property owners could afford to protect themselves from risk through insurance rather than leaving themselves exposed to significant loss in the event of a fire or a natural disaster.[56]

2.24 As noted in Chapter 1, the NSW Government estimated that in December 2017, most insured residential properties paid an insurance-based ESL of between $100 and $300 per annum, and farm owners paid approximately $380 per property per annum.[57]

2.25 The NSW Government advised that that reductions in the level of underinsurance appear correlated with lowering the cost of insurance following the abolition of insurance-based levies and their replacement by direct property-based levies in other Australian jurisdictions.[58] The NSW Government provided Figures 1 and 2 to demonstrate that levels of insurance increased following the introduction of property-based emergency services levies in other states.

Figure 3 Proportion of Home owners without Building Insurance



55 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 19.

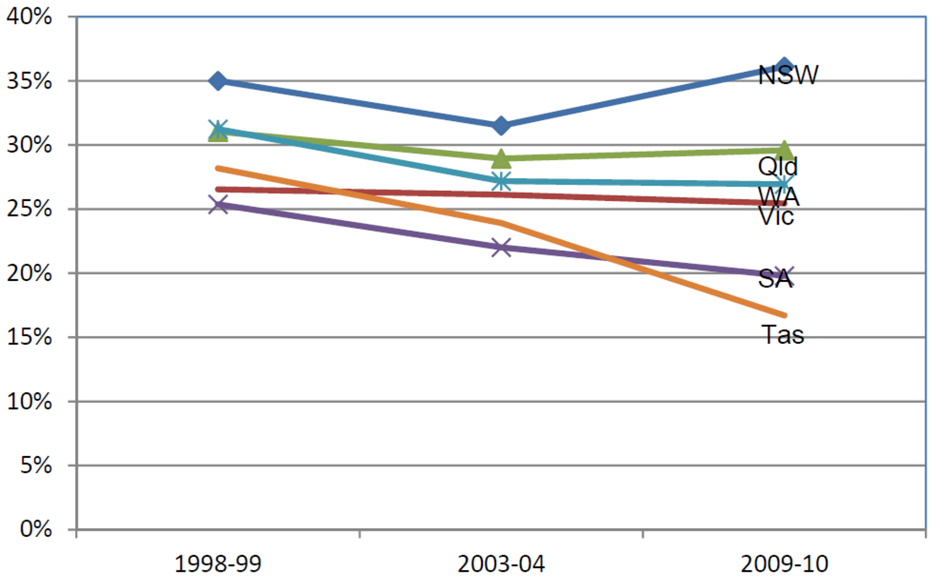
56 Submission 22, NSW Government, p 7.

57 Submission 22, NSW Government, p 8 and p 9.

58 Submission 22, NSW Government, p 6.

Note: Calculated using data supplied by the Australian Bureau of Statistics, Household Expenditure Surveys. The figures exclude home-owners who pay body-corporate fees. Data are not available for Queensland in 2003-04, because of a small sample size. Submission 22, NSW Government, p 6.

Figure 4 Proportion of Households without Contents Insurance



Note: Calculated using data supplied by the Australian Bureau of Statistics, Household Expenditure. Submission 22, NSW Government, p 7.

2.26 When Ms Horvat was asked how the FESL would make uninsured homeowner pensioners better off, she responded: 'That was one of the known changes to the distribution of the funding for Fire and Emergency Services. Properties that were uninsured would now be paying a FESL'.[59]

2.27 In answers to questions on notice about what modelling the government had undertaken to understand what proportion of the 5 per cent of property owners who currently had no building insurance once the FESL scheme started the government said:

> Data available showing the nature of uninsured households is limited. However, consistent with Treasury's expectations, the data indicated that members of the community from low socio-economic backgrounds are less likely to take out insurance. Improving the affordability of insurance was a key policy goal of the FESL reform.[60]

2.28 The NSW Government also argued that the introduction of a property-based fire and emergency services levy will assist to reduce Budget risk, that is, it foreshadowed that more property owners will insure their dwellings and consequently minimise requests for relief where a fire or natural disaster occurs.[61]

2.29 Certain stakeholders supported the NSW Government's argument that decreasing the cost of insurance will increase the number of people insuring their properties. For example, the

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59 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 13.

60 Answers to questions on notice, NSW Treasury, 7 September 2018, p 3.

61 Submission 22, NSW Government, p 7.

Insurance Council of Australia noted that research conducted in 2015, concluded that that affordability and the burden of taxation is a significant factor in determining a household's insurance status.[62] This research also examined the impact of state taxes on the demand for building and contents insurance – both in terms of the decision to insure and the amount of insurance purchased – and estimated the changes if stamp duties (and the ESL in New South Wales) were removed:

> The research estimated that the removal of all State taxes and charges would result in a $643 million (or 13 per cent) increase in the household's net (of tax) expenditure on insurance for their main residence (house or contents insurance). Over half of the increase (around 55 per cent) in total net expenditure is in NSW, reflecting that only insurance premiums in NSW are now subject to an ESL.[63]

2.30 Significantly, the research found: 'The removal of the ESL levy in NSW is estimated to increase net insurance expenditure by $226 million (or 16 per cent), and the removal of stamp duties in NSW would further stimulate spending by $125 million (or 9 per cent)'.[64]

2.31 In addition, the Insurance Council of Australia said the research estimated that removing the ESL on insurance would reduce the number of uninsured households and suggested that the number of households without contents insurance would also decline.[65]

2.32 Alternatively, other inquiry participants questioned whether moving to a property-based levy would have any effect on increasing the affordability of insurance, particularly for certain stakeholders such as pensioners.[66]

2.33 Mr Read noted that there is a 'strong correlation'[67] between low income earners and not having insurance, thus, he did not support the NSW Government's proposition that decreasing the cost of insurance will increase the number of people being fully insured:

> Insurance is not that cost sensitive … People make a conscious decision to take out insurance. I think most people would be insured by preference if they could afford it, but it is not so cost sensitive that you knock off $40 or $30 and there is going to be a stampede to the local insurer.[68]

2.34 Mr Read also disagreed with the argument that removing the ESL would lower the cost of insurance policies:

> The argument that follows from that is that insurance premiums will be reduced by the insurers if they are let off the requirement to contribute under the current arrangement. The experience of that interstate has been uneven. It has certainly been the case that it

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62 Submission 18, Insurance Council of Australia, p 11.

63 Submission 18, Insurance Council of Australia, p 12.

64 Submission 18, Insurance Council of Australia, p 12.

65 Submission 18, Insurance Council of Australia, pp 12-13.

66 Evidence, Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, 20 August 2018, p 6.

67 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 17.

68 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 19.

> has trended the costs to the policy holder, landowners, citizens in interstate jurisdictions and that has been creeping upwards again. We do not trust the insurance industry, the insurers to keep those rates low.[69]

2.35 Moreover, Mr Read argued that should the FESL be introduced, approximately 4-5 per cent of property owners would evade payment thus there will be no significant increase in the number of property owners paying the levy.[70]

The inclusion of stamp duty and GST

2.36 The NSW Government advised that the insurance-based levy and the associated stamp duty and GST increased the cost of residential insurance premiums in New South Wales by 18 to 20 per cent and commercial insurance premiums by 30 to 35 per cent.[71]

2.37 Stakeholders argued that the inclusion of stamp duty and GST on insurance premiums further disincentivises insurance, particularly for small to medium businesses.[72]

2.38 For example, Ms Forrest explained that from 17 September 2018, the ESL for IAG customers will be: 1 per cent for motor vehicles; 16 per cent for households; and 32 per cent for commercial.[73] Ms Forrest noted these are the base premium and 'once that rate is on there, there is effectively a tax on a tax when we see stamp duty and GST that are applied on top of that and they are cumulative'.[74]

2.39 Mr Rob Whelan, Chief Executive Officer of the Insurance Council of Australia, said that the inclusion of the GST, the stamp duty and the ESL results in New South Wales homeowner paying significantly more tax on their insurance policies than residents of other states:

> The ESL levy, when combined with GST and stamp duty, results in householders in this State paying about 45 per cent tax on their final insurance bills, compared with just 10 per cent in the Australian Capital Territory and 22 per cent in South Australia. This means that New South Wales households pay a much higher proportion of tax on their insurance premiums than any others and small businesses are even worse off, paying up to 60 per cent in taxes and levies.[75]

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69 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 16.

70 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 16.

71 Submission 22, NSW Government, p 6.

72 See, Submission 18, Insurance Council of Australia, pp 10-11; Submission 9, Property Owners Association of NSW, p 1; Submission 16, National Insurance Brokers of Australia, p 2.

73 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, 13 August 2018, p 30.

74 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, 13 August 2018, p 30.

75 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26.

2.40 Mr Whelan concluded that this a 'strong disincentive' for New South Wales residents and businesses to ensure that they have adequate insurance.[76]

2.41 Likewise, Mr Tim Wedlock, National President, National Insurance Brokers Association of Australia, stated that the inclusion of stamp duty and GST places a significant financial impost on its customers, particularly commercial clients:

> …the majority of the customers we manage are more of the commercial-type customer versus the domestic. They are going to fall into the range of 30 per cent for their fire levy. If you take the range in premium increases at the moment—this is a real example—if someone's premium was $100,000, by the time you add another 40 per cent fire services levy and then another 10 per cent GST and 9½ per cent stamp duty, there is another $67,000 in taxes on their base premium.[77]

Difficulty setting levy rates

2.42 As noted previously, there was some concern about setting ESL rates. The Insurance Council of Australia provided some insight into how this is done: 'In setting levy rates, insurers must individually use best estimates of their market share in the previous year, the expected budget allocation for emergency services, likely developments in market growth for policy types, and commercial considerations'.[78]

2.43 Ms Forrest explained how IAG determines the ESL for policy holders:

> It is inherently difficult for IAG to determine their contribution to the emergency services funding because the calculation is done based on our market share. We get the market share number in December of any year and that is six months after we have collected ESL from policyholders. We constantly model our market share along with our current collection and need to move those rates up and down based on that modelling.[79]

2.44 Ms Forrest noted that while IAG always aims to collect the correct amount of ESL '… because the calculation method uses each insurer's market share to determine how much of the total budget they are required to fund. This results in an unavoidable over or under collection from year to year as the market share is determined retrospectively'.[80]

2.45 Indeed, Mr Dallas Booth, Chief Executive Officer of the National Insurance Brokers Association of Australia, said '… that it is almost impossible for insurers to collect the right

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76 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26.

77 Evidence, Mr Tim Wedlock, National President, National Insurance Brokers Association of Australia, 13 August 2018, p 31.

78 Submission 18, Insurance Council of Australia, p 6.

79 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, 13 August 2018, p 30.

80 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, Insurance Australia Group, 13 August 2018, p 33. Also see, Evidence, Mr Dallas Booth, Chief Executive, National Insurance Brokers Association of Australia, 13 August 2018, p 36.

amount of levy' and said the process is 'incredibly difficult and complex'.[81] The National Insurance Brokers Association of Australia continued:

> Insurers do not know the final amount of their obligation until the November following the close of the financial year. It is only at this point that a proper assessment of market shares and premium collections for a financial year for each insurer can be determined.
>
> It is extremely unreasonable and unfair to subject insurance companies to a statutory levy without providing a fair and transparent mechanism which allows the collection of the correct amount of the levy during each financial year.[82]

2.46 The committee also heard that insurance customers can have different ESL rates depending on the time of year. Ms Forrest explained:

> If you are an IAG customer and you insure with us, at different times of the year you potentially would have a different ESL rate. As we understand more about our modelling and perhaps where we think our the market share is going, we move the rates up and down to manage that risk of under- or over-collection.[83]

2.47 The committee heard that there are significant financial implications for insurance customers when ESL rates vary. For example, Mr Tim Wedlock, National President, National Insurance Brokers Association of Australia, explained: '… when we are representing clients and have access to the full insurance market, each different insurance company could modify its fire services levy depending on how the collection was going. That range could go from 38 per cent down to 32 per cent'.[84]

2.48 The Insurance Council of Australia noted that the likelihood of these uncertainties resulting in over or under-collections has been acknowledged by the Emergency Service Levy Insurance Monitor.[85]

Lack of transparency

2.49 Many inquiry participants expressed concern about the lack of transparency around the ESL. For example, Local Government NSW stated: 'Local government has repeatedly raised concerns about the complete lack of transparency and accountability in the framing of emergency services budgets and the process for determining levies on individual councils'.[86] Local Government NSW identified three areas of concern:

81 Evidence, Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, 13 August 2018, p 32.

82 Submission 16, National Insurance Brokers Association of Australia, p 4.

83 Evidence, Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, IAG, 13 August 2018, p 36.

84 Evidence, Mr Tim Wedlock, National President, National Insurance Brokers Association of Australia, 13 August 2018, pp 30-31..

85 Submission 18, Insurance Council of Australia, p 6.

86 Submission 15, Local Government NSW, p 3. Also see, Submission 2, Woollahra Municipal Council, p 3.

- the 11.7 per cent ESL collected from councils is a 'hidden tax' as it is collected from councils not individual ratepayers or residents, it is embedded in council rates, fees and charges and is not directly visible
- the lack of a standard practice among insurance companies in disclosing the emergency levy on insurance policies means that that individual's actual contributions is often obscured
- often ratepayers or residents are not aware of increases in the ESL to cover expanding emergency services budgets
- most people are not aware that they are making two ESL contributions, one through their insurance policy and another through rates.[87]

2.50 During her evidence to the committee, Ms Kylie Yates, Acting Chief Executive of Local Government NSW, added: 'All other agencies are funded via consolidated revenue where there is a great degree of scrutiny and fiscal discipline. The same transparency is not available around emergency services budgets, although we all know they need adequate funding from every part of the community'.[88]

2.51 Ms Kathy Rankin, Policy Director, Rural Affairs and Business Economics and Trade, NSW Farmers Association, was similarly concerned about the lack of transparency surrounding the ESL:

> Our concern was the lack of transparency about how much is collected and how it is divvied up and therefore what would be the administration costs. It is quite obvious that when you have multiple levels of organisations involved in administering things there are going to be costs included, whether administration or other, that helps to dive into some of that collected total. What we wanted to make sure was if there was a levy collected that there was transparency about what was being collected, how it was being allocated and what it was being used for.[89]

2.52 Local Government NSW concluded that the cumulative effect of this lack of transparency is the erosion of accountability for both insurers and the NSW Government, and a lack of awareness amongst the general public about how emergency services are funded:

> The lack of public transparency re both the insurance and council levies erodes accountability. As the costs are obscured, the public is less sensitive to increases. As 85.4 per cent of the combined emergency services budget is funded by the external ESL levies, and another 7.3 per cent from the stamp duty the Government collects on the insurance levies, the State Governments net contribution from consolidated revenue has only been 7.3 per cent. It is no wonder why successive state governments have found it easy to increase emergency services budgets without the budget scrutiny that applies to other state government agencies.[90]

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87 Submission 15, Local Government, p 4. Also see, Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42; Submission 2, Woollahra Municipal Council, p 3; Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

88 Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42.

89 Evidence, Ms Kathy Rankin, Policy Director, Rural Affairs and Business Economics and Trade, NSW Farmers Association, 20 August 2018, p 23.

90 Submission 15, Local Government, p 4.

2.53 Councillor Bill West, Mayor of Cowra Shire Council and member of the Executive of Central NSW Councils, said that the lack of transparency around the budgets for fire and emergency services undermined the ESL:

> The other fundamental flaw we saw in the system was that we believed there was little transparency over the methodology of creating the budgets, and we were having situations where we were getting an expectation placed upon us that we would be providing increased contributions towards the end of our financial year, which obviously had budgetary impacts on us.[91]

2.54 According to certain stakeholders, a related concern was the 'rapidly escalating' costs for the Rural Fire Service.[92] Mr Michael Holton, President, Volunteer Fire Fighters Association, stated:

> We believe that the expenditure of emergency services has skyrocketed and has got out of control.
>
> …
>
> Firefighting has become big business. That is an area that the Volunteer Fire Fighters Association is also concerned about. We look at many areas, including aviation and other specialised areas that are coming at a great cost to taxpayers.[93]

Committee comment

2.55 The committee acknowledges that the current ESL is not without its difficulties as the primary means of funding fire and emergency services agencies. While we note the argument that the current system has some gaps because those who are under insured or not insured do not contribute to fire and emergency services, that is not our primary concern. Indeed, only approximately 5 per cent of residential property owners do not have building insurance and approximately 36 per cent of households do not have contents insurance, meaning that the majority of households are insured and are therefore paying the levy.

2.56 What is clear from the limited data provided to us by the government on the nature of the 5 per cent of households who do not hold building insurance is that they are more likely to be from a lower socio-economic background and therefore already struggling to make ends meet. The ability of these households to meet a new FESL levy, that will be on average approximately $250 a year, as well as take out insurance that they were unable previously to afford is close to zero. The fact that on the government's estimates their insurance may be $47 cheaper on average because of the removed of the current levy will not change this fundamental equation.

2.57 The committee notes that insurance rates are closely tied to household income. We do not believe that more property owners will take out policies if the price of insurance decreases by $47.

91 Evidence, Councillor Bill West, Mayor of Cowra Shire Council and Member of the Executive of Central NSW Councils, 20 August 2018, p 4.

92 Submission 12, Central NSW Councils, Attachment 3, p 2.

93 Evidence, Mr Michael Holton, President, Volunteer Fire Fighters Association, 20 August 2018, p 10.

2.58 The committee is concerned about the difficulty of setting ESL levy rates. Insurers presented a compelling argument that basing the levy on market share causes undue confusion and leads to the over and under collection of the ESL. Additionally, it leads to volatility in insurance policy prices, particularly for commercial policy owners.

2.59 The committee is most concerned with the lack of transparency and accountability around the levy. There is a lack of awareness in the community about the insurance-based ESL, particularly how it is determined, or the ESL contribution captured in council rates. We acknowledge concerns about the escalating costs of fire and emergency services budgets and recommend that the NSW Government provide greater oversight and accountability to ensure that the budgets for these agencies are appropriate.

Recommendation 1

That the NSW Government provide greater oversight and accountability to ensure that the budgets for fire and emergency services agencies are appropriate.

Issues with the Fire and Emergency Services Levy

2.60 Following the December 2015 announcement of the move to the FESL, NSW Treasury established a project team to develop legislation in consultation with NSW Government agencies, including the Office of the Valuer General, Revenue NSW, the Office of Local Government, engaged with local government on implementation issues, undertook more detailed modelling of the financial impacts of the reform and developed a communication and information strategy to assist the smooth implementation of the FESL.[94]

2.61 The FESL Implementation Working Group, consisting of representatives from NSW Treasury, Office of State Revenue, the Valuer General's Office, Local Government NSW and local councils operated from approximately March 2016 to June 2017.[95] Despite concerns about the outcome of the FESL, many working group participants expressed support for this type of consultative mechanism.[96]

2.62 As noted in Chapter 1, the FESL was to be collected by councils from property owners (and in some cases lessees) based on a combination of:

- the classification of the property by the council
- the land value of the property as determined by the Valuer General

94 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, pp 2-3. Also see, Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 16.

95 Submission 15, Local Government NSW, p 6.

96 See, Submission 10, Mid-Western Regional Council, p 1; Evidence, Mr Andrew Butcher, President, NSW Revenue Professionals, 13 August 2018, p 42; Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42.

- a fixed levy per property depending on the classification of the property as determined by the Treasurer
- an ad valorem levy determined by the Treasurer based on the land value and the classification of each property.[97]

2.63 As noted in Chapter 1, following community backlash about the possible cost of the FESL to property owners, the NSW Government deferred the introduction of the levy on 30 May 2017. The following sections examine some of the concerns raised during the inquiry about the FESL policy.

Changing the basis of the levy from value of improvements on the land to the value of unimproved land

2.64 The committee heard that the key contributing factor to the concern about the FESL was the decision to move the basis of the levy from value of improvements on the land, that is, the value of the dwelling and its contents as determined by an insurer, to the value of unimproved land. Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, explained:

> The public outcry that followed the announcement of the detail of the fire and emergency service levy [FESL] was the result of changing the basis of the levy from value of improvements on the land to the value of unimproved land. The levy as it was, and as it is at present, is a levy on insurance companies. How the insurance companies pass on the levy to their policyholders is not transparent, although it seems to be common practice for home and content policies to provide an estimate of how much of the annual premium is earmarked for paying the overall levy on the company and it appears those estimates vary according to value insured, which is roughly equivalent to or approximates the value of improvements.[98]

2.65 Mr Versteege explained that the NSW Government's decision to base the FESL on the value of unimproved land caused the significant increase in levy prices for certain landowners:

> Obviously the value of improvements is not as starkly related to location as is the value of unimproved land. As a result, the current emergency services levy [ESL] per capita shows a flatter graph than the fire and emergency services levy based on the value that unimproved land would have. The redistribution of the levy meant it skyrocketed for some people and plummeted for others, and those for whom it skyrocketed won the day and the FESL was stillborn.[99]

2.66 The Combined Pensioners & Superannuants Association of NSW argued that unimproved land value is a poor tax base as it fails to adequately account for the cash-poor owner-occupier households:

97 Submission 8, NSW Valuer General, p 1.

98 Evidence, Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, 20 August 2018, p 5.

99 Evidence, Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, 20 August 2018, p 5.

> From a social equity point of view unimproved land value is a poor tax base, not just for the FESL, because of city- and seaboard-based cash-poor owner-occupier households. These households bought before gentrification of their areas and to tax them as if they gentrified along with their area is a mistake.[100]

2.67 Likewise, Blacktown City Council argued that basing the levy of unimproved land values is unfair as, unlike the current insurance-based levy, it failed to account for variances in the size and nature of buildings:

> The use of unimproved land values as the basis for allocating the costs of the proposed FESL was not appropriate as these values do not factor in the specific size, value or nature of buildings erected on a specific lot. Whereas home insurance is currently determined in accordance with the value of a dwelling, by using unimproved capital value as the basis for calculating the FESL means there is no correlation between the different values of dwellings and the amount of a FESL levy.[101]

2.68 Blacktown City Council provided an example of adjoining commercial properties with different dwellings to illustrate this concern:

> In particular, many adjacent properties of a similar land area would generally have very similar, if not equal unimproved land values, as provided by the Office of the Valuer General. However, whereas one lot may be a clay brick quarry with little infrastructure and of little value, an adjacent lot may be a large purpose built food processing and packaging facility of considerably larger size and value. In this example, the proposed FESL would result in both land owners being levied the same amount due to each property being of equal unimproved land value. In the event of an emergency response, the lot with the large processing and packaging facility would typically require the application of additional emergency service resources (by comparison to the clay brick quarry with minimal infrastructure) to resolve situations such as fire. Thus reflecting a fundamentally inequitable system.[102]

2.69 Woollahra Municipal Council described basing the levy structure on unimproved land value as 'idealistic', 'inequitable' and 'skewed toward metropolitan property owners'.[103]

2.70 Mr Matthew Saunders, Rates Coordinator, Penrith City Council, argued that the move to unimproved land values was unfair, particularly for rural property owners in the Penrith Local Government Area:

> … the use of unimproved land values for the calculation of the levy we feel was not fair as well because the high levy they [Penrith rural ratepayers] would have paid was not appropriate for their current insurance risk when compared to similar three-bedroom or four-bedroom properties in the urban areas, particularly because they had a higher land value. We do not think the insurance risk was taken into account in just the use of the land values.[104]

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100 Evidence, Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, 20 August 2018, p 5.

101 Submission 7, Blacktown City Council, p 4.

102 Submission 7, Blacktown City Council, p 4.

103 Submission 2, Woollahra Municipal Council, p 2.

104 Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

2.71 Following on, stakeholders argued that going forward the NSW Government should consider adopting a property-based levy that uses the Capital Improved Valuation (CIV) to increase equity in the system.[105] These arguments are examined in Chapter 4.

2.72 The NSW Valuer General does not currently estimate improved land values. Moreover, the NSW Government advised that the imposition of such a database would result in a one of cost of $140 million, as well as annual costs of $30 million and delay the implementation of the FESL by up to five years:

> The NSW Valuer General does not currently estimate improved land values. The imposition by New South Wales of a FESL based on improved values was estimated to have a one-off cost of over $140 million with annual additional costs of $30 million. Implementation of such a levy would require a lead-time of up to 5 years.[106]

2.73 The NSW Government also noted that '[a] levy on improved values would partly fall on capital, rather than land, and would thus provide a disincentive to investment'.[107]

2.74 The NSW Government concluded: 'Based on these considerations, as well as their use for local government rating, the Government determined to use unimproved land value as the basis of the FESL'.[108]

Data provided by the NSW Valuer General

2.75 There was no suggestion that the data provided by the NSW Valuer General was deficient. Rather, this section provides a background of the data provided to NSW Treasury to model the FESL.

2.76 The NSW Valuer General's operational requirements for the FESL were managed by Valuation Services on behalf of the Valuer General.[109] Mr Simon Gilkes, NSW Valuer General, provided an overview of the work conducted by Valuation Services to prepare for the FESL:

> Preparation for the Fire and Emergency Services Levy required operational and system development, project management and communication with stakeholders and the public, including: processing systems development for the delivery to Treasury of estimates of land values within a range of classifications along with the supporting data; development of new processes and systems to enable the monitoring of council compliance with property classification requirements; communication with landholders across the State regarding the issue of new land values and explaining their use in the calculation of the levy; communication with councils for the issue of new land values; and project management.[110]

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105 See, Submission 15, Local Government NSW, pp 4-5; Submission 3, NSW Revenue Professionals, p 4; Submission 13, Randwick City Council, p 4.

106 Submission 22, NSW Government, p 10.

107 Submission 22, NSW Government, p 10.

108 Submission 22, NSW Government, p 10.

109 Submission 8, NSW Valuer General, p 3.

110 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 16.

2.77 The committee heard that the Office of the Valuer General spent approximately $1.1 million, most of which related directly to implementation costs, preparing for the FESL.[111]

2.78 The following sections provide further information about the collection of property classification information from councils and the harmonisation of the land valuation cycle.

Collection of property classification information from councils

2.79 The NSW Valuer General provided some of the data used by NSW Treasury to model the FESL, including estimates of the:

- number and land values of vacant properties in various property sectors
- number and land values of non-vacant properties in various property sectors
- number of properties eligible for a pensioner discount.[112]

2.80 Mr Gilkes advised that Valuation Services worked closely with local councils to prepare this information:

> Valuation Services established a project to manage the implementation of the valuation requirements for the levy. A major body of work was undertaken in collaboration with local councils to identify the data required to support the levy, specify data exchanges, establish data bases to hold and manage the data and to match and quality assure the data.[113]

2.81 The table sets out the NSW Valuer General's estimates of property counts, land values and pensioner discounts.

Table 4 Estimates of property counts, land values and pensioner discounts

Property sector	Total leviable land value as at 1 July 2016		Total no. of properties	Total no. of pensioner discount properties
Commercial Non Vacant	$	103,677,800,000	125,599	1661
Commercial Vacant	$	1,448,200,000	3,463	
Farmland	$	71,119,500,000	112,719	7,054
Government Land	$	66,690,300,000	145,047	
Industrial Non Vacant	$	44,194,100,000	55,203	1,650
Industrial Vacant	$	1,672,800,000	2,727	
Public Benefit	$	18,038,300,000	17,027	
Residential Non Vacant	$	1,152,695,100,000	2,688,227	480,120
Residential Vacant	$	27,434,300,000	74,750	
Grand Total	$	1,486,970,300,000	3,224,762	490,485

Note: Land values in this table have been rounded in accordance with sections 31(5) and 32(4) of the Act. The minor mathematical error in the Grand Total is due to rounding. Submission 8, NSW Valuer General, p 2.

111 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 18.

112 Submission 8, NSW Valuer General, p 1.

113 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 16.

2.82 The NSW Valuer General met all of the requirements for the delivery of information to the Treasurer and provided these estimates on 13 April 2017.[114] The NSW Valuer General also provided numerous data extracts to NSW Treasury prior to suppling this information.[115]

2.83 Certain councils told the committee that the property classification process was complex and recommended that the process be 'streamlined, simplified, reviewed and clarified'.[116]

Harmonisation of the valuation cycle for rating

2.84 The NSW Valuer General values all land in New South Wales every year. Land values are used by councils in the calculation of rates and Revenue NSW for managing land tax.[117]

2.85 Prior to the FESL, the NSW Valuer General was required to provide new valuations within four years and had the discretion to extend the timeframe to within six years where there was no significant value movement.[118] The Valuer General explained that this rolling cycle of valuations meant that approximately 700,000 to 800,000 notices were issued per year.[119]

2.86 In preparation for the FESL, the valuation cycle for rating had to be harmonised to ensure the levy was charged on an equivalent basis.[120] Mr Gilkes advised that harmonising of the valuation cycle brought forward some work previously distributed over a three-year period to a single year, such as issuing approximately 2.5 million valuation notices, however no additional valuations were required as this activity is currently undertaken annually for all properties:

> The harmonisation of the valuation cycle for rating brought forward some work previously distributed over a three-year period to a single year. This resulted in a transfer of the majority of the workload and costs for the issue of valuations for rating to financial year 2016-17—the first year of the new valuation cycle—bringing future expenditure forward. The principal effects were: issuing approximately 2.5 million notices of valuation in one year, rather than over three years; additional contact centre volume and activity; additional objections to land values; and additional printing and mailing costs. It should be noted though that as land values are assessed for all land every year, there was no additional workload in making the valuations.[121]

Levy rates

2.87 On 30 April 2017, following the passage of the *Fire and Emergency Services Act 2017*, the NSW Government announced the FESL rates.[122]

114 Submission 8, NSW Valuer General, p 1.

115 Submission 8, NSW Valuer General, p 2.

116 Submission 14, Wagga Wagga City Council, p 2. Also see, Submission 2, Woollahra Municipal Council, p 1; Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

117 Submission 8, NSW Valuer General, p 3.

118 Submission 8, NSW Valuer General, p 2.

119 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 16.

120 Submission 8, NSW Valuer General, p 3.

121 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 16.

122 Submission 22, NSW Government, p 10.

2.88 As noted in Chapter 1, different fixed and ad valorem rates would vary across the property sectors—residential land, farmland, industrial land, commercial land and public benefit land. Government land and local government land would be exempt.[123]

2.89 The NSW Government provided the table on the following page detailing the fixed and ad valorem rates for the various sectors in 2017-2018 (now deferred).

Table 5 Fire and Emergency Services Levy rates for 2017-18 (now deferred)

Property Type	Fixed Levy $	Ad Valorem per $100,000 of unimproved land value
Residential	100	21.90
Farmland	200	23.50
Public Benefit	100	21.90
Commercial	200	197.10
Industrial	200	268.70

Submission 22, NSW Government, p 11.

2.90 Blacktown City Council argued that part of the inequity of the FESL arose from the NSW Government's decision to implement a fixed levy within each property classification thus not recognising the different costs of responding to emergencies in different areas:

> An inequity in the proposed FESL was a consequence of it being intended that the same rate in the dollar be applied to all land within each respective classification, irrespective of its location. This approach, assumes that the cost of emergency services responding to and resolving emergency situations at sites located in heavily trafficked and populated inner city locations is the same as a response in a more sparsely populated and easily accessible outer suburban property (such as in the Blacktown LGA) as being the same, which is clearly not the case.[124]

2.91 Likewise, Woollahra Municipal Council, stated that the inflexible structure of the FESL, specifically specifying dollar amounts for the fixed component, may have contributed to the excessive levies on certain properties.[125]

2.92 Randwick City Council expressed significant concern about the rates and fixed charges for commercial properties:

123 Submission 22, NSW Government, p 11.

124 Submission 7, Blacktown City Council, p 4.

125 Submission 2, Woollahra Municipal Council, p 1.

> We never anticipated that the State would choose to tax Commercial and Industrial properties to the extent that they intended. Given no industry discussion and no justification, the Industrial rate being 150 per cent more than Commercial rate, appeared to be more of a gouge than a fair tax for industrial property owners.[126]

2.93 Wagga Wagga City Council remarked that the lack of consultation with local councils contributed to NSW Treasury's inability to detect issues with implementing a simplistic 'one size fits all' approach, in particular, the ad-valorem structure used to calculate the Fire and Emergency Services levy'.[127]

2.94 According to the NSW Farmers Association, further difficulties arose from the requirement to place the levy on all land holdings. Mr Garry Grant, Chair, Rural Affairs Committee, NSW Farmers Association, informed the committee that farm owners may have various holdings on a property, and thus the FESL would apply to each holding.[128] Ms Kathy Rankin, Policy Director, Rural Affairs and Business Economics and Trade, NSW Farmers Association, said that the association had recommended to the NSW Government that '… it would be very important that where a single ABN was responsible for multiple landholdings it should be recognised as a solid holding rather than separate holdings'.[129]

2.95 Following the NSW Government's release of the FESL calculator, it became clear that certain groups would pay significantly more under the FESL than they had under the ESL.[130] For example, Fairfax Media reported that residential property owners in Mosman could expect to pay $502.96 under the FESL, and property owners in Fairfield could have owed $200.96 under the proposed system.[131]

2.96 Likewise, Mr Read noted that community 'backlash' focused on the fact that many people were going to pay more under the FESL, saying: 'The saving of $47 a year was not, by our modelling, going to be the experience of the great majority of people, certainly in Sydney'.[132] Mr Read told the committee that the union, as a commercial property owner, expected its contribution to rise from approximately $2,500 under the ESL to in excess of $5,000 under the FESL.[133]

2.97 Similarly, the committee heard that residents of Woollahra Municipal Council would have been significantly worse off under the FESL:

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126 Submission 13, Randwick City Council, p 2.

127 Submission 14, Wagga Wagga City Council, p 1.

128 Evidence, Mr Garry Grant, Chair, Rural Affairs Committee, NSW Farmers Association, 20 August 2018, p 21.

129 Evidence, Kathy Rankin, Policy Director, Rural Affairs and Business Economics and Trade, NSW Farmers Association, , 20 August 2018, p 22.

130 Mr Sean Nicholls, 'What you will pay under the new fire services levy', *Sydney Morning Herald*, 29 April 2017.

131 Mr Sean Nicholls, 'What you will pay under the new fire services levy', *Sydney Morning Herald*, 29 April 2017.

132 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 18.

133 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 18.

> On average, our residential landowners will be paying a third of their Council rates again/or FESL. Our business landowners are even worse off, paying on average two thirds of their rates in FESL. The Woollahra LGA will be contributing at total of $15.5m toward funding emergency services.
>
> That's equivalent to 45 per cent of our total general rates income.[134]

2.98 Randwick City Council noted that NSW Treasury's decision to withhold the rates and charges until after property owners were advised of their land classification was a 'mischievous policy decision that ultimately back-fired'.[135]

2.99 Another concern relating to levy rates was the provision, or lack thereof, of exemptions. Penrith City Council noted that the NSW Government has determined numerous exemption categories for council rates, however these were not reflected in the FESL.[136]

Modelling conducted by NSW Treasury

2.100 While emphasising that the NSW Treasury was working with the 'best dataset available',[137] Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, acknowledged that there were certain data limitations. For example, it was noted that NSW Treasury could not match insurance premiums to each individual property.[138] However, Ms Horvat argued that modelling is never used to determine the policy consequences of each individual or business:

> Modelling of taxation reform is undertaken to inform policy advice and the decision-makers. It serves as a useful indicator of likely impacts but, like all modelling, it will not be able to predict or reflect the individual circumstances of each family or business within the State; the FESL modelling was no different.[139]

2.101 NSW Treasury advised that it used a 'large sample' of insurance data, provided through the Emergency Services levy Insurance Monitor from insurance organisations,[140] and matched it with land value information for July 2016, provided by the NSW Valuer General, to model the potential financial impact of a property-based levy and to assess different levy rate structures.[141] NSW Treasury provided the committee with a summary of the matched properties.

134 Submission 2, Woollahra Municipal Council, p 2,

135 Submission 13, Randwick City Council, p 2.

136 Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

137 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

138 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 8.

139 Evidence, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

140 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3; Submission 22, NSW Government, p 8.

141 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

Table 6 ESL paid by matched properties

Classification	Total Number of Matched Properties	ESL Paid by Matched Properties
Residential	1,792,677	$320,786,000
Commercial	39,894	$35,897,000
Industrial	15,268	$20,931,000
Farmland	19,267	$5,955,000
Government	43,295	$2,399,000
Public Benefit	4,212	$4,357,000
Total	**1,914,613**	**$390,324,000**

Answers to questions on notice, NSW Treasury, 7 September 2018, p 4.

2.102 The committee was informed that NSW Treasury could match ESL payments to approximately 65 per cent of 2.8 million residential properties in New South Wales which led to a 'robust' understanding about the potential impact of the FESL on these properties.[142]

2.103 NSW Treasury was only able to match ESL payments with approximately 26 per cent of the 460,000 non-residential properties in New South Wales.[143] Ms Horvat explained that there were various contributing factors for this relatively low number:

> … the limitations were that matching non-residential properties was far more problematic. It was problematic for a range of reasons. Some of those were the differences between insured property addresses and the addresses of the policyholders are not necessarily the same thing. Insurers do not always hold the address of an individual insured property, instead they may hold a single premium for a large portfolio of properties. The presence of multiple addresses within a single property, for example an office block, made it quite difficult to match non-residential properties with the insurance data.[144]

2.104 Consequently, Ms Horvat noted that NSW Treasury council draw 'less robust' conclusions about the impact of FESL on non-residential properties.[145] The NSW Government acknowledged that this caused difficulties in modelling FESL fees for non-residential property owners:

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142 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3 and p 5.

143 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

144 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 6.

145 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 5.

> In particular, difficulties faced in matching insurance data in the non-residential property sector … meant it was not possible to accurately estimate the difference in the liability that individual property owners in that sector would face under the FESL compared with the ESL.[146]

2.105 Despite these limitations, NSW Treasury indicated that it was able to determine that moving to a property-based levy would be beneficial for average fully insured property owners:

> Nonetheless this process permitted a number of conclusions to be drawn, including that broadening of the revenue base would see savings for average fully insured property owners both in the residential and non-residential sectors, and there was a wide range of net outcomes for individual properties arising from the shift from an insurance-based to a land-based levy.[147]

2.106 Ms Horvat noted that NSW Treasury were also committed to ensuring the reforms would be revenue-neutral and that the share of the levy payments by residential, non-residential and farming sectors would remain unchanged.[148]

2.107 Ms Horvat continued: 'Based on these conclusions, and in consultation with local government and peak bodies, the fire and emergency services levy was developed with the intent to redistribute the levy burden between members of the community while remaining budget neutral'.[149] In fact, in March 2017, the NSW Government advised that under the FESL the average fully insured New South Wales household will pay $185, and the average fully insured household will save $47 per year.[150]

Stakeholders' concerns with NSW Treasury modelling

2.108 Inquiry participants identified a range of concerns with the data and modelling employed by NSW Treasury to determine the FESL, including:

- there was a lack of transparency around the data or the modelling used by NSW Treasury to determine the levy, that is, local councils and industry organisations were not privy to this information[151]
- NSW Treasury declined the Insurance Council of Australia's offer to assist with modelling for the FESL[152]

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146 Submission 22, NSW Government, p 13.

147 Evidence, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

148 Evidence, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

149 Evidence, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

150 *Hansard*, NSW Legislative Council, 29 March 2017, p 5 (Ben Franklin). Also see, Evidence, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 8.

151 Submission 2, Woollahra Municipal Council, p 2. Also see, Submission 13, Randwick City Council, p 2; Submission 10, Mid-Western Regional Council, p 1. Evidence, Clr Bill West, Mayor of Cowra Shire Council and Member of the Executive of Central NSW Councils, 20 August 2018, p 2.

152 Submission 18, Insurance Council of Australia, p 8.

- other jurisdictions, specifically Victoria and Western Australia, published their levy mechanisms in full prior to introducing their property-based levy systems[153]
- as previously noted, the appropriate modelling was not done to ascertain the correlation between land value and insurance risk, particularly for rural properties in the Penrith City Council area which have high land values, but are at no higher insurance risk than other standard residential properties[154]
- as previously discussed, the modelling failed to identify the significant increase of levy payments for certain property owners.[155]

2.109 According to inquiry participants, a related concern was that the NSW Government did not provide stakeholders enough time to consider the implications of the FESL and to fully analyse the impacts, prior to the actual implementation of the levy.[156] For example, Randwick City Council stated:

> The lead-time associated with shifting the Emergency Services Levy (ESL) from the insurance industry to the Fire and Emergency Services Levy (FESL) within local government, was insufficient.
>
> At first glance the time-frames and milestones set by NSW Treasury appeared achievable, although in hindsight they were rather ambitious.[157]

2.110 The council continued:

> If, as we are lead to believe, the legislation was repealed because of 'flawed financial modelling', it raises the question as to whether the modelling was done on actual or projected classification data. NSW Treasury possessed meaningful data to model (albeit, this data was only available to Treasury quite late in the implementation phase).[158]

2.111 Randwick City Council concluded: 'Irrespective of whether the data was meaningful, Treasury's modelling was not made available to any stakeholders. It, like the rates and charges, was withheld from stakeholders for as long as possible and was therefore not up for discussion'.[159]

2.112 Woollahra Municipal Council was similarly concerned about the timeframes for implementing such a significant change:

> One of the potential contributors to this debacle is the timeframe within which the State tried to implement the change. It was entirely inadequate. Such a significant change to the current funding model should have been done over a much longer period including more robust software testing and financial modelling. Software providers were given precious little time to make quite complex changes to software to facilitate levying and

153 Submission 16, National Insurance Brokers Association of Australia, p 6.

154 Submission 5, Penrith City Council, p 1. Also see, Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

155 See, Submission 11, Wollongong City Council, p 1.

156 Submission 10, Mid-Western Regional Council, p 1; Submission 3, NSW Revenue Professionals, p 2.

157 Submission 13, Randwick City Council, p 1.

158 Submission 13, Randwick City Council, pp 1-2.

159 Submission 13, Randwick City Council, p 2.

> reporting of FESL. Councils were given even less time to test those changes, placing heavy reliance on a handful of test sites.[160]

2.113 Mr Matthew Saunders, Rates Coordinator, Penrith City Council, told the committee he also had misgivings about the timeframes provided:

> … the amount of time to implement the changes in hindsight was not sufficient. Even despite a lot of resources being put in by councils, Treasury and the software providers that we use, by the time the levy was almost to come to fruition the major software providers still had not finalised testing of the computer systems and councils were still in the dark as to some of the reporting requirements to NSW Revenue.[161]

2.114 Blacktown City Council called the project timeframes 'chaotic' and said that if the FESL was to be re-introduced there should be a longer lead-in time to ensure that processes and systems can be appropriately tested and understood.[162]

Administering the Fire and Emergency Services Levy via local councils

2.115 There was some discussion during the inquiry about requiring local government to collect the FESL. Certain local councils did not support having local government collecting a state-based levy.[163] For example, Blacktown City Council stated that it was not 'reasonable or appropriate' for council to act as the collection agency for the FESL.[164]

2.116 The NSW Government advised that local council was determined to be the most appropriate collection agency as it already had existing infrastructure to issue FESL assessment notices in conjunction with rate notices and collect revenues on behalf of the State.[165] The NSW Revenue Professionals noted that this was a cost effective mechanism for administering the levy.[166]

2.117 Randwick City Council noted that despite some consultation the NSW Government ultimately made the decision to have local councils administer the levy:

> Although liaison occurred about how the FESL would work, the decision to shift it to local government was very much a one-way street. The FESL, a State reform to be administered by local government, was decided on with little to no consultation with the local government industry.[167]

2.118 Ms Kylie Yates, Acting Chief Executive of Local Government NSW, explained that councils were concerned that collecting the levy would be unduly burdensome and leave them out of pocket.[168]

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160 Submission Woollahra Municipal Council 2, p 5.

161 Evidence, Mr Matthew Saunders, Rates Coordinator, Penrith City Council, 13 August 2018, p 53.

162 Submission 7, Blacktown City Council, p 7.

163 Submission 11, Wollongong City Council, p 1; Submission 2, Woollahra Municipal Council, p 1.

164 Submission 7, Blacktown City Council, p 3.

165 Answers to supplementary questions on notice, NSW Treasury, 7 September 2018, p 6.

166 Submission 3, NSW Revenue Professionals, p 3.

167 Submission 13, Randwick City Council, p 2.

168 Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 47.

2.119 To alleviate these concerns, Mr Laurence McGuiness, Vice President, NSW Revenue Professionals, said that NSW Treasury agreed to cover the cost for administrating the scheme:

> There were two options that councils were given for funding. One was a formula-based option, based on a certain calculation method or an actual method, so councils could submit their actual costs to the Government and they would be reimbursed for that, or to simplify matters councils would be paid to set sum on estimates.[169]

2.120 The committee heard that there were some concerns with these options. Blacktown City Council explained that basing the on-going reimbursement costs on the number of relatable assessments would disadvantage growth areas that far more vacant land than more established local government areas:

> It was understood that following the implementation of FESL much of the on-going administrative work associated with maintaining FESL data was to have related to monitoring and implementing classification changes of land from vacant to non-vacant. Obviously older, established, built up areas would have had relatively small volumes of administrative work to undertake as they contain little or no vacant land (to change to nonvacant).
>
> Growth areas such as the Blacktown LGA possess many vacant lots and consequently would have incurred significantly greater overhead costs. Therefore, the proposal to align reimbursement of administration costs with the number of assessments is not equitable and due consideration should be given to the actual cost drivers of administering the proposed scheme.[170]

2.121 Indeed, Wollongong City Council said that the NSW Government has taken a 'very dictatorial, heavy handed and costly' approach to control over the payments and reconciliation process in relation to the proposed collection of the levy .[171]

2.122 Wollongong City Council also contended that as council is providing a service to the NSW Government, that is, collecting the FESL, local governments are entitled to a reasonable payment for the service provided.[172]

2.123 Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, also noted that local councils wanted to avoid some of the political opprobrium of administering the levy. Consequently, Local Government NSW insisted upon, and the NSW Government agreed, that the FESL be explicitly recognised as a state government impost on rates notices.[173]

2.124 There was a suggestion that Revenue NSW would be a more appropriate collection body.[174] This argument is examined in Chapter 4.

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169 Evidence, Mr Laurence McGuiness, Vice President, NSW Revenue Professionals, 13 August 2018, p 45.

170 Submission 7, Blacktown City Council, p 3.

171 Submission 11, Wollongong City Council, p 1.

172 Submission 11, Wollongong City Council, p 1.

173 Evidence, Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, 13 August 2018, p 48.

174 Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, Local Government NSW, 13 August 2018, p 42.

2.125 Stakeholders argued that in addition to moving away from the insurance-based levy, the NSW Government should have considered removing the 11.7 per cent fire and emergency funding levy from council rates. For example, Ms Yates stated: 'Local Government NSW supports the introduction of a broad-based property levy that removes not only the insurance component of the levy but also the 11.7 per cent paid by councils so that it is more transparent to all taxpayers'.[175]

2.126 Likewise, Woollahra Municipal Council, remarked that 'a golden opportunity to make the full cost of providing emergency services more transparent was lost by not including the 11.7 per cent local government contribution currently hidden in council rates'.[176] This proposal is examined in Chapter 4.

Committee comment

2.127 As discussed in Chapter 1, we believe that the current ESL system lacks transparency and is not well-understood by the community. However, the FESL announced by the NSW Government in March 2017 failed to meet the government's key arguments for moving to a property-based levy, that is, it did not increase fairness by better sharing the levy burden, and it increased costs for many property owners. Ultimately, these outcomes led to the NSW Government's decision to defer the levy on 30 May 2017; only days from the FESL implementation date on 1 July 2017.

2.128 The committee acknowledges that the NSW Valuer General, Property Services NSW, local councils, insurers and many other stakeholders had conducted significant work in preparation of the FESL. While we do not doubt the veracity of the data prepared by these organisations, we note that local councils raised compelling arguments that the deadlines set by the NSW Government, particularly for the classification of properties, were insufficient and may have contributed to some of the inadequacies that beset the FESL.

2.129 The committee recognises the overwhelming concern about moving from improved value, through home and contents insurance, to unimproved land values as a base component of the FESL rates. Moreover, we acknowledge that other jurisdictions, including Queensland, Victoria and Western Australia, use improved value for the bases of their property-based levy to fund fire and emergency services agencies.

2.130 While we accept that there would have been substantial costs and time delays if the NSW Valuer General developed an improved land value database, the decision not to take this action contributed to the significant increase of levy rates. We particularly note the detrimental effect it had on rates of cash-poor but asset rich property owners in metropolitan areas, as well as commercial property owners and certain farm owners.

2.131 The committee acknowledges the concerns raised about the FESL. The NSW Government's decision to implement a fixed rate across the property classifications failed to take into consideration the varying costs of attending an emergency in different areas. Chapter 4 examines proposals to include zonings within the property classifications.

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175 Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42.

176 Submission 2, Woollahra Municipal Council, p 1.

2.132 The committee notes that NSW Treasury used the best data set available to model the FESL. However, while NSW Treasury could match ESL payments to approximately 65 per cent of 2.8 million residential properties in New South Wales, it was only able to match ESL payments with approximately 26 per cent of the 460,000 non-residential properties in New South Wales. While NSW Treasury acknowledged this situation was a 'known unknown', the committee believes that further work should have been undertaken to better address this gap in the data.

2.133 Additionally, the committee believes that the NSW Government did not adequately consider how disadvantaged groups, such as pensioners, could afford the levy. There are very real and unresolved equity concerns with the proposed changes, especially for the current 5 per cent of uninsured homeowners. On the scant evidence available to the committee it appears clear that many of these homeowners already cannot afford insurance. Their situation will only be made more difficult if they are faced with a new annual FESL levy of $250 on average.

2.134 We also note the concerns raised by stakeholders about the modelling conducted by NSW Treasury, including the lack of transparency around the process and the NSW Government's decision to withhold the levy rates until after the passage of the legislation. The committee believes that if the NSW Government had acted more transparently it may have been able to develop a more acceptable levy. To this end, the committee recommends that NSW Treasury continue to work to minimise the number of 'known unknowns' and conduct a full, and transparent re-modelling of any new FESL.

Recommendation 2

That NSW Treasury continue to work to minimise the number of 'known unknowns' and conduct a full, and transparent re-modelling of any new Fire and Emergency Services Levy.

2.135 The committee notes that, despite the reluctance of certain local councils, the NSW Government had required local government to collect the FESL. While local councils and the NSW Government were able to agree on a reimbursement scheme for administration costs, the committee recommends that the NSW Government consider making Revenue NSW responsible for administering any new FESL. The cost of reimbursing local councils following the deferment of the levy is examined in Chapter 3.

Recommendation 3

That the NSW Government consider making Revenue NSW responsible for administering any new Fire and Emergency Services Levy.

2.136 Finally, the committee acknowledges the calls from local councils to remove the 'hidden' 11.7 per cent ESL on rates. This issue is examined in Chapter 4.

Chapter 3 Policy and financial implications of repealing the *Fire and Emergency Services Act 2017*

This chapter considers the policy and financial implications of repealing the *Fire and Emergency Services Act 2017* for the NSW Government, local councils, insurers and property owners.

Decision to defer the Fire and Emergency Services Levy

3.1 On 30 May 2017, the Hon Gladys Berejiklian MP, Premier of New South Wales, and the Hon Dominic Perrottet MP, Treasurer, announced that the NSW Government would defer the introduction of the Fire and Emergency Services Levy (FESL):

> The NSW Government will defer the introduction of the Fire and Emergency Services Levy (FESL) to ensure small to medium businesses do not face an unreasonable burden in their contribution to the State's fire and emergency services …
>
> While the new system produces fairer outcomes in the majority of cases, some people – particularly in the commercial and industrial sectors – are worse off by too much under the current model, and that is not what we intended.[177]

3.2 Following the announcement, the NSW Government introduced the *Emergency Services Levy Bill 2017* on 22 June 2017. The Bill deferred the introduction of the FESL and reintroduced the insurance-based Emergency Services Levy (ESL). It also maintained the funding for the fire and emergency services. For example, in 2017-2018 the ESL was expected to generate revenue equal to approximately 81 per cent of the estimated costs of the fire and emergency services while the State and local governments were responsible for funding the remaining 19 per cent of the costs.[178]

3.3 In addition, the Bill extended the role of the ESL Insurance Monitor until 30 June 2020 to ensure that insurers did not overcharge customers.[179]

3.4 While certain inquiry participants, such as the Combined Pensioners & Superannuants Association of NSW, supported the deferment of the FESL,[180] others, like Local Government NSW and the National Insurance Brokers Association of Australia, expressed disappointment with the decision.[181]

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177 Media Release, 'Fire and Emergency Services Levy to be reviewed to ensure fairness', the Premier, the Hon Gladys Berejiklian MP, and the Treasurer and Minister for Industrial Relations, the Hon Dominic Perrottet MP, 30 May 2017.

178 *Hansard*, NSW Legislative Council, 22 June 2017, p 66 (Don Harwin).

179 *Hansard*, NSW Legislative Council, 22 June 2017, p 66 (Don Harwin).

180 Submission 20, Combined Pensioners & Superannuants Association of NSW, p 6; Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 16.

181 Submission 15, Local Government NSW, p 6; Evidence, Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, 13 August 2018, p 31; Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26.

3.5 Some stakeholders expressed disbelief that the NSW Government was unaware of the potential perverse outcomes of the FESL. For example, Local Government NSW, stated:

> It is difficult to believe that Cabinet would not have been aware of the financial modelling and the projected distributional impacts of the FESL well in advance of deferral decision. FESL represented a major tax reform and should have been subject to intense scrutiny. It should have been expected that there would be winners and losers in any change to the emergency services funding methodology.
>
> …
>
> It would be reasonable to expect this to be identified in financial modelling earlier in the process and that there would have been time to recalibrate the model.[182]

3.6 Indeed, Ms Natalie Horvat Executive Director, Revenue and Intergovernmental Division, NSW Treasury, assured the committee that the Treasurer and Cabinet were briefed throughout the policy development process.[183]

3.7 Stakeholders who supported a property-based levy argued that retaining the ESL prolongs the existence of a model system that does not encourage equity, transparency, and accountability, and noted that many other states have moved to a property-based system to fund fire and emergency services.[184] A further concern was the major financial expenditure in addition to the large investment of time and effort expended by state and local government staff working towards introduction of the FESL.[185] These issues are examined in the following sections.

Consequences for the NSW Government

3.8 Stakeholders noted that the NSW Government had incurred significant financial costs in the preparation for the FESL. Local Government NSW suggested that the NSW Government's cost may have been in excess of $25 million:

> LGNSW is not in a position to know the full costs incurred by the NSW Government in preparing to implement the FESL. The Sydney Morning Herald (27/7/17) reported that the costs ran to more than $25 million. LGNSW is aware that Treasury made significant expenditures in developing the FESL and preparing for implementation. The system had been developed and tested, advertising and education had commenced, and the FESL was ready to 'switch on' by the time the deferral was announced.[186]

3.9 As discussed in Chapter 2, part of the NSW Government's costs included reimbursing local councils for the work that had been undertaken to identify and classify properties. Local Government NSW explained:

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182 Submission 15, Local Government NSW, p 6.

183 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 5.

184 Submission 15, Local Government NSW, pp 7-8; Submission 16, National Insurance Brokers Association of Australia, p 6; Submission 18; Submission 18, Insurance Council of Australia, p 10.

185 Submission 15, Local Government NSW, p 6.

186 Submission 15, Local Government NSW, p 7.

> As a result of the cost recovery arrangements negotiated by LGNSW and the NSW Local Government Revenue Professionals with the NSW Government, councils have been reimbursed for the direct costs incurred in preparing to implement the FESL. A set of cost heads had been agreed and councils had the choice between adopting a formula for reimbursement or recorded cost reimbursement. The reimbursement arrangements were later extended to include any additional costs incurred in unwinding the FESL after the deferral was announced.[187]

3.10 The NSW Government advised that local councils were reimbursed approximately $11,495,768 to cover both implementation of FESL and any costs to close the FESL.[188]

3.11 As noted in Chapter 2, the NSW Valuer General spent approximately $1.1 million preparing for the FESL.[189]

3.12 The Insurance Council of Australia noted that the NSW Government also spent approximately $6.85 million setting up the cost of the ESL monitoring regime.[190]

3.13 Local Government NSW said that in the absence of any indication of when the FESL will be introduced, much of this money may have been wasted:

> In the absence of signs that the NSW Government is likely to reintroduce a modified FESL or other alternative emergency services funding model in the near future (at least within the term of the current government), it is likely that much of this expenditure will have been wasted. A lot of the groundwork will need to be repeated if, or when, a revised FESL is reintroduced in future.[191]

3.14 In addition to the financial costs of the deferred reform, Randwick City Council remarked that the NSW Government should not underestimate the damage the repeal has caused to its reputation and credibility.[192]

Consequences for local councils

3.15 As previously noted, local councils were reimbursed for their work in preparing for the FESL.[193] Local Government NSW commended NSW Treasury for its handling of the reimbursement process:

> Following the deferral, LGNSW advocated strongly for costs associated with the deferral to be fully compensated. Treasury agreed to implement a process to ensure full compensation for any cost associated with the FESL deferral that were not covered by existing cost compensation arrangements.

187 Submission 15, Local Government NSW, p 7.

188 Answers to supplementary questions on notice, NSW Treasury, 7 September 2018, p 6.

189 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 18.

190 Submission 18, Insurance Council of Australia, p 15.

191 Submission 15, Local Government NSW, p 7.

192 Submission 13, Randwick City Council, p 4.

193 See, Evidence, Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, 13 August 2018, p 44; Submission 14, Wagga Wagga City Council, p 1; Evidence, Clr Bill West, Mayor, Cowra Shire Council, and Member of the Executive of Central NSW Councils 20 August 2018, p 3.

> LGNSW considers this part of the policy process to be an exemplary example of consultation and collaboration between state and local government. LGNSW commends NSW Treasury for its openness and responsiveness during this part of the process.[194]

3.16 However, Local Government NSW noted that while direct costs have largely been covered, the opportunity cost of time that would otherwise have been spent on other council priorities, cannot be recovered.[195]

3.17 Similarly, Randwick City Council remarked that the repeal had led to the significant waste of council resources:

> The biggest impact of the repeal was waste! A waste of money, time and resources. The cost of opportunities forgone is significant. All rating staff who focussed on FESL implementation activities were already fully employed in their day-to-day roles. Therefore, from October 2016 - May 2017, these staff prioritised FESL while delaying other important projects and activities.[196]

3.18 Randwick City Council noted that while the $72,000 spent on preparations was reimbursed, should the FESL be re-introduced, new classifications will need to be undertaken.[197] Additionally, the council noted that it had prioritised a software upgrade, at a cost of approximately $33,000, to prepare for FESL functionality.[198]

3.19 Mid-Western Regional Council likewise remarked that while council was reimbursed for its work in preparing property classifications, undertaking this work in a relatively short period of time imposed significant resourcing issues on council.[199] The council noted that the decision to postpone the levy also imposed additional tasks in order to then prevent the levy being raised, to "de-FESL" computer systems and deal with customer enquiries.[200]

Consequences for insurers

3.20 The Insurance Council of Australia noted that the NSW Government had encouraged insurers to begin transitioning towards the FESL for more than year before the *Fire and Emergency Services Levy Act 2017* received assent in April 2017.[201] The committee heard that as part of this transition, insurers implemented a tapered reduction in ESL charges, in turn, this led to the under-collection of the levy:

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194 Submission 15, Local Government NSW, p 6.

195 Submission 15, Local Government NSW, p 7.

196 Submission 13, Randwick City Council, p 4.

197 Submission 13, Randwick City Council, p 4.

198 Submission 13, Randwick City Council, p 4.

199 Submission 10, Mid-Western Regional Council, p 1.

200 Submission 10, Mid-Western Regional Council, p 2. Also see, Submission 1, Campbelltown City Council, p 2; Submission 3, NSW Revenue Professionals, p 2.

201 Submission 18, Insurance Council of Australia, p 8. Also see, Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26.

> On the basis of continued assurances that the reform was proceeding, in the months prior to the scheduled introduction of the FESL (1 July 2017), many insurers implemented a tapered reduction in ESL charges. This was principally to avoid public perceptions of double payment of emergency services contributions once FESL collection began and also to minimise compliance complexities that would have resulted from the need to return any over collections. However, the consequence was a significant under-collection of their emergency services funding liability for which insurers remained liable.[202]

3.21 In fact, the Insurance Council of Australia noted that in 2016-2017, insurers under collected approximately $30.1 million of ESL.[203]

3.22 The Insurance Council of Australia noted that deferment of the FESL imposed approximately $14.4 million on insurers' time, effort, and resources, including:

- $11.6 million on IT business and technical costs, such as development and testing
- $1.4 million on compliance costs to meet ESL Monitor and NSW Treasury information and data requests
- $1.4 million on customer communications costs.[204]

3.23 In addition, it was noted that insurers committed approximately 105 Full Time Equivalent staff to prepare for the FESL.[205]

3.24 Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, informed the committee that the cost of deferring the policy was approximately $40 million which includes the actual costs of reintroducing the ESL and the under collection that was taken by the individual insurers prior to the deferment.[206] Mr Whelan noted the insurers' shareholders have ultimately paid these costs.[207]

3.25 The Insurance Council of Australia expressed disappointment that insurers were not provided with any prior notification of the NSW Government's decision to defer the FESL.[208] The council argued this action failed to recognise the extensive work undertaken by insurers to prepare for the new levy:

> [The decision to defer] … was done without prior notification or industry consultation and with little regard to the industry's considerable efforts and expense to transition to the FESL and compliance with the ESLIM's [Emergency Services Levy Insurance Monitor] extensive requirements under the ESLIM Act. For example, for eight months

202 Submission 18, Insurance Council of Australia, p 8.

203 Submission 18, Insurance Council of Australia, p 15.

204 Submission 18, Insurance Council of Australia, p 14. Also see, Submission 15, Local Government NSW, p 8.

205 Submission 18, Insurance Council of Australia, p 14.

206 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 28.

207 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 29.

208 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26; Also see, Submission 18, Insurance Council of Australia, p 4.

> insurers had been required to publicise and explain to their customers the impending reform, including through mandatory provision of a notice.[209]

3.26 Moreover, once the deferral had been announced, the Insurance Council of Australia met with the NSW Treasurer, NSW Treasury and the Emergency Services Levy Insurance Monitor to discuss the reintroduction of the ESL. However, the Insurance Council of Australia noted that the NSW Government did not support any of its suggestions for re-establishing the ESL:

> Following the announcement, the Insurance Council and individual members met with the NSW Treasurer, NSW Treasury and the ESLIM to discuss ESL re-introduction. After consulting with its members, the Insurance Council put forward suggestions to the NSW Treasurer on the best way of re-establishing ESL. However, none of the points advocated by the industry, such as prescribed ESL rates and a common date for insurers to restart ESL collection, were reflected in the ESL Act.[210]

3.27 Mr Whelan told the committee that the Treasurer has assured insurers that the FESL reform has been deferred and not cancelled.[211] Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, acknowledged that similar assurances had been made to the National Insurance Brokers Association of Australia.[212] However, neither organisation had received a specific commitment from the NSW Government about when the FESL would be re-introduced.[213]

Consequences for property owners

3.28 The committee heard that following the repeal of the FESL, certain property owners have faced increased council rates. For example, Penrith City Council stated: 'Repealing the Act, whilst being a welcome decision in hindsight, has left a legacy of high rates for our rural property owners as a result of the revaluation that was done to align all NSW Councils for the purposes of the FESL'.[214] Penrith City Council explained that valuations in 2015 and 2016 saw significant rates increases for rural property owners:

> Penrith City Council had a general revaluation in 2015 as part of the normal three year cycle … Penrith City Council was satisfied that the rates increases for some of our properties, particularly our rural properties was commensurate to the increase in land values.
>
> …

209 Submission 18, Insurance Council of Australia, pp 8-9.

210 Submission 18, Insurance Council of Australia, p 9.

211 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 27.

212 Evidence, Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, 13 August 2018, p 27.

213 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 27; Evidence, Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, 13 August 2018, p 27.

214 Submission 5, Penrith City Council, p 1.

> The following year however, with the revaluation done for the purposes of the FESL, our rural property owners again suffered more rates increases due to valuation increases from only one year earlier, this time receiving larger rates increases of between 10 per cent and 50 per cent (above increased amounts they were already paying from the previous revaluation the year before). This amounted to average rates increases of between $140 and $2,400 for our rural suburbs.[215]

3.29 There was also concern that insurance policy holders would have experienced 'bill shock' following the deferral of the FESL. The National Insurance Brokers Association of Australia explained that as much of the work to roll back the ESL from insurance policies had been taken prior to the decision to defer the FESL, certain policy holders would not have expected the higher fees when they renewed their policies:

> Following the Government's initial announcement to remove the levy on insurance premiums as from 1 July 2017, virtually all insurers had removed the levy on insurance premiums by April 2017. As a result, policyholders – domestic and commercial – who took out or renewed policies during April, May and June 2017 paid little or no ESL levy on their insurance premiums.
>
> …
>
> Following the Government's decision to defer the introduction of the ESL property levy, and continue the ESL on insurance premiums, those who paid little or no levy in April, May and June 2017 will face significant "bill shock" in April, May and June 2018. This is because domestic insurance premiums will be between 18 per cent and 24 per cent higher than they were during these months in 2017, and commercial premiums will be between 35 per cent and 40 per cent higher than they were during these months in 2017.[216]

3.30 The National Insurance Brokers Association of Australia argued that the increasing premiums will encourage commercial property owners to finance their property loss risks by means other than traditional insurance. The National Insurance Brokers Association of Australia stated that this may have two key consequences: decreasing funds directed to the ESL, and increasing the levy payable by traditional policyholders.[217]

3.31 Alternatively, other inquiry participants supported the deferral, noting that it returned some autonomy back to property owners. For example, Blacktown City Council said that repealing the FESL means that people who cannot afford to take out property insurance have been 'spared the burden' of the new levy, and can apply their own discretion in managing related risk and the allocation of their limited financial resources.[218]

215 Submission 5, Penrith City Council, pp 1-2.

216 Submission 16, National Insurance Brokers Association of Australia, pp 4-5. Also see, Evidence, Mr Tim Wedlock, National President, National Insurance Brokers Association of Australia, 13 August 2018, p 27.

217 Submission 16, National Insurance Brokers Association of Australia, p 5.

218 Submission 7, Blacktown City Council, p 4.

Committee comment

3.32 The committee notes the significant financial implications of deferring the FESL, including the estimated $25 million spent by the NSW Government to introduce and defer the levy, and the approximate $40 million loss incurred by insurers. Moreover, we acknowledge that these figures do not include the opportunity costs lost by employees who could have been working on other projects or other council priorities. The committee considers this a significantly disappointing outcome, and as discussed in Chapter 2, expects the NSW Government to conduct thorough investigations prior to committing to policy reforms.

3.33 Additionally, we note that the policy has left a legacy of increased rates for certain property owners, and resulted in 'bill shock' for some insurance policy holders. This is understandably frustrating for property owners.

3.34 The committee finds that the NSW Government's failed implementation and late deferral of the FESL has caused significant and avoidable costs to local government and the insurance industry.

Finding 2

The NSW Government's failed implementation and late deferral of the Fire and Emergency Services Levy has caused significant and avoidable costs to local government and the insurance industry.

Chapter 4 Should the Fire and Emergency Services Levy be re-introduced?

With the deferment of the 2017 Fire and Emergency Services Levy (FESL) scheme, this chapter considers the future funding of fire and emergency services. As noted in earlier chapters, there is consensus that fire and emergency service agencies play an important role in protecting and assisting the community and should be adequately funded.

The chapter outlines alternative methods for funding fire and emergency services including a fixed rate levy, user pays scheme and use of consolidated revenue. The chapter then reviews the support for a property-based scheme, similar to the 2017 FESL scheme but with improvements recommended by inquiry participants if the FESL is to be reintroduced. Finally, the chapter turns to the commentary received during the inquiry on the current and future role of the Emergency Services Levy Monitor.

Alternative methods for funding fire and emergency services

4.1 Inquiry participants briefly canvassed alternative methods, to insurance and property-based levies, for funding fire and emergency services including a fixed rate levy, user pays system and funding through consolidated revenue.

Fixed rate levy

4.2 The Insurance Council of Australia canvassed the idea of a fixed rate levy, suggesting it could provide simplicity and predictability around funding allocation and budget forecasting:

> If the NSW government concludes that its budget could not sustain a new expenditure, NSWFES [NSW Fire and Emergency Services] could be funded by replacing the insurance-based ESL with a fixed rate levy, similar to the existing stamp duty on insurance, applied on the policy types currently liable for ESL…
>
> A fixed rate levy would provide the NSW Government and NSWFES with the ability to determine and adjust rates, promoting predictability around funding allocation and budget forecasting. This would be a marked improvement on the uncertainty and complexity of insurers having to calculate individual rates on the basis of market expectations.
>
> A fixed rate levy would also simplify compliance costs for the NSW Government and the industry. In a "normal" year, ESL collection costs general insurers tens of thousands of dollars each and the unwanted and unnecessary distraction for management of acting as a tax collection agent. On the Government side, there is the burden of maintaining a monitoring regime based on the ESLIM [Emergency Services Levy Insurance Monitor] and having Revenue NSW deal with ESL as a separate revenue source.[219]

4.3 Local Government NSW pointed to the Queensland model as an example of the flat rate model:

[219] Submission 18, Insurance Council of Australia, p 20.

> The levy is applied to all properties at a flat rate within different categories of utilisation (for example, residential, commercial, industrial, community use, rural or vacant). The levy is not related to property value. Different levies apply in different areas based on fire brigade response capabilities, with the highest levies being applied in major urban centres serviced by large permanently staffed brigades and lower levies applying in areas with lesser levels of service availability. The costs are shared by all owners of property, and not just those who are insured.
>
> This model was originally introduced to Queensland in 1984.[220]

User pays system

4.4 A further alternative is the user pays system, where the government or emergency service agencies bill people that use their services. Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, commented:

> The CPSA … is in favour of introducing a user-pays charge on fire and emergency services, just like the charge for emergency ambulance services. It seems odd to have two different approaches to funding the emergency response when certainly the ambulance one is working very well.[221]

4.5 In its submission the Combined Pensioners & Superannuants Association of NSW elaborated:

> It would mean that owner-occupiers, lessors and tenants would have a responsibility to have an ability to pay for fire and emergency services, which they can discharge through paying an insurance premium specific to their individual risk profile, while low-income households would be wholly or partially exempt. The insurance premium could be offered both as a standalone and as an optional add-on to any property insurance policy.[222]

4.6 Noting the need for funding to cover the ongoing costs of equipping and maintaining the emergency services rather than just responding to incidents, Insurance Australia Group (IAG) outlined a user pays or cost recovery scheme for industry:

> An obvious example of where a direct user pays approach could apply is in relation to emergency service requirements for industry, particularly hazardous materials. For example, industries that use or store hazardous materials could be required to pay a special levy or charge.[223]

4.7 The NSW Government indicated in its submission that consideration was given to the user charge system and found that it was not to be economically efficient:

> Services provided by the fire and emergency services protect both life and property from fire, floods storms and other natural disasters. Importantly, all members of the community benefit from fire and emergency services provided to other members of the

220 Submission 15, Local Government NSW, p 9.

221 Evidence, Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW, 20 August 2018, p 5.

222 Submission 20, Combined Pensioners & Superannuants Association of NSW, p 7.

223 Submission 17, IAG, p 8.

> community. In the case of fire, its containment benefits property owners distant from the initial source of the fire outbreak. Given this, the funding of fire and emergency services through a user pays framework is not economically efficient, with this being the rationale for centralised government funding of these services.[224]

Consolidated revenue

4.8 A further alternative considered by inquiry participants was that fire and emergency services be completely funded from the consolidated revenue. Local Government NSW commented that this would be the most equitable and efficient method, however, noted that no other state has adopted this model:

> Many would argue that the most equitable and efficient method of funding the emergency services is from Consolidated Revenue. That way the cost burden is distributed across all the revenue sources of state government. The broad base helps maximise the number of NSW residents making a contribution to the costs. This would put the emergency services on the same footing as the NSW Police Force.
>
> While a contribution from consolidated revenue features in each of the state funding models, it has not historically been the major source of funding fire and emergency services in any jurisdiction. No other state has adopted this model when reforming their emergency services funding model.[225]

4.9 The Insurance Council of Australia indicated that this alternative approach would not discourage insurance use and would be a more efficient, certain and stable method of collecting revenue compared to an insurance-based levy:

> Funding for NSWFES could be sourced directly from NSW Consolidated Revenue; an appropriate method of funding a public good used by the whole community. Similar to a property-based levy model, this alternative approach would not discourage insurance use and would be a more efficient, certain and stable method of collecting revenue compared to an insurance-based levy.

4.10 Research conducted by the Insurance Council of Australia in 2010 concluded that implementing a grants-based system funded from the Consolidated Fund for fire and emergency services was the most effective way of increasing net household consumption in Victoria:

> The Insurance Council's research in 2010 evaluated the impact of funding fire and emergency services under alternative options – such as through Consolidated Revenue … The research estimated the impact of the modelled alternative options on economic welfare in Victoria, in terms of net improvement to welfare (being the net increase in household consumption in Victoria), and was conducted in the context of the removal of the then Victorian insurance-based Fire Services Levy.[226]
>
> The estimates of the research… showed that the introduction of a revenue-neutral municipal levy (essentially a broad-based property levy) would result in a 0.29 per

224 Submission 22, NSW Government, p 4.

225 Submission 15, Local Government NSW, p 9.

226 Submission 18, Insurance Council of Australia, p 19.

> cent net improvement to welfare in Victoria. The research found that the largest improvement to economic welfare in Victoria would be from implementing a grants based system funded from the Consolidated Fund (at a cost to revenue), which would result in a 0.94 per cent net improvement to welfare.[227]

4.11 The Combined Pensioners & Superannuants Association of NSW stated that its preference is for essential services to be funded from consolidated revenue:

> CPSA's policy preference is for essential Government services to be funded from Government consolidated revenue raised as part of a progressive income tax system. However, CPSA acknowledges that the NSW Government has limited ability to raise progressive income taxes…[228]

4.12 Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, questioned, that if emergency services are a public good, why is it not funded through consolidated revenue:

> We would say fundamentally it is a public good. Why is it not funded by consolidated revenue like education, police and other agencies? It is an historical hangover that goes back to the 1870s, 1880s. That is all it is; it is anachronism.[229]

4.13 The Property Owners Association of NSW argued that funding fire and emergency services via consolidation revenue was 'efficient, simple and equitable' as it aligned the burden of funding these services with those who benefit, with the added bonus of removing the distorting impact on insurance costs.[230]

Support for a property-based levy

4.14 While the NSW Government's FESL, a property-based levy, was subsequently deferred for the reasons outlined in Chapter 2, there is support amongst inquiry participants for a property-based levy, albeit with a number of improvements to the 2017 FESL scheme, over an insurance-based levy.

4.15 The Insurance Council of Australia supported the removal of the insurance-based ESL and its replacement with a re-modelled property-based levy, subject to safeguards as to its impact:

> The property-based levy remains the most economically effective, equitable and efficient method to fund the NSWFES.
>
> Such a model would address the issues with the insurance-based ESL. It would be consistent with the criteria of an effective tax and the user pays principle for government services; encourage the adequate use of insurance; and be a more efficient and certain way of collecting revenue compared to the unpredictability endemic to the ESL.[231]

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[227] Submission 18, Insurance Council of Australia, pp 19-20.

[228] Submission 20, Combined Pensioners & Superannuants Association of NSW, p 6.

[229] Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 17.

[230] Submission 9, Property Owners Association of NSW, p 2.

[231] Submission 18, Insurance Council of Australia, pp 16-17.

4.16 Local Government NSW indicated that property value based levy systems are in operation in other Australian jurisdictions including Western Australia, South Australia and Victoria,[232] and they have been advocating for a property-based levy model in New South Wales for some time now. Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, advised:

> We as an organisation have been advocating for a broad-based property levy to replace the current emergency services levies on insurance policies and local government. We have been advocating for that for over 15 years, and it is our firm policy position for the reasons that were stated earlier about equity, transparency and accountability.[233]

4.17 Mr McBride noted that ideally this levy would essentially replicate the Victorian model and would be based on improved value of land.[234]

4.18 NSW Revenue Professionals 'generally support the funding of fire and emergency services through the imposition of a property based levy. This model is used by most other states, and we submit that it is a fairer system that sees a contribution being made by a larger number of potential users of the services'.[235]

4.19 The Mid-Western Regional Council 'supports the funding of fire and emergency services through the imposition of a property based levy. We acknowledge that this model is used by most other states, and we believe it is a fairer system where a contribution is made by a larger number of potential users of the services'.[236]

4.20 Mr Michael Holton, President, Volunteer Fire Fighters Association, stated '… the VFFA continues to support a broad-based property levy. We feel, in principle, it is a fairer system...'.[237]

Improvements within a property-based levy scheme

4.21 With a property-based levy, stakeholders proposed a number of improvements to the 2017 FESL scheme, many of which are demonstrated in other jurisdictions. Of particular focus for stakeholders were the following:

- use of capital improved value of land for calculation of levy
- differential levy rates, fixed charges, discounts and caps
- better aligned land classifications between council and FESL
- inclusion of motor vehicles
- the removal of 11.7 per cent contribution by councils
- need for consultation with stakeholders during the development of any new FESL scheme.

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232 Submission 15, Local Government NSW, p 9.

233 Evidence, Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, p 45.

234 Evidence, Mr Shaun McBride, Senior Strategy Manager, Local Government NSW, p 45.

235 Submission 3, NSW Revenue Professionals, p 3.

236 Submission 10, Mid-Western Regional Council, p 2.

237 Evidence, Mr Michael Holton, President, Volunteer Fire Fighters Association, 20 August 2018, p 10.

Use of capital improved value of land for calculation of levy

4.22 As discussed in Chapter 2, the NSW Government's 2017 FESL scheme based the levy on the value of unimproved land, which had the potential to cause significant increases in levy prices for certain landowners, such as cash poor owner occupier households and commercial land owners. Stakeholders called for the use of capital improved value of land for calculation of the levy if a property-based levy was to be used.

4.23 NSW Revenue Professionals advised that use of capital improved values would increase the equitable distribution of the levy:

> The use of capital improved values would increase the equitable distribution of both the FESL and council rates. Highly developed properties who benefit most from the availability of services would contribute more to the cost of those services in comparison to lesser developed properties. It would also negate the need to separately classify vacant land.
>
> The deferral of the FESL now provides an opportunity to implement the transition of all NSW councils to capital improved values.[238]

4.24 Randwick City Council suggested that the NSW Government should have waited to introduce the FESL until the valuation basis for taxing properties in New South Wales shifted from unimproved land value to capital improvement value, as has been recommended by the Independent Pricing and Regulatory Tribunal:

> The State should have waited until the valuation basis for taxing properties in NSW shifted from unimproved Land Value to Capital Improvement Value (CIV). This shift was recently recommended by the Independent Pricing and Regulatory Tribunal (IPART) in its review of the Local Government Rating System.
>
> CIV better lends itself to FESL, as emergency services relate more to property improvements than to vacant land. CIV better underpins the taxation principles of efficiency and simplicity.
>
> CIV will allow for a more reasonable distribution of the Residential burden as units will pay more (or a fairer share).[239]

4.25 Randwick City Council provided the following example to illustrate:

> To illustrate: Just over half the properties within the Randwick Council local government area are residential units, ie; 27,000 properties. The unimproved land value for these properties range from $26,000 to $610,000 with an average unit value of $280,000. Let's say the average market value (or CIV) for a residential unit in the area is $750,000. Using the current methodology of unimproved land value a unit that costs $750k to buy can be valued (for taxation purposes) at as little as 3.7 per cent of its worth (ie; for a unit with a land value of $26,000). Currently, the average unit land value of $280k has a taxable land value of only 37 per cent of its market value. Should NSW shift

238 Submission 3, NSW Revenue Professionals, p 4.

239 Submission 13, Randwick City Council, p 4.

> to CIV, the range of residential values will narrow - allowing for a more equitable distribution of FESL across residential properties.[240]

4.26 Penrith City Council was also supportive of the use of capital improved values to better reflect a property's insurance risk and suggested waiting until such a valuation system is in place before re-introducing the FESL:

> A better model for the levy would be to use capital improved values which would better reflect a property's insurance risk. When coupled with a cap on the levy (at least for rural properties in the Sydney Metropolitan Area) the levy would then be a fairer levy.
>
> Whilst NSW doesn't use Capital Improved Values for rating or land tax purposes, if Capital Improved Values are implemented for use for rating purposes, as recommended by IPART for changes to the rating system under the *Review of the Local Government Rating System*, then these values would provide a fairer levy.
>
> Perhaps it would be best to wait until Capital Improved Values are implemented (if that is planned) and then re-introduce the levy at that time.[241]

4.27 Campbelltown City Council also called for the NSW Government to 'formulate an appropriate methodology and mandate the transition of all NSW councils to capital values' given the deferral of the FESL and to 'Consult relevant stakeholders with a view to transitioning all NSW councils to capital improved values as the basis for land rates and the FESL'.[242]

4.28 Mr Andrew Butcher, President of the NSW Revenue Professionals believed '… that capital values should form the basis in calculating both land rates and FESL levies. The New South Wales FESL has strong links to the Victorian model and Victorian councils have used improved or capital values for quite some time'.[243]

4.29 As noted in Chapter 2, the NSW Government advised that 'The NSW Valuer General does not currently estimate improved land values. The imposition by New South Wales of a FESL based on improved values was estimated to have a one-off cost of over $140 million with annual additional costs of $30 million'. In addition, the NSW Government indicated it would require a lead time of up to five years.[244]

4.30 Mr Simon Gilkes, NSW Valuer General, explained who would pay for these costs:

> It would be a cost to the system as a whole. At the moment, the valuations that we make are what are called "land values", which assume that all the land is vacant, and the databases are all constructed on that basis. We do not have details of the built environment across New South Wales. To implement a rating taxing system based on capital improved values requires first of all that data be collected, which is quite problematic. There is no single source of truth for that data across New South Wales.[245]

240 Submission 13, Randwick City Council, p 4.

241 Submission 5, Penrith City Council, p 2.

242 Submission 1, Campbelltown City Council, p 2 and p 4.

243 Evidence, Mr Andrew Butcher, President, NSW Revenue Professionals, 13 August 2018, p 42.

244 Submission 22 NSW Government, p 10.

245 Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, pp 18-19.

4.31 Mr Gilkes explained how these costs were estimated 'on some assumptions around how much time it would take to actually capture the information about the built environment. The biggest step in making those new valuations is to get to that base data'.[246]

4.32 He indicated that it has been easier for Victoria as 'they have a long-established database of the improved environment… information usually comes through the DA process, I believe, in Victoria'.[247]

4.33 Mr Gilkes suggested that if an improved land value system was to be established in New South Wales, the data would need to be sourced (and bought) from a number of avenues including land analytics companies, such as Domain and R P Data, local council databases and potentially complemented through crowd sourcing about home improvements from residents, similar to a process undertaken in Ireland.[248]

4.34 Mr Gilkes informed the committee that it is usually more expensive to administer an improved land value system:

> Generally speaking it is more expensive to administer an improved value system than an unimproved value system because the built environment changes more often than land. Once you have the land base set and well understood—and the same approach applies with improved capital values; once you have the base established the maintenance of the base is obviously far less expensive than putting it in place in the first place. With a land value base, that changes less than an improved value base because buildings change all the time. People renovate houses, things get knocked down and rebuilt. The land, unless there has been some change in the way you can use that land, essentially tends to stay the same.[249]

4.35 However, he agreed that an improved land value database would be extremely valuable database for both local government and the NSW Government.[250]

4.36 Lastly, Mr Gilkes advised that 'we would still be required to do land values as well as improved values and indeed in the other States they do … for land tax because land tax is levied across the country on site values rather than improved values. The other jurisdictions make those valuations as well'.[251]

Differential levy rates, fixed charges, discounts and caps

4.37 As noted in Chapter 1, the 2017 FESL was to be determined based on a combination of the following components:

- the classification of the property by the council (residential land, farmland, industrial land, commercial land and public benefit land)

[246] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 20.
[247] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 20.
[248] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, pp 20-21.
[249] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 21.
[250] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 21.
[251] Evidence, Mr Simon Gilkes, NSW Valuer General, 13 August 2018, p 21.

- the land value of the property as determined by the Valuer General
- a fixed levy per property depending on the classification of the property as determined by the Treasurer
- an ad valorem levy determined by the Treasurer based on the land value and the classification of each property.[252]

4.38 Stakeholders suggested that differential levy rates, fixed charges, discounts and caps could all play a role in distributing the levy more equitably across the state. For example, the NSW Revenue Professionals advised that setting of differential rates in the areas where land values varied widely, would flatten the peaks and troughs in the amounts levied and would redistribute the levy payable across the state:

> This setting of differential rates in the areas where land values are very different, would flatten the peaks and troughs in the amounts levied and would redistribute the levy payable across the state. The split could be made on the basis of property location (metro/regional) or possibly by the service provider, such as NSW Fire and Rescue and Rural Fire Service. Adding a fixed component to both, to accommodate the costs incurred by the State in funding the State Emergency Service, may be the same or different.[253]

4.39 In addition, the NSW Revenue Professionals proposed other mechanisms to redistribute the levy including:

> 1. Increase pensioner and vacant land discounts.
>
> 2. Set a cap on the maximum and/or minimum chargeable amounts.
>
> 3. Scale the levy based on land area or land value.
>
> 4. Review distribution of the total contributions across the classification sectors.[254]

4.40 The IAG further explored how a differential levy system could work by setting different levies within sectors (such as residential, farmland, commercial, industrial):

> There are a range of methods available for allocating charges between, and within sectors. The following methods are similar to those currently used in other states:
>
> 1. Allocate the charge between sectors according to their shares of a measure such as unimproved capital value or gross rental value, based on the same measure within each sector. The advantages of such a system are that it is relatively equitable in that each property holder pays according to the value of property at risk, and, that the information required is already available.
>
> 2. Allocate the charge to properties according to the type of emergency service that services that area and the level of risk for each property. This is essentially the system that is used in Queensland. The charge for residential properties varies according to the

252 Submission 8, NSW Valuer General, p 1. Note, Government land and local government land would be exempt from the levy.

253 Submission 3, NSW Revenue Professionals, p 4.

254 Submission 3, NSW Revenue Professionals, p 4.

type of brigade that services that area. Charges for commercial and industrial properties are set based on the risk for each type of property.

4.41 While recognising that such a system may be cumbersome to administer, the IAG indicated that the advantage of this system is that it allows fine-tuning of the charges according to the potential risk for a property and that it also builds into the charging structure the 'expectation of service' principle in that the residential charge varies according to which category of emergency services may attend to that property.[255]

4.42 A number of inquiry participants called for varying pensioner exemptions and vacant land discounts, including the Mid-Western Regional Council. [256]

4.43 Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, suggested the need to consider low income earners when setting the levy:

> In Western Australia "pensioners and seniors who receive a rebate on their council rates will receive the same level of rebate on their levy charge". "Pensioners who are eligible to defer their council rates may also defer their ESL charge". Clearly, in Western Australia the Government in the formulation of their property levy for emergency services has taken direct account of the needs of low-income earners, pensioners and so on. It is not a matter for us; it is a matter for the Government to decide a property levy for New South Wales, but I wanted to make sure that the Committee was aware that in other places—[257]

4.44 Some councils were concerned that while councils are legislated to provide a pensioner rebate on council rates, the same was not applicable for the FESL. Central NSW Councils stated that 'strong consideration should be given before introducing pensioner concessions where members [councils] raise concerns about how any funding gap could be met where local government, in a rate capped environment, has no capacity to do so'.[258]

4.45 The NSW SES Volunteers Association called for either an exemption or significant discount to serving NSW State Emergency Service Volunteers in recognition of their service to the community:

> In the event that the Government implements any form of Levy, the Volunteers Association requests that the Government provides either an exemption or significant discount to serving NSW State Emergency Service Volunteers in recognition of their service to the Community and the hundreds of millions of dollars in savings that they provide to the Government.[259]

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255 Submission 17, IAG, p 8.

256 Submission 10, Mid-Western Regional Council, p 2.

257 Evidence, Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia, 13 August 2018, p 38.

258 Submission 12, Central NSW Councils, Attachment 2, pp 2-3.

259 Submission 6, NSW SES Volunteers Association, p 9.

Better aligned land classifications between council and the FESL

4.46 Under the 2017 FESL scheme, local councils were required to classify land in accordance with the FESL classifications. As discussed in Chapters 2 and 3, this caused significant work for local councils to be completed within short timeframes. Some councils have called for better aligned land classifications between existing council classifications and any future FESL land classifications. For example, Mid-Western Regional Council stated:

> In working toward the implementation of the FESL, all land recorded in councils systems (including Government land) needed to be classified according to the nine classification definitions.
>
> We submit that further consideration should be given to the alignment of the FESL classifications and rating categorisations made under the Local Government Act, 1993. The process of establishing separate FESL classifications was, and would continue to be, very costly and administratively burdensome. This would also reduce landowner confusion and strengthen the relationships between the two sets of legislation.[260]

4.47 This view was also supported by the NSW Revenue Professionals. Mr Andrew Butcher, President, NSW Revenue Professionals, called for the harmonisation of the rating categories:

> … I refer to the harmonisation of rating categories. We are getting into a bit of a technical area of the two pieces of legislation. Local government has four primary categories for rating land and the FESL had nine. We think it would be important to align those two and take the opportunity to do that.[261]

4.48 Penrith City Council highlighted the issues of the property classification under the FESL, particularly in relation to industrial classifications and called for the alignment of classifications to local council classifications:

> … in relation to the property classification process for purposes of the FESL, there arose some impractical ways of determining property classifications for Council, particularly when trying to distinguish between an industrial use for a property compared to a commercial use. Whilst an exhaustive use of industrial type uses were provided for the classification project, this relied on Council knowing every type of business that was going on in every business property in the area which in some cases required us to be looking through windows, or guessing what type of business was being undertaken from the name of the business or from google searches which in no means was accurate or practical.
>
> …
>
> It would be far more practical, where the levy is being aligned to council rates that the levy would only be aligned to its rating category under the Local Government Act, to avoid impractical ongoing reviews of classifications.[262]

4.49 Similarly, Campbelltown City Council recommended that there be a commonality in FESL classifications and council categorisation of land:

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260 Submission 10, Mid-Western Regional Council, p 3.

261 Evidence, Mr Andrew Butcher, President, NSW Revenue Professionals, 13 August 2018, pp 42-43.

262 Submission 5, Penrith City Council, pp 2-3.

> Commonality would assist the community in their understanding of the basis for rating and help to avoid confusion. Commonality could also provide greater flexibility through an increase in the number of 'shared' categories and consistency in the description of each category.[263]

4.50 Blacktown City Council proposed that a more equitable system would be to create geographic zonings within the state:

> It is also proposed that a more equitable system would be to create geographic zonings within the state (ie Metropolitan Sydney and Regional/Rural NSW) with those two zones further divided up, based on factors such as density of population and predominant nature of dwelling type (ie high rise towers v's free standing houses) and the associated costs of providing emergency services. In relation to Sydney, this proposal would apply the highest rates in the dollar to properties in the centre of Sydney with zones radiating out and applicable rates in the dollar progressively reducing to the lowest rates in the dollar on the extremities of the metropolitan area. The remainder of NSW may also be divided into zones based on appropriate factors.
>
> The concept of zonings, and the apportionment of the overall levy should also be scaled to reflect the community's relative financial capacity to afford the levy. Each zone could be required to meet a certain proportion of the total Emergency Services liability and it be scaled according to a relevant index such as the Socio-Economic Indexes for Areas (SEIFA) index.
>
> An extension of this would be for individual LGA's to be apportioned a share of the liability (based on the principles outlined above) and each council be provided with the ability and autonomy to create rating structures appropriate to local circumstances, as they do with their existing rate levies.[264]

4.51 The NSW Farmers Association also suggested a zoning system to capture differences in regional and city-based risk:

> A process similar to that operating in Western Australia could form the basis, and include:
>
> a. A sliding scale based on the location of the property, i.e. Highest in Sydney metro, then progressively reducing through greater metropolitan area, regional city, country town, to lowest for rural property, where risk is lowest;
>
> b. By reference to historical activity data, a determination of emergency response requirements – from fully retained NSW Fire and rescue to the SES/RFS volunteer network – that would be re-viewed annually to identify any need to reassess the level of response;
>
> c. The property's rateable value; and
>
> d. The setting of a minimum and a maximum charge according to the use the rateable property (vacant, residential, farming) or its classification (commercial, industrial, miscellaneous).

[263] Submission 1, Campbelltown City Council, p 6.

[264] Submission 7, Blacktown City Council, p 5.

> Using a risk based analysis the level of the levy can truly recognise the cost – for example, a commercial property in the Sydney metropolitan region would be levied at a higher rate than a regional producer as the level of services and costs of repose are different.[265]

Including motor vehicles

4.52 Some inquiry participants suggested including motor vehicles into the mix of a FESL, given fire and emergency services often respond to incidents involving motor vehicles. Woollahra Municipal Council stated:

> To ensure that fire and emergency services are fully funded in a fair and equitable manner the State needs to:
>
> - consider I reconsider a charge on every registered vehicle, supported by incident statistics from FRNSW 2015/16 Annual Report, to directly fund vehicle fires and accidents.[266]

4.53 Woollahra Municipal Council indicated that South Australia include motor vehicles in its levy:

> Revenue SA acknowledges that around 25% of all emergency service call-outs in South Australia involve road accidents or related activity and continues to impose a levy on motor vehicles payable at the time of registration.[267]

4.54 Central NSW Councils also suggested that consideration should be given to the inclusion of motor vehicles in a levy:

> Given the significant ownership rate of cars with the much smaller ownership of property combined with the 17 per cent of incidents requiring emergency services being car accidents, a charge on motor vehicles is warranted. Having said this there is concern in the region that higher registration costs might lead to a greater number of unregistered vehicles on the road and this should be closely monitored.[268]

The removal of 11.7 per cent paid by councils

4.55 Some inquiry participants called for the removal of the 11.7 per cent contribution to fund emergency services made by councils. For example, the NSW Revenue Professionals suggested that such a change could be implemented over time and be a clearer and fairer funding model:

> We submit that discontinuing the council contribution and including full cost of the services into any future levy would represent a clearer and fairer funding model to landowners across the state.
>
> We submit that this change could be implemented over time. We believe the emergency services budgets could produce efficiency and productivity savings in the region of one to two percent per annum in order to facilitate this transition, rather than increasing

265 Submission 23, NSW Farmers Association, p 2.

266 Submission 2, Woollahra Municipal Council, p 4.

267 Submission 2, Woollahra Municipal Council, p 5.

268 Submission 12, Central NSW Councils, Attachment B, p 2.

> levy rates. As a result, councils should retain the savings resulting from reducing 11.7 per cent contribution and return these to their local communities through increased services.[269]

4.56 Ms Kylie Yates, Acting Chief Executive, Local Government NSW, recommended the removal of the 11.7 per cent component paid by councils.[270] Many councils expressed a similar view. For example, Campbelltown City Council stated:

> Presently NSW councils contribute from consolidated funds an amount equal to 11.7 per cent of the total cost in operating state-wide fire and emergency services (excludes Police and Ambulance). Discontinuing the council contribution and including this into any future levy would represent a clearer and fairer funding model to landowners across the state.
>
> Our community is essentially paying this contribution however they are not aware of how it impacts them at a personal or ratepayer level and this change would increase visibility in equity.[271]

4.57 Mid-Western Regional Council also called for the council contribution to be discontinued:

> It is our strong view that this council contribution should be discontinued. The full cost of providing these services should be recouped via the property based levy.
>
> This would provide much greater transparency as to the actual cost of the services. The current funding model makes the Council contribution a hidden component not understood by those paying the levy or receiving the benefits of the services.[272]

4.58 Blacktown City Council called for the council contribution to be removed:

> Under the deferred *Fire and Emergency Services Levy Act 2017* it was proposed that Local Government continue to contribute 11. 7 per cent of the total levy for Fire and Emergency Services. It is our view that this contribution is outdated and should be removed from the existing levy and should not have been considered as part of the FESL modelling as it was proposed.
>
> It would be more appropriate that the full quantum of the levy be contributed by property owners.[273]

Stakeholder consultation

4.59 As stated in Chapter 2, inquiry participants are keen to ensure there is adequate consultation on modelling and components of a future FESL. Woollahra Municipal Council suggested 'engaging a consultative group of Local Government Finance Professionals to work with NSW Treasury on any future modelling'.[274]

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269 Submission 3, NSW Revenue Professionals, p 5.

270 Evidence, Ms Kylie Yates, Acting Chief Executive, Local Government NSW, 13 August 2018, p 42.

271 Submission 1, Campbelltown City Council, p 2.

272 Submission 10, Mid-Western Regional Council, p 3.

273 Submission 7, Blacktown City Council, p 2.

274 Submission 2, Woollahra Municipal Council, p 3.

4.60 Campbelltown City Council also called for the involvement of key stakeholders, such as the local government to develop an improved FESL scheme:

> Involvement in the development of the recommended improvements should involve key stakeholders for the local government sector including but limited to interested local council staff, the NSW Revenue Professionals and Local Government NSW.[275]

4.61 Randwick City Council also called for any future FESL modelling to 'be shared with the industry (and possibly also with customer focus groups including Residential, Business, Industrial participants) prior to drafting legislation and classifying land'.[276]

Is FESL 'dead, buried and cremated'?

4.62 It was clearly indicated by Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, that '… the Treasurer is on record as saying that the FESL in its current form is dead, buried and cremated'.[277]

4.63 In response to questioning as to whether the Treasurer plans to resurrect a form of the FESL after the State election in March 2019, Ms Horvat commented:

> Treasury continues to explore options to improve the efficiency and fairness of our taxation system, including insurance taxes through our ongoing discussions with and advice to the Treasurer and the office. I understand the Government continues to engage with stakeholders to identify a better way forward.[278]

4.64 Ms Horavt indicated that the resurrection or otherwise of a form of the FESL is ultimately a matter for Cabinet: 'That would be a matter for the Government and the Government's Cabinet deliberative processes'.[279]

4.65 However, as noted in the previous chapter, the announcement made by the NSW Government was that 'The NSW Government will defer the introduction of the Fire and Emergency Services Levy…'.[280] It is unclear what the future holds for the FESL.

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275 Submission 1, Campbelltown City Council, p 6.

276 Submission 13, Randwick City Council, p 5.

277 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 4.

278 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 4.

279 Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 4.

280 Media Release, 'Fire and Emergency Services Levy to be reviewed to ensure fairness', the Premier, the Hon Gladys Berejiklian MP, and the Treasurer and Minister for Industrial Relations, the Hon Dominic Perrottet MP, 30 May 2017.

Committee comment

4.66 The committee acknowledges the diversity of opinion amongst stakeholders about the way forward. What is clear from the evidence is that replacing the ESL with a FESL based only on unimproved land values will be inequitable and unfair.

4.67 We note that inquiry participants from across the spectrum, including those who supported and those who opposed the FESL called for improvements, many of which are demonstrated in other jurisdictions, including:

- use of capital improved value of land for calculation of levy
- differential levy rates, fixed charges, discounts and caps
- better aligned land classifications between council and FESL
- inclusion of motor vehicles
- the removal of 11.7 per cent contribution by councils
- need for consultation with stakeholders during the development of any new FESL scheme.

4.68 The committee notes that while New South Wales does not currently have a system to calculate the capital improved value of land and would take some time to establish, along with the associated cost, it provides a more equitable way to distribute the levy.

4.69 Also, the committee acknowledges there may be merit in the use of differential levy rates to better distribute the levy burden, and with better aligned land classifications to avoid confusion and reduce administration burden. We are also supportive of adequate exemptions and discounts for pensioners and low income earners.

4.70 The committee notes that a number of these improvements have merit, and together they would go towards increasing fairness within the system by better sharing the levy burden. We urge the NSW Government to include consideration of these improvements in any future modelling for a FESL scheme.

4.71 Of particular importance is the need for proper stakeholder consultation. This is imperative to avoid the reoccurrence of the previous policy failure. As noted in our conclusions in Chapter 2, there is a lack of awareness in the community about either the ESL or FESL and this needs to be addressed if the NSW Government wants to successfully re-introduce the FESL. In addition to increasing general community awareness, the consultation with key stakeholders is vital to ensure these groups are onboard with the policy proposal and all relevant issues, as raised during this inquiry, are addressed before the re-introduction of the FESL.

Recommendation 4

That no future NSW Government should move to implement a Fire and Emergency Services Levy unless it considers:

- use of capital improved value of land for calculation of the levy
- differential levy rates, fixed charges, discounts and caps
- better aligned land classifications between council and the Fire and Emergency Services Levy
- inclusion of motor vehicles
- the removal of 11.7 per cent contribution by councils
- addressing the impact of the Fire and Emergency Services Levy on lower socio economic households who are currently unable to afford building and contents insurance.

Recommendation 5

That the NSW Government ensure appropriate consultation with key stakeholders during the development or re-modelling of any new Fire and Emergency Services Levy.

Emergency Services Levy Insurance Monitor

4.72 As mentioned in Chapter 1, following the deferment of the FESL, the powers of the Emergency Services Levy Insurance (the Insurance Monitor) were extended until 2020 to ensure insurers collected the ESL appropriately:

> The powers of the Emergency Services Levy Insurance Monitor, originally created to oversee the implementation of the FESL, have been extended until July 2020 to oversee the reinstatement of the ESL and to ensure that New South Wales customers pay no more than the permitted amounts.[281]

4.73 Inquiry participants discussed the role of the Insurance Monitor including whether the role is needed into the future. Ms Horvat stated:

> As I have said, the insurance monitor would look at that more closely when the ESL was being re-implemented. We looked at the ESL as to what was being charged prior to the FESL. I think I mentioned that insurance companies can do that themselves. However, the experience is that most insurers allocate that according to their share of insurance premiums.[282]

[281] Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 3.

[282] Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 12.

4.74 Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, suggested that the monitor's role be reconsidered:

> The ongoing information requirements imposed by the emergency services insurance monitor are extensive and costly to meet. It is hard to see a connection between much of the monitor's current activity, such as a report on insurance and big data, and his levy monitoring role. Given that insurers pay for the monitor through the ESL, the insurance council recommends that this role be reconsidered in light of the Government's ultimate policy intentions.[283]

4.75 Professor Allan Fels, Insurance Monitor, advised that at the beginning insurers where asked to pay for the monitor, but the NSW Government has since stepped in and is covering the total cost, including the reimbursement of initial costs met by insurers.[284]

4.76 Professor Fels, further stated:

> Also, on this compliance issue, it is true we have been requiring insurers to provide us with the necessary data. Our data requests really pale into insignificance compared to what the Australian Competition and Consumer Commission [ACCC] is getting for its inquiry into north Australian premiums and the royal commission's data requests. Also, to a degree, we have been coming up with obvious ways of reducing costs in the collection. But the insurance industry has always had a bit of a pushback and fairly unwilling, grudging cooperation, and so it has not taken advantage of the opportunities we have offered to save it compliance costs. But anyway, I believe that compliance costs are quite small.[285]

4.77 Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, outlined a number of points that should underpin any new regime, including the need for the Insurance Monitor to continue its role:

> Finally, and importantly, to also ensure a permanent and ongoing role for the Insurance Monitor, if is introduced, given our previously stated concerns and open cynicism frankly about the capacity and the willingness of the insurers to continue to pass on without being monitored the savings that they are set to enjoy.[286]

4.78 Professor Fels, Monitor, discussed the role of the monitor up to 2020:

> It has got until 2020, and the rationale for keeping it going that long, looking at it from that point of view, is that the over collection issue needs to be looked at. Another slightly more remote but not bad idea is that it would be nice if a couple of things were guaranteed to happen by then in terms of getting a more competitive industry. So if this monitor is staying around until then, I think the point about this year/last year comparisons is much more likely to be delivered. There would be, as always in the community, two views on whether there should be price regulation of insurance forever, but I do not know that I would particularly favour that; but you could argue 2020 is a

283 Evidence, Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia, 13 August 2018, p 26.

284 Evidence, Professor Allan Fels, Emergency Services Levy Insurance Monitor, 20 August 2018, p 28.

285 Evidence, Professor Allan Fels, Emergency Services Levy Insurance Monitor, 20 August 2018, p 26.

286 Evidence, Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 17.

> fairly good date, not only because the collection question is settled, but also it just gives us a little bit more time to get the industry into a more competitive situation so there is less likely to be consumer exploitation beyond then.[287]

4.79 In terms of the future of the monitor after July 2020, Professor Fels, Insurance Monitor, indicated:

> All I can say is the monitor is there until June 2020. So it would be up to the Government to decide it. I have absolutely no idea what the Government's plans are, but I would imagine if they were to reintroduce the reform there would be a strong case for the monitor. The original case for the monitor was, okay, you have got to watch price changes associated with a tax reform, but the really strong point is that you would be taking a big tax off an insurer and hoping that competition would bring the price down. It is very different when the price is going down than when the price is going up.
>
> You could, if you had faith in the market, say here is a new tax, they have got to put up the price 20 per cent or something; they will be struggling to do it in the market, we have not got too much to worry about. But even pro-competition hawks a bit like myself are more worried about reducing a price. I think my Economics 101 textbooks tell me that, in theory, in a competitive market it would eventually come down, but even then it does not tell you how long it would take. I reckon it would take a long time to adjust the price down. So it is the fall in insurance premium to customers that has to be delivered on.[288]

Committee comment

4.80 The committee recognises that the Insurance Monitor plays an important role in holding insurance companies to account. This role will need to continue if the FESL is re-introduced. The committee acknowledges that if the current ESL is removed from insurance premiums there is no guarantee that the premiums will reduce accordingly. Therefore, the committee recommends that the NSW Government revisit the role and funding arrangements for the Insurance Monitor to ensure that, if the FESL is re-introduced, the Insurance Monitor role continues past June 2020.

Recommendation 6

That the NSW Government revisit the role and funding arrangements for the Emergency Services Levy Insurance Monitor to ensure that, if the Fire and Emergency Services Levy is re-introduced, the Monitor's role continues past June 2020.

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287 Evidence, Professor Allan Fels, Emergency Services Levy Insurance Monitor, 20 August 2018, p 28.

288 Evidence, Professor Allan Fels, Emergency Services Levy Insurance Monitor, 20 August 2018, p 29.

Appendix 1 Submissions

No.	Author
1	Campbelltown City Council
2	Woollahra Municipal Council
3	NSW Revenue Professionals
4	NSW Rural Fire Service Association
5	Penrith City Council
6	NSW SES Volunteers Association
7	Blacktown City Council
8	NSW Valuer General
9	The Property Owners Association of NSW
10	Mid-Western Regional Council
11	Wollongong City Council
12	Central NSW Councils
13	Randwick City Council
14	Wagga Wagga City Council
15	Local Government NSW
16	National Insurance Brokers Association of Australia
17	Insurance Australia Group (IAG)
18	Insurance Council of Australia
19	Cowra Shire Council
20	Combined Pensioners & Superannuants Association of NSW
21	Mr David Singer
22	NSW Government
23	NSW Farmers' Association
24	Fire Brigade Employees Union
25	Volunteer Fire Fighters Association

Appendix 2 Witnesses at hearings

Date	Name	Position and Organisation
Monday, 13 August 2018 Macquarie Room, Parliament House, Sydney	Ms Natalie Horvat	Executive Director, Revenue and Intergovernmental Division, NSW Treasury
	Mr Simon Gilkes	NSW Valuer General
	Ms Anna Welanyk	Former Executive Director, Valuation Services, Property NSW
	Mr Rob Whelan	Chief Executive Officer, Insurance Council of Australia
	Mr John Anning	General Manager, Policy Regulation, Insurance Council of Australia
	Mr Tim Wedlock	National President, National Insurance Brokers Association of Australia
	Ms Rebecca Wilson	Deputy Chair, National Insurance Brokers Association of Australia, NSW Divisional Committee
	Mr Dallas Booth	Chief Executive Officer, National Insurance Brokers Association of Australia
	Ms Michelle Forrest	Executive Manager, Product, Pricing and Underwriting, Insurance Australia Group
	Ms Kylie Yates	Acting Chief Executive, Local Government NSW
	Mr Shaun Mc Bride	Senior Strategy Manager, Local Government NSW
	Mr Andrew Butcher	President, NSW Revenue Professionals
	Mr Laurie McGuiness	Vice President, NSW Revenue Professionals
	Mr Ken Middleton	President, NSW Rural Fire Service Association
	Mr Brian McDonough	Vice President, NSW Rural Fire Service Association

Date	Name	Position and Organisation
	Mr Trevor Anderson	Acting Chief Executive Officer, NSW Rural Fire Service Association
	Mr Matthew Saunders	Rates Coordinator, Penrith City Council
Monday, 20 August 2018 Macquarie Room, Parliament House, Sydney	Clr Bill West	Mayor, Cowra Shire Council and Member of the Executive, Central NSW Councils
	Mr Paul Versteege	Policy Coordinator, Combined Pensioners & Superannuants Association of NSW
	Mr Michael Holton	President, Volunteer Fire Fighters Association
	Mr Brian Williams	Vice President, Volunteer Fire Fighters Association
	Mr Chris Read	Senior Industrial Officer, Fire Brigade Employees Union
	Ms Gemma Lawrence	Senior Industrial Officer, Fire Brigade Employees Union
	Mr Garry Grant	Chair – Rural Affairs Committee, NSW Farmers Association
	Ms Kathy Rankin	Policy Director – Rural Affairs & Business Economics and Trade, NSW Farmers Association
	Professor Allan Fels AO	Monitor, Emergency Services Levy Insurance Monitor
	Ms Joanna Ifield	Director, Emergency Services Levy Insurance Monitor

Appendix 3 Minutes

Minutes No. 43
Thursday 22 June 2017
Portfolio Committee No. 4 – Legal Affairs
Members Lounge, Parliament House, Sydney, at 2.18 pm

1. Members present
Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair*
Mr Clarke
Ms Cusack
Mr Khan
Mr Moselmane
Ms Voltz (from 2.20pm)

2. Correspondence
The committee noted the following items of correspondence:

Received:
- 21 June 2017 – Letter from Mr Borsak, Mr Shoebridge and Mr Moselmane, requesting a meeting to consider a proposed self-reference for an inquiry into funding of fire and emergency services.

3. Consideration of terms of reference – Fire and emergency services levy
That Portfolio Committee No. 4 - Legal Affairs inquire into and report on the funding of fire and emergency services, and in particular:

(d) the policy process and financial modelling underlying the provisions of the *Fire and Emergency Services Levy Act 2017*,

(e) the policy and financial implications for all stakeholders of repealing this Act,

(f) alternative models for ensuring that fire and emergency services are fully funded in a fair and equitable manner; and

(d) any other related matter.

Mr Shoebridge moved: That the proposed terms of reference be adopted.

Question put.

Committee divided.

Ayes: Mr Borsak, Mr Shoebridge, Mr Moselmane

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative on the casting vote of the chair.

Ms Voltz arrived.

4. Conduct of the inquiry into the fire and emergency services levy

4.1 Closing date for submissions, stakeholder list and hearing dates
Resolved, on the motion of Mr Shoebridge: That:
- the closing date for submissions be 26 November 2017

- the secretariat circulate to members the Chair's proposed list of stakeholders to provide them with the opportunity to amend the list or nominate additional stakeholders, and that the committee agree to the stakeholder list by email, unless a meeting of the committee is required to resolve any disagreement
- hearing dates commence in February 2018 and be determined by the Chair after consultation with members regarding their availability.

4.2 Advertising

The committee noted that all inquiries are advertised via twitter, stakeholder letters and a media release distributed to all media outlets in New South Wales.

5. Next meeting

Resolved, on the motion of Mr Shoebridge: That the next meeting of the committee be determined by the Chair in consultation with committee members.

6. Adjournment

The committee adjourned at 2.23 pm (*sine die*)

Rebecca Main
Clerk to the Committee

Minutes no. 65
Wednesday 7 March 2018
Portfolio Committee No. 4 – Legal Affairs
Members Lounge, Parliament House, 2.01 pm

1. Members present

Mr Borsak, *Chair*
Mr Clarke
Mr Farlow
Mr Khan
Mr Searle
Ms Voltz (from 2.03 pm)

2. Apologies

Mr Shoebridge

3. Correspondence

The committee noted the following items of correspondence:

Received

- 22 November 2017 – Email from the Hon Shaoquett Moselmane MLC, Opposition Whip, advising that Hon Adam Searle MLC will be substituting him for the duration of the Parklea Correction Centre inquiry
- 28 November 2017 – Email from the Hon Natasha Maclaren-Jones MLC, Legislative Council Government Whip to the secretariat, advising that the Hon Scot Farlow MLC will be substituting for the Hon Catherine Cusack for the duration of the Parklea Correctional Centre inquiry
- 4 December 2018 – Letter from Mr Pieter Bezuidenhout, Managing Director, GEO, to the Chair offering its assistance to the committee, including inviting the committee to tour the Parklea and Junee facilities

- 4 January 2018 – Email from Mr Scott McKnight, A/Manager Executive Advisory Unit, Office of Commissioner, NSW Police Force advising committee that the NSW Police Force will not be making a submission to the inquiry
- 24 January 2018 – Email from stakeholder providing documentation for the Parklea Correctional Centre inquiry, including a confidential investigation report
- 2 February 2018 – Letter from Mr Troy Wright, Assistant Branch Secretary, Community and Public Sector Union, seeking an extension to the submission closing date for the Parklea Correctional Centre inquiry
- 19 February 2018 – Email from Mr Troy Wright, Assistant Branch Secretary, Community and Public Sector Union, seeking an extension to the submission closing date for the Parklea Correctional Centre inquiry following the amendment to the inquiry terms of reference
- 23 February 2018 – Email from Ms Eva O'Dea, Senior Policy Officer, Attorney General and Corrections, to the committee seeking an extension to the submission closing date for the Parklea Correctional Centre inquiry
- 26 February 2018 – Email from Ms Robyn Gilbert, Law Reform Solicitor, Legal Aid NSW, seeking an extension to the submission closing date for the Parklea Correctional Centre inquiry
- 28 February 2018 – Email from Mr Paul Shaw, Corporate Affairs Director, SERCO, seeking an extension to the submission closing date for the Parklea Correctional Centre inquiry.

Resolved, on the motion of Mr Khan: That the committee keep the correspondence regarding documentation relating to the Parklea Correctional Centre inquiry, dated 24 January 2018, confidential at the present time, as per the request of the author, as it contains sensitive and identifying information.

4. Inquiry into the Parklea Correctional Centre and other operational issues

4.1 Proposed hearing and site visit timeline

Resolved, on the motion of Mr Farlow: That the committee adopt the following timeline for the inquiry, the dates of which are to be determined by the Chair after consultation with members regarding their availability:

May/June

- Site visit to Parklea Correctional Centre
- Hearing
- Site visit to Junee Correctional Centre

August/September

- Site visit to Cessnock Correctional Centre
- Site visit to a prison managed by Corrective Services NSW
- Hearing
- Hearing.

4.2 Public submissions

The committee noted that the following submissions were published by the committee clerk under authorisation of the resolution appointing the committee: submission nos 1, 2, 2a, 4, 5, 6, 7, 11, 13, 14, 17, 19, 22, 23, 28, 29, 30, 31 and 34.

Resolved, on the motion of Mr Khan: That the committee publish submission no. 35.

4.3 Partially confidential submissions

The following submissions were partially published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 3, 8, 9, 15, 20, 21, 24, 25, 26, 32 and 33.

Resolved, on the motion of Mr Khan: That the committee keep the following information confidential, as per the request of the author: names and/or identifying and sensitive information in submissions nos 3, 8, 9, 15, 20, 21, 24, 25, 26, 32 and 33.

4.4 Confidential submissions

Resolved, on the motion of Mr Khan: That the committee keep submission nos 10, 16 and 18, 27 and 29a confidential at the present time, as per the request of the author, as they contain identifying and/or sensitive information.

4.5 Submission no. 12

Resolved, on the motion of Mr Khan: That the Chair write to the submission author to ask that he contact the individuals the subject of the submission, and suggest that they forward a submission directly to the committee.

Resolved, on the motion of Mr Khan: That the committee keep submission no. 12, including its attachment, confidential at the present time, as per the request of the author, as it contains identifying and sensitive information.

5. Inquiry into the fire and emergency services levy

5.1 Hearing timeline

Resolved, on the motion of Mr Khan: That the committee commence hearings in August 2018 for the inquiry, the dates of which are to be determined by the Chair after consultation with members regarding their availability.

6. Adjournment

The committee adjourned at 2.08 pm, until Tuesday 20 March 2018 *(Emergency service agencies hearings)*.

Jenelle Moore
Committee Clerk

Minutes no. 76

Monday 13 August 2018
Portfolio Committee No. 4 – Legal Affairs
Macquarie Room, Parliament House, Sydney, 9.30 am

1. Members present

Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair* (until 12.02 pm)
Mr Clarke
Ms Cusack
Mr Khan
Mr Moselmane
Ms Voltz

2. Correspondence

The committee noted the following items of correspondence:

Received:

- 30 July 2018 – Email from Ms Cherie Muir, Randwick City Council, to secretariat, declining the invitation to appear as a witness at the hearing on 13 August 2018
- 1 August 2018 – Email from Mr Don Johnston, Woollahra Municipal Council, to secretariat, declining the invitation to appear as a witness at the hearing on 13 August 2018
- 6 August 2018 – Email from Ms Jenny Bennett, to secretariat, advising that Central NSW Councils will be represented by Cr Bill West from Cowra Council at the hearing on 20 August 2018.

3. Inquiry into the fire and emergency services levy

3.1 Public submissions

The committee noted that submissions were published by the committee clerk under the authorisation of the resolution appointing the committee: submission nos 1-24.

3.2 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Simon Gilkes, Valuer General, NSW Valuer General
- Ms Anna Welanyk, Former Executive Director, Valuation Services, Property NSW.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Rob Whelan, Chief Executive Officer, Insurance Council of Australia
- Mr John Anning, General Manager, Policy Regulation, Insurance Council of Australia
- Mr Tim Wedlock, National President, National Insurance Brokers Association
- Ms Rebecca Wilson, Deputy Chair, National Insurance Brokers Association of Australia - NSW Divisional Committee
- Mr Dallas Booth, Chief Executive Officer, National Insurance Brokers Association of Australia
- Ms Michelle Forrest, Executive Manager, Product, Pricing and Underwriting, Insurance Australia Group.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Ms Kylie Yates, Acting Chief Executive, Local Government NSW
- Mr Shaun McBride, Senior Strategy Manager, Local Government NSW
- Mr Andrew Butcher, President, NSW Revenue Professionals
- Mr Laurie McGuiness, Vice President, NSW Revenue Professionals.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Ken Middleton, President, NSW Rural Fire Service Association
- Mr Brian McDonough, Vice President, NSW Rural Fire Service Association
- Mr Trevor Anderson, Acting Chief Executive Officer, NSW Rural Fire Service Association.

Mr Anderson tendered the following document:

- Schedule 2, Contributions of insurance companies, *Rural Fires Act 1997*
- 'Incidents', NSW Rural Fire Service, Annual report 2016/17.

The evidence concluded and the witnesses withdrew.

The following witness was sworn and examined:

- Mr Matthew Saunders, Rates Coordinator, Penrith City Council.

The evidence concluded and the witness withdrew.

3.3 Tendered documents

Resolved, on the motion of Ms Voltz: That the committee accept and publish the document tendered during the public hearing:

- Schedule 2, Contributions of insurance companies, *Rural Fires Act 1997*
- 'Incidents', NSW Rural Fire Service, Annual report 2016/17.

4. Adjournment

The committee adjourned at 3.01 until Monday 20 August 2018.

Kate Mihaljek
Committee Clerk

Minutes no. 78
Monday 20 August 2018
Portfolio Committee No. 4 – Legal Affairs
Macquarie Room, Parliament House, Sydney, 9.22 am

1. Members present

Mr Borsak, *Chair* (from 9.24 am)
Mr Shoebridge, *Deputy Chair* (from 9.22 am – 9.26 am)(from 11.07 am – 11.30 am)
Mr Amato (substituting for Mr Khan)
Mr Clarke (from 9.24 am)
Ms Cusack (until 12.34 pm)
Mr Moselmane
Ms Voltz (from 9.31 am)

2. Chair

In the absence of the Chair, the Deputy Chair took the Chair.

3. Minutes

Resolved, on the motion of Mr Moselmane: That draft minutes 76 be confirmed.

4. Correspondence

The committee noted the following item of correspondence:

5. Inquiry into museums and galleries

5.1 Invitation to Ms Dolla Merrillees

Mr Moselmane moved: That the committee invite Ms Dolla Merrillees, former Director, Museum of Applied Arts and Sciences to the hearing on 12 September 2018.

Question put.

The committee divided.

Ayes: Mr Moselmane and Mr Shoebridge.

Noes: Ms Cusack and Mr Amato.

Question resolved in the affirmative on the casting vote of the Chair.

6. Inquiry into the fire and emergency services levy

6.1 Public submissions

Resolved, on the motion of Mr Moselmane: That the committee authorise the publication of submission no 25.

6.2 Chair

The Chair resumed the Chair.

6.3 Public hearing

Witnesses, the public and media were admitted.

The Chair made an opening statement regarding the broadcasting of proceedings and other matters.

The following witness was sworn and examined:

- Clr Bill West, Deputy Mayor, Cowra Shire Council, and Member, Executive, Central NSW Councils (via teleconference).

The evidence concluded and the witness withdrew.

The following witness was sworn and examined:

- Mr Paul Versteege, Policy Coordinator, Combined Pensioners & Superannuants Association of NSW.

The evidence concluded and the witness withdrew.

The following witnesses were sworn and examined:

- Mr Michael Holton, President, Volunteer Fire Fighters Association
- Mr Brian Williams, Vice President, Volunteer Fire Fighters Association

Mr Borask advised that Mr Holton is the Shooters, Fishers & Farmers candidate for the seat of Monaro.

Mr Holton tendered the following documents:

- 'Photo 1: Fire intensity within 1 km of ignition'
- 'Photo 2. Intensity of damage done to the environment'
- 'Photo 3. Taken approx. 150 metres into 2 year old HR'
- 'Photo 4. Dangerous steep country in the National Park that Volunteers had to extinguish and contain one flank of the fire'.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union
- Ms Gemma Lawrence, Fire Brigade Employees Union.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Mr Garry Grant, Chair – Rural Affairs Committee, NSW Farmers Association.
- Ms Kathy Rankin, Policy Director – Rural Affairs & Business Economics and Trade, NSW Farmers Association.

The evidence concluded and the witnesses withdrew.

The following witnesses were sworn and examined:

- Professor Allan Fels AO, Monitor, Emergency Services Levy Insurance Monitor
- Ms Joanna Ifield, Director, Emergency Services Levy Insurance Monitor.

The evidence concluded and the witnesses withdrew.

6.4 Tendered documents

Resolved, on the motion of Ms Voltz: That the committee accept and publish the documents tendered by Mr Holton during the public hearing:

- 'Photo 1: Fire intensity within 1 km of ignition'
- 'Photo 2. Intensity of damage done to the environment'
- 'Photo 3. Taken approx. 150 metres into 2 year old HR'
- 'Photo 4. Dangerous steep country in the National Park that Volunteers had to extinguish and contain one flank of the fire'.

7. Adjournment

The committee adjourned at 12.43 pm until 30 August 2018 (Budget Estimates hearing).

Kate Mihaljek
Committee Clerk

Draft minutes no. 91
Monday 26 November 2018
Portfolio Committee No. 4 – Legal Affairs
Room 1136, Parliament House, Sydney at 2.04 pm

1. Members present

Mr Borsak, *Chair*
Mr Shoebridge, *Deputy Chair*
Mr Clarke
Ms Cusack (from 2.15 pm)
Mr Khan
Mr Moselmane
Ms Voltz

2. Previous minutes

Resolved, on the motion of Mr Shoebridge: That draft minutes no. 78 be confirmed.

3. Correspondence

The committee noted the following items of correspondence:

Received:

- 1 February 2018 – Email from Ms Maureen Tangney, Department of Justice to secretariat, regarding the high rate of litigation fees for unpaid council rates.

4. Inquiry into the fire and emergency services levy

4.1 Answers to questions on notice

The committee noted that the following answers to questions on notice were published by the committee clerk under the authorisation of the resolution appointing the committee:

- answers to questions on notice from Mr John Anning, Insurance Council of Australia, received 6 September 2018
- answers to questions on notice from Mr Simon Gilkes, Valuer-General, received 6 September 2018
- answers to questions on notice, Mr Michael Pratt, NSW Treasury, received 7 September 2018
- answers to questions on notice from Ms Michelle Forrest, IAG, received 7 September 2018
- answers to questions on notice from Mr Shaun McBride, Local Government NSW, received 11 October 2018

- answers to questions on notice from Mr Michael Jones, Cowra Council, received on 22 October 2018.

5. Consideration of the Chair's draft report

The Chair submitted his draft report, entitled 'Fire and emergency services levy', which having been previously circulated, was taken as being read.

Chapter 1

Mr Shoebridge moved: That paragraph 1.33 be omitted: 'The committee notes that the NSW Government's decision to defer the implementation of the Fire and Emergency Services Levy was made following community feedback that the levy would be a significant cost impost on certain property owners. Consequently, the policy failed to meet its two key objectives, that is, it did not make the levy more affordable nor did it provide a more equitable distribution of the levy burden', and the following new paragraph be inserted instead:

> 'Given all the resources available to the government and the more recent experience from similar schemes in other states, it is remarkable that the government did not anticipate the impacts of their proposed reforms. It is difficult to understand how the reform advanced so far without the Ministers and senior policy makers responsible knowing that whole classes of property owners would be severely disadvantaged by the reforms'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Mr Shoebridge moved: That Finding 1 be omitted: 'That the NSW Government's implementation and subsequent deferment of the Fire and Emergency Services Levy was a poor policy decision', and the following new finding be inserted instead:

> 'That the NSW Government's failed implementation of the Fire and Emergency Services Levy was a poor public policy decision, undertaken without adequate understanding of the complexities of the issue or the impacts of the proposed reforms'.

Question put.

The committee divided.

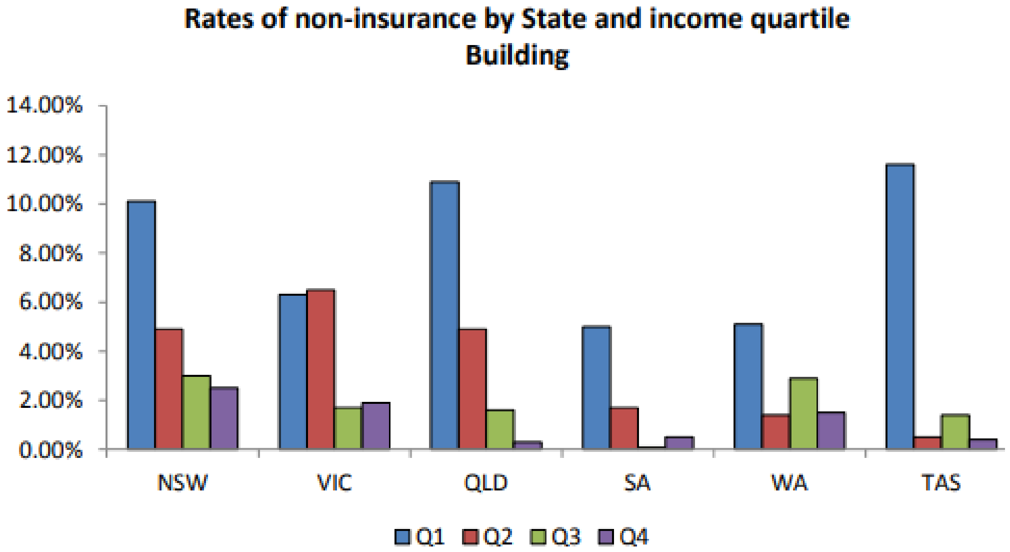
Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

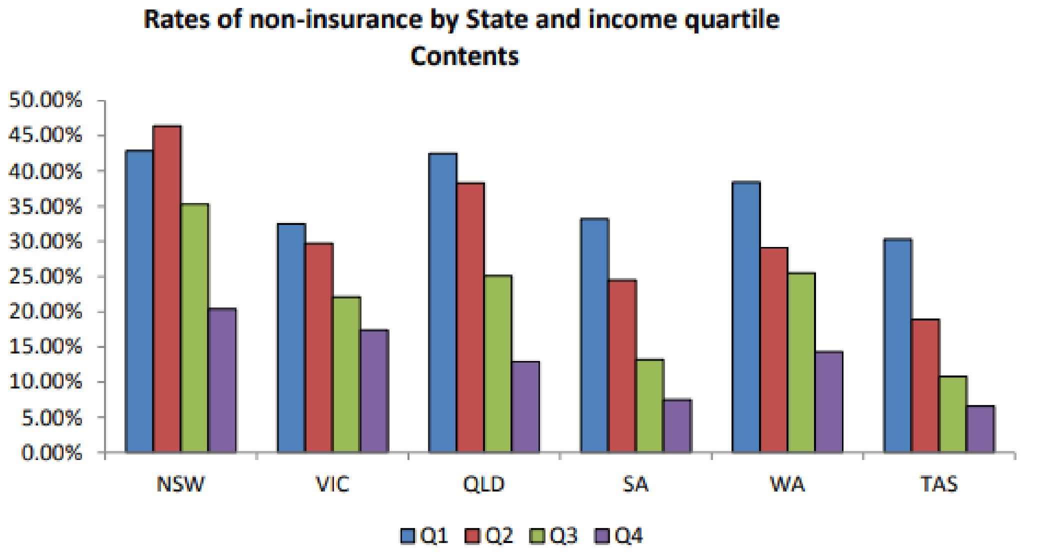
Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Chapter 2

Resolved, on the motion of Mr Shoebridge: That the 'Rates of non-insurance by State and income quartile Building' and the 'Rates of non-insurance by State and income quartile Contents' graphs on pages 11 and 12 of Submission 18 from the Insurance Council of Australia be included after paragraph 2.10.





Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted after paragraph 2.15:

'One of the concerns about the proposed model was that, unlike the land based tax models in other jurisdictions, the proposed NSW model is based on the unimproved value of the land. Having a levy on the improved value of land was said to include a connection between risk and levy in that the more valuable the improvements the higher the levy in circumstances where it is the improvements on land that is at risk from fire and other hazards. As Mr Read from the Fire Brigade Employees Union noted:

'It is another problematic aspect of the model as presented. I was told by senior Fire and Rescue management that the view of government and Treasury at the time was it should be on improved property value and not unimproved, and that is the case with, I think, all other jurisdictions in the State, that the estimate at the time, according to this person who told me this, was that it would have delayed the introduction of the FESL by up to two years and cost over a million dollars to accumulate the improved property value'. [FOOTNOTE: Mr Chris Read, Senior Industrial Officer, Fire Brigade Employees Union, 20 August 2018, p 18.]

'The evidence before the committee was the cost of reviewing the land values across NSW to move from unimproved to improved valuations was closer to $140 million'.

Resolved, on the motion of Mr Shoebridge: That the following new paragraphs be inserted before paragraph 2.24:

'When Ms Horvat was asked how the FESL would make uninsured homeowner pensioners better off, she responded: 'That was one of the known changes to the distribution of the funding for Fire and Emergency Services. Properties that were uninsured would now be paying a FESL.' [FOOTNOTE: Evidence, Ms Natalie Horvat, Executive Director, Revenue and Intergovernmental Division, NSW Treasury, 13 August 2018, p 13].

'In answers to questions on notice about what modelling the government had undertaken to understand what proportion of the 5 per cent of property owners who currently had no building insurance once the FESL scheme started the government said:

'Data available showing the nature of uninsured households is limited. However, consistent with Treasury's expectations, the data indicated that members of the community from low socio-economic backgrounds are less likely to take out insurance. Improving the affordability of insurance was a key policy goal of the FESL reform.' [FOOTNOTE: Answers to questions on notice, NSW Treasury, 7 September 2018, p 3].

Mr Shoebridge moved: That paragraph 2.51 be amended by omitting 'an efficient mechanism for' and inserting instead 'without its difficulties as the primary means of', and omitting 'is unfair' and inserting instead 'has some gaps'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Mr Shoebridge moved: That the following new paragraph be inserted after paragraph 2.51:

'What is clear from the limited data provided to us by the government on the nature of the 5 per cent of households who do not hold building insurance is that they are more likely to be from a lower socio-economic background and therefore already struggling to make ends meet. The ability of these households to meet a new FESL levy, that will be on average approximately $250 a year, as well as take out insurance that they were unable previously to afford is close to zero. The fact that on the government's estimates their insurance may be $47 cheaper on average because of the removed of the current levy will not change this fundamental equation'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Resolved, on the motion of Mr Khan: That paragraph 2.52 be amended by omitting: 'Nor are we swayed by the argument that removing the ESL will make insurance cheaper. Removing the ESL does not mandate that insurance companies decrease the cost of their policies, it removes the levy; insurers can continue to charge the same price. Moreover,'.

Mr Shoebridge moved: That paragraph 2.122 be amended by omitting: 'The committee agrees with the premise of a property-based levy to fund fire and emergency services agencies'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Mr Shoebridge moved: That paragraph 2.128 be amended by inserting at the end:

> 'There are very real and unresolved equity concerns with the proposed changes, especially for the current 5 per cent of uninsured homeowners. On the scant evidence available to the committee it appears clear that many of these homeowners already cannot afford insurance. Their situation will only be made more difficult if they are faced with a new annual FESL levy of $250 on average'.

Question put.

The committee divided.

Ayes: Mr Borsak, Mr Moselmane, Mr Shoebridge and Ms Voltz.

Noes: Mr Clarke, Ms Cusack, Mr Khan.

Question resolved in the affirmative.

Chapter 3

Resolved, on the motion of Mr Shoebridge: That the following new finding be inserted after paragraph 3.33:

> **'Finding X**
>
> 'The NSW Government's failed implementation and late deferral of the Fire and Emergency Services Levy has caused significant and avoidable costs to local government and the insurance industry'.

Chapter 4

Resolved, on the motion of Mr Shoebridge: That paragraph 4.65 be omitted: 'The committee acknowledges that while alternatives to the insurance and property based levy schemes were canvassed by inquiry participants, there is a preference for a property based levy, with a number of improvements to the 2017 FESL scheme in order to avoid a reoccurrence of the 2017 policy failure', and inserting instead:

> 'The committee acknowledges the diversity of opinion amongst stakeholders about the way forward. What is clear from the evidence is that replacing the ESL with a FESL based only on unimproved land values will be inequitable and unfair'.

Resolved, on the motion of Mr Shoebridge: That paragraph 4.66 be amended by inserting 'from across the spectrum, including those who supported and those who opposed the FESL' after 'Inquiry participants'.

Resolved, on the motion of Mr Shoebridge: That Recommendation 4 be amended by omitting 'That the NSW Government give consideration to' and inserting instead: 'No future NSW Government should move to implement a Fire and Emergency Services Levy unless it considers:'.

Resolved, on the motion of Mr Shoebridge: That Recommendation 4 be amended by inserting a new dot point:

- addressing the impact of the Fire and Emergency Services Levy on lower socio economic households who are currently unable to afford building and contents insurance.

Resolved, on the motion of Ms Voltz: That:

- The draft report as amended be the report of the committee and that the committee present the report to the House;
- The transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be tabled in the House with the report;
- Upon tabling, all unpublished attachments to submissions be kept confidential by the committee;

- Upon tabling, all unpublished transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry be published by the committee, except for those documents kept confidential by resolution of the committee;
- The committee secretariat correct any typographical, grammatical and formatting errors prior to tabling;
- The committee secretariat be authorised to update any committee comments where necessary to reflect changes to recommendations or new recommendations resolved by the committee;
- Dissenting statements be provided to the secretariat within 24 hours after receipt of the draft minutes of the meeting;
- That the report be tabled on Friday 30 November 2018.

6. Inquiry into Budget Estimates 2018-2019 – Police and Corrective Services

6.1 Rafter report

Resolved on the motion of Ms Voltz: That the committee recall Mr Andrew Cappie-Wood, Ms Melanie Hawyes and Ms Fiona Rafter to attend a two hour hearing on the morning of Wednesday 19 December 2018.

7. Adjournment

The committee adjourned at 2.59 pm, *sine die*.

Rebecca Main
Committee Clerk