



**IPART** Independent  
Pricing and Regulatory  
Tribunal | NSW

Review of Fire and Rescue NSW's  
fees and charges

## Draft Report

December 2021

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## Tribunal Members

The Tribunal members for this review are:

Carmel Donnelly, Chair  
Deborah Cope  
Sandra Gamble

Enquiries regarding this document should be directed to a staff member:

Jennifer Vincent (02) 9290 8418

Jenny Suh (02) 9113 7775

## Invitation for submissions

IPART invites comment on this document and encourages all interested parties to provide submissions addressing the matters discussed.

### Submissions are due by Tuesday, 8 February 2022

We prefer to receive them electronically via our [online submission form](#).

You can also send comments by mail to:

Review of Fire and Rescue NSW's fees and charges  
Independent Pricing and Regulatory Tribunal  
PO Box K35  
Haymarket Post Shop, Sydney NSW 1240

If you require assistance to make a submission (for example, if you would like to make a verbal submission) please contact one of the staff members listed above.

Late submissions may not be accepted at the discretion of the Tribunal. Our normal practice is to make submissions publicly available on our [website](#) as soon as possible after the closing date for submissions. If you wish to view copies of submissions but do not have access to the website, you can make alternative arrangements by telephoning one of the staff members listed above.

We may decide not to publish a submission, for example, if we consider it contains offensive or potentially defamatory information. We generally do not publish sensitive information. If your submission contains information that you do not wish to be publicly disclosed, please let us know when you make the submission. However, it could be disclosed under the *Government Information (Public Access) Act 2009* (NSW) or the *Independent Pricing and Regulatory Tribunal Act 1992* (NSW), or where otherwise required by law.

If you would like further information on making a submission, IPART's [submission policy](#) is available on our website.

## The Independent Pricing and Regulatory Tribunal (IPART)

Further information on IPART can be obtained from IPART's [website](#).

## Acknowledgment of Country

IPART acknowledges the Traditional Custodians of the lands where we work and live. We pay respect to Elders, past, present and emerging.

We recognise the unique cultural and spiritual relationship and celebrate the contributions of First Nations peoples.

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# 1 Introduction

IPART is reviewing Fire and Rescue NSW (FRNSW)'s fees and charges. FRNSW is the NSW Government agency responsible for providing fire and rescue services in cities and towns across NSW, and hazardous material (hazmat) incident and counter-terrorism responses in all parts of the state. FRNSW is also responsible for fire prevention and safety in buildings through planning advice, approvals and inspections, automatic fire alarm (AFA) management, training and community education.

FRNSW does not charge for attending fires within its fire districts or for rescue operations. Insurers of property in NSW, local councils, and NSW taxpayers fund these services via the Emergency Services Levy (ESL). We are not reviewing the ESL.

For those services for which FRNSW currently charges, the charges have not been reviewed for several years, with some remaining at the same level since 2006. FRNSW also provides some other services for which it does not currently charge.

In this context, it is important to ensure FRNSW's charges reflect the efficient cost of delivering its services, and provide appropriate incentives for people to avoid incidents and events that require FRNSW's services. We have been also asked to consider any public benefit of FRNSW's activities which should not be charged to the service user.

This report outlines our draft recommendations and explains how we reached these decisions. It is accompanied by a series of information papers for each of the services shown in Figure 1.1.

Each information paper sets out our draft recommendations on charges and explains how and why we made these recommendations, including our responses to comments received on our Issues Paper. It also presents our analysis of the efficient costs of the service in question, various charging options we considered, and the impact of our recommended charges.

We invite your feedback on our Draft Report (see Section 5 for more information).

Figure 1.1 FRNSW's services for which IPART recommends user charges



## 2 Draft recommendations on user charges for FRNSW's services

### 2.1 FRNSW's services we recommend have user charges

#### Draft recommendation

- ✓ 1. User charges be set out in the Fire Brigades Regulation for the following services:
- Hazmat service
  - Fire safety services
  - False alarm call outs
  - Automatic fire alarm management services
  - Responding to requests for incident information
  - Responding to fire incidents on waters outside a fire district

We made a draft decision that the following 5 service categories should have user charges and have charges set out in the *Fire Brigades Regulation 2014* (FB Regulation).

1. **Hazmat service** which includes attendance at both recovery and wires down incidents
2. **Fire safety services** in the built environment with three exceptions, which we consider relate to FRNSW's core services and are funded through the ESL:
  - a. assessing fire safety complaints relating to buildings or structures
  - b. undertaking joint inspections with councils or consent authorities of the fire safety provisions of an occupied building
  - c. providing comment to consent and regulatory authorities on a fire safety matter, development condition, compliance issue or order applying to an occupied building.
3. **False alarm call outs**
4. **Automatic fire alarm (AFA) management and system services** which includes connection, monitoring, transfer, maintenance and testing of AFAs
5. **FRNSW's other monopoly services** which include attending marine fires outside a fire district, and responding to requests for information about incidents.

Box 2.1 sets out the principles we applied in deciding which of FRNSW's services should have user charges and have charges set out in the FB Regulation.

We note that, currently unlike user charges for other FRNSW services that are set in the FB Regulation, the AFA management and system service charges (including charges for false alarms generated through those systems) are set in agreements with AFA service providers, consistent with the requirements of the *Fire and Rescue NSW Act 1989* (FRNSW Act).



Given AFA management is a monopoly service, we consider the fees should also be set in the FB Regulation. Therefore, we recommend changes to the FRNSW Act to make the treatment of AFA management charges consistent with the other user charges set out in the FB Regulation.

### Box 2.1 Deciding on which FRNSW's services should have user charges

One of the key steps in our proposed approach outlined in the Issues Paper is to identify which FRNSW's services should have user charges and have charges set out in the FB Regulation.

We have reviewed all FRNSW's services, excluding those funded through the ESL, and established whether each service should be subject to user charges, and, if so, whether it should have charges set out in the FB Regulation.

The key principles we have applied are:

- Whether there is an identifiable impactor who creates the need for the service in question. Our view is that the impactor or risk creator should pay the costs associated with providing the service.
- Whether the service in question is a monopoly service to decide whether it should have charges set out in the Regulation. If FRNSW is not the monopoly provider of the service in question, customers can choose to engage FRNSW or other services providers in the market. In this case, charges for the service do not need to be set out in the FB Regulation.

## 2.2 Hazmat service charges

Under the FRNSW Act, FRNSW is responsible for protecting the people, property and environment of NSW from the impact of hazmat incidents. A hazmat incident is an actual or impending land-based spillage or other escape of hazardous material that causes or threatens to cause injury or death or damage to property.<sup>1</sup>

FRNSW responds to two types of hazmat incidents:

- incidents involving electricity "wires down", where services are provided to electricity distribution and transmission network service providers
- all other hazmat incidents, where services are provided to individuals, organisations or other government agencies.

FRNSW currently can charge for any hazmat incident response, but has policies about not charging in various circumstances, including when the incident is less than 2 hours (for wires down), less than 1 hour (all other hazmat incidents), or when the hazardous material is 'orphan waste'. In practice, FRNSW only charges for 2-5% of incidents.

## Draft recommendations

2. FRNSW charge a call out fee plus hourly charges for chargeable hazmat incidents as set out in Table 2.1.
  - Incidents less than one hour (inclusive) will incur a call out fee of \$335 for wires down incidents and \$480 for other hazmat incidents.
  - Incidents more than one hour will incur a call out fee plus hourly charges depending on the equipment used.
3. FRNSW apply equipment charges set out in Table 2.1 to chargeable hazmat incidents with attendance time greater than 1 hour.
4. FRNSW remove the current time-based thresholds for chargeable incidents, whereby wires down incidents under 2 hours are not charged, and other hazmat incidents under 1 hour are not charged.
5. FRNSW charge all Distribution Network Service Providers for wires down incident attendance.
6. FRNSW further consolidate a list of consumables wherever possible, possibly by bundling up consumables that are used together for a typical response.
7. FRNSW be provided with flexibility to charge for the use of equipment that is not listed in the FB Regulation.

Table 2.1 sets out our draft recommended charges for attending hazmat incidents. Our information paper on hazmat services provides our approach for recommending charges for FRNSW's hazmat services and assessment of various options we considered in recommending the draft charges.

Overall, we recommend a call-out fee plus hourly charges for chargeable hazmat incidents. Under our recommendation, incidents less than 1 hour (inclusive) will incur a call-out fee, and those more than 1 hour will incur a call-out fee plus additional variable charges depending on the equipment used.

The call-out charge is different for wires down and other hazmat incidents, but the same variable charges will apply to both incident types. The call out fee for other hazmat incidents is \$150 higher than wires down incidents because of higher administration costs associated with administration and billing for other hazmat incidents.

Consistent with FRNSW's current approach, we recommend half of the hourly charge apply for each half hour of use.

Table 2.1 Draft recommended charges for hazmat incident attendance  
(\$2022-23, ex-GST)

		Unit	Charge
<b>Call-out fee</b> applicable to all incidents			
Wires down		Per incident	\$335
Other hazmat incidents		Per incident	\$480
Variable charges applicable to incidents over 1 hour where chargeable time is total attendance time less 1 hour			
Each standard pumper and hazmat pumper (4 crew)	Total	Per hour	\$510
	Labour	Per hour	\$470
	Vehicle	Per hour	\$40
Each other hazmat vehicles and Mobile Command Centre (2 crew)	Total	Per hour	\$285
	Labour	Per hour	\$240
	Vehicle	Per hour	\$45
Each special operations vehicle (1 crew)	Total	Per hour	\$200
	Labour	Per hour	\$165
	Vehicle	Per hour	\$35
<b>Other equipment</b>			
Each hazmat delta decontamination shelter		Per hour	\$285
Each boat (including a trailer and vehicle to tow it)		Per hour	\$285
Each helicopter		Per hour	\$3,365
Each hose		Per hour	\$65
Each fully encapsulated gas suit		Per hour	\$65
Each spillage suit		Per hour	\$10
Each self-contained breathing apparatus		Per hour	\$65
Each standard gas detector		Per hour	\$65
Each unit of specialised detection equipment		Per hour	\$65

## 2.3 Fire safety services

FRNSW's services for fire safety in the built environment are part of a regulatory regime that is intended to manage the fire safety risks in buildings and other structures. Many of FRNSW's fire safety services are mandated by the *Environmental Planning and Assessment Act 1979*.

Development proponents and/or building certifiers must request these services at the design and construction stages for new and modified buildings and structures. FRNSW undertakes risk assessments to determine which requests require detailed inspection, assessment, report or meeting. The proportion of completed services varies considerably across the individual services.<sup>2</sup>



FRNSW charges for some of its fire safety services. Current charges recover most of FRNSW's costs for the services that are specified in the FB Regulation, however individual service charges are not cost reflective. FRNSW does not recover the costs of providing fire safety services that are not specified in the FB Regulation.

FRNSW advised that it is insufficiently resourced to undertake all requested fire safety services. It considers that this resourcing issue is influenced by the current charging structure and level of charges for fire safety services, i.e., it does not recover the costs of providing these services.

FRNSW and local councils also conduct compliance and enforcement activities to ensure ongoing fire safety compliance in the built environment.

### Draft recommendations

8. FRNSW charge for its fire safety services in accordance with Table 2.2.
9. To manage the increasing demand for its fire safety services and improve its efficiency, FRNSW:
  - implement automated risk assessment processes for high volume application types
  - refine its application forms and templates to ensure all necessary information is captured and can be easily identified
  - pursue opportunities for greater utilisation of the NSW Planning Portal, including for lodgement of Annual Fire Safety Statements and Emergency Plans and notification of radiation gauges.

Table 2.2 sets out our draft recommended charges for FRNSW's fire safety services. These charges would allow FRNSW to recover the costs of:

- administration, risk assessment and service overheads for most services through an application fee
- providing highly variable services through a charge per hour of labour
- providing services with a low to medium degree of variation through fixed charges
- excess travel through an hourly charge per hour of labour
- any fire safety service that does not otherwise have charges specified in the FB Regulation through an hourly charge per hour of labour.

Table 2.2 Draft recommended charges for fire safety services (\$2022-23, ex-GST)

Service	Charge (\$)ª
<b>Initial fire safety report (IFSR)</b>	
Application fee	270
Charge per hour of labour	160
<b>Advisory, assessment and consultancy services</b>	
Application fee	270
Charge per hour of labour	160
<b>Fire engineering brief</b>	
Application fee	270
Fixed service charge	1,260
<b>Final fire safety report</b>	
Application fee	270
Fixed service charge (including 2 hours of travel time for 2 people)	2,140
<b>Fire safety system report</b>	
Application fee	270
Fixed service charge (including 2 hours of travel time for 2 people)	2,140
<b>Attendance at a fire safety meeting</b>	
Application fee	270
Fixed service charge (including 2 hours of travel time for 2 people)	1,745
<b>Review of emergency plans<sup>b</sup></b>	
Fixed service charge (no application charge)	490
<b>General fire safety inspection or assessment (not specified above)</b>	
Charge per hour of labour	155
<b>Travel time to provide fire safety service</b>	
Charge per hour of labour	155
<b>Consumables</b>	
At reasonable cost	Reasonable cost

a. If a charge is on an hourly basis, the charge specified is prescribed for each hour, or part of an hour

b. Charge only applies where FRNSW reviews and provides comment on an emergency plan; no charge for lodgement only.

## 2.4 False alarm call outs

FRNSW must attend an alarm of fire<sup>3</sup> and it may recover charges specified in the FB Regulation if it is afterwards discovered that the alarm was false.<sup>4</sup> FRNSW also has a standard agreement with 3 Automatic Fire Alarm Service Providers, and the FRNSW Act provides for FRNSW to set charges in this agreement for attendance at false alarms generated by automatic fire alarm systems.<sup>5</sup>

FRNSW does not currently charge for false alarms that are not generated from automatic fire alarm systems.

Box 2.2 sets out more details about FRNSW's current approach to false alarm call outs.

## Box 2.2 False alarm call outs

Under the FRNSW Act, FRNSW must attend an alarm of fire<sup>6</sup> and it may recover charges specified in the FB Regulation if it is afterwards discovered that the alarm was false. The FB Regulation sets this charge at \$1,600, to be levied unless it was a test where prior notice was given and the test was properly conducted, or it is the first false alarm during a 60-day period (with the second or subsequent false alarm to be charged).

Currently, FRNSW only charges for false alarms generated by automatic fire alarm systems, for which charges are imposed under automatic fire alarm (AFA) network service arrangements with automatic fire alarm service providers (AFASPs). The charges for false alarms under this agreement is also \$1,600.

FRNSW attends approximately 47,000 false fire alarms from AFAs each year. In practice, FRNSW charges for about 46% of these after applying its policies to not charge in certain circumstances. The agreement with AFASPs provides for two 'leniencies':

1. charges will only apply to the first false alarm in a 24-hour period;
2. charges will only be imposed for the second or subsequent false alarm in any 60-day period.

In addition to the two leniencies, FRNSW may also waive false alarm charges for a variety of reasons, including, for example if a false alarm is considered to have been beyond the building owner's control (e.g. due to environmental conditions like bushfire smoke). A further 2% of charges levied are waived after the charge has been issued.

We recommend that FRNSW continue its current practice of levying a charge for some false alarms arising from automatic fire alarms systems (AFAs), but not for those raised through 'triple zero' calls'.

We recommend an increase to the false alarm charge to \$1,975 (in \$2022-23) and a discounted rate of \$395 for some false alarms depending on the cause.

We also recommend changes to the way FRNSW applies leniencies for AFA false alarms, including that FRNSW:

- not charge the first false alarm in 90 days (existing policy is first false alarm in 60 days is not charged)
- exclude 'non-chargeable' alarm types from triggering leniencies, meaning more false alarms will be uncharged
- exclude alarms caused by poor building maintenance from the 90-day leniency.

## Draft recommendations

- 10. FRNSW continue to charge for attending an alarm from an automatic alarm system that is later found to be a false alarm.
- 11. FRNSW continue its policy to not charge for attendance at false alarms that are not generated from an automatic fire alarm system.
- 12. FRNSW consider the merits of trialling charging for false alarms from privately monitored premises to assess its effectiveness at reducing the number of false alarms.

Table 2.3 sets out our draft recommendations for false alarm charges. In reaching our draft recommendations, we balanced the need to incentivise the right people to reduce the occurrence of false alarms, equity, and the cost to FRNSW of attending false alarms.

Table 2.3 Draft recommended charges for false alarms

Charge type	Amount (\$2022-23)	When it applies
Full charge	\$1,975	For false alarms that do not qualify for a leniency and are not for the causes listed for a discounted charge
Discounted charge	\$395	When the cause of the alarm is found to be: <ul style="list-style-type: none"> <li>• Cooking fumes – toast, foodstuffs, etc</li> <li>• Incense, candles, sparklers, smoke machine, etc</li> <li>• Due to aerosol use – hair spray, insecticides, etc</li> <li>• Due to steam – shower bath sauna, steam room etc</li> </ul>

To be an effective incentive, the charge is best levied on the party most able to make the relevant changes to prevent false alarms. In most cases this would be the building owner (or may be an owners' corporation). We note however that building owners are often able to pass the charges through to occupants (residential or non-residential) regardless of whether they are responsible for the false alarm or able to make relevant changes. This can be based on strata by-laws or contractual arrangements such as leases.

The discounted price helps to reduce the burden where charges are passed on and the occupant's actions may be responsible for the false alarm. However, we also recommend that FRNSW work with Fair Trading NSW to develop a fact sheet for occupants and building owners to better understand their responsibilities, rights and options to contest a charge that has been passed on if this is done unfairly.

## Draft recommendations

- 13. FRNSW continue to proactively engage with alarm owners to reduce false alarms from automatic fire alarm systems with a risk-based approach.

14. FRNSW work with NSW Fair Trading to develop a fact sheet for occupants and building owners to clarify responsibilities, rights and options for appeal when building owners pass charges on to occupants
15. FRNSW continue its current practice of not charging for a false alarm generated by an automatic fire alarm system where the cause is beyond the control of the building owner.
16. FRNSW implement a 2-tiered charging structure where there are different charges for attendance at false alarms generated by an automatic fire alarm system, depending on the cause of the alarm.
17. FRNSW charge a discounted charge for false alarms generated by an automatic fire alarm system where the cause is identified to be any of the following:
  - Cooking fumes – toast, foodstuffs, etc
  - Simulated conditions – incense, candles, sparklers, smoke machine, etc
  - Alarm activation due to aerosol use – hair spray, insecticides, etc
  - Alarm Activation due to steam – shower bath sauna, steam room etc
18. FRNSW revise the stop-code descriptor for false alarms generated by an automatic fire alarm system 'Alarm activation due to workers'/occupiers' activities' to separate workers' and occupiers' activities.
19. FRNSW take steps to help identify where there are design issues in buildings with automatic fire alarm systems causing false alarms from normal activities such as showering. This could include:
  - publishing information for occupants to reach out if they think that there is a design issue and take steps to follow up
  - tracking the number of this type of alarm and engaging with the building owner where there is a significant number of alarms
  - work with the Building Commissioner to investigate options to reduce these happening in new buildings.

Our recommended charges aim to recover the total cost to FRNSW of attending false alarms generated by AFAs, noting that a substantial number of these false alarms are not charged for, due to leniencies and non-chargeable causes.

We found that it cost FRNSW \$717 on average to attend a single false alarm incident. This includes the incremental costs of attending firefighters, vehicles, overheads, and a portion of standby costs, and a 10% capital allowance. Assuming 48,000 false alarm calls annually (the 10-year median) this amounts to a cost of \$34.9 million a year. Before we make our final recommendations, we would like to better understand the impact that false alarm attendance has on the overall capacity of FRNSW operations.

We have also made several draft recommendations about the application of leniencies. These aim to improve equity and strengthen the incentive power of the charge to those premises that have multiple recurring alarms. We estimate that our draft recommendations regarding leniencies are likely to result in a small increase in the number of false alarms that are charged.

### Draft recommendations

- 20. FRNSW continue to apply the '24-hour leniency', so that second and subsequent alarms in a 24-hour period are not charged; but amend its implementation to exclude non-chargeable causes of false alarms from triggering the 24-hour period.
- 21. FRNSW not charge for attending the first false alarm from an Automatic Fire Alarm in 90 days (current policy is 60 days) and:
  - exempt non-chargeable causes of false alarms from being the first false alarm and triggering the 90-day period
  - exclude false alarms that are caused by poor building maintenance from receiving this leniency.
- 22. FRNSW continue to waive the charge where adequate steps are taken to prevent future false alarms under its current waiver policy.
- 23. The charges for attending false alarms in 2022-23 to be set in the FB Regulation:
  - \$1,975 for the full charge (\$2022-23)
  - \$395 for the discounted charge (\$2022-23).

## 2.5 AFA management services

FRNSW enters into arrangements with Automatic Fire Alarm Service Providers (AFASPs) for the installation, monitoring and maintenance of fire alarm links between fire brigade premises and other premises. These arrangements are known as AFA network service arrangements. FRNSW charges AFASPs for the services it provides under these arrangements. There are 3 approved AFASPs that are contracted to FRNSW. As of 30 June 2021, FRNSW had 17,055 connected AFAs for which monitoring fees are charged monthly.



FRNSW charges AFASPs for the following services:

- new alarm connection by AFASP to the FRNSW AFA system
- ongoing monitoring of an AFA
- transfer of AFAs between AFASPs.
- quarterly AFASP maintenance fee, and
- AFASP communication system interface testing connection of an AFA.

## Draft recommendations



24. Automatic fire alarm management charges be set for 2022-23 as set out in Table 2.4

Table 2.4 sets out our draft recommended charges for AFA management and system service.

Table 2.4 Draft recommended charges for AFA management services (\$2022-23, ex-GST)

Fee	Unit	Proposed charge
Connection	Per event	\$755
Ongoing monitoring fee	Per AFA per month	\$14.45
Transfer	Per event	\$160
Application fee	Per application	At reasonable cost
Ongoing maintenance fee	Per AFA per month	85 cents

Unlike user charges for other FRNSW services that are set in the FB Regulation, the AFA management and system service charges are currently set in the AFA network service arrangements, consistent with the requirements of the FRNSW Act.

As AFA management is a monopoly service, we consider its fee should also be set in the FB Regulation. We recommend FRNSW propose changes to the FRNSW Act to make the treatment of AFA management fees consistent with the other user charges set out in the FB Regulation.

## 2.6 Other services

FRNSW identified a range of 'other services' which include:

- services provided to other NSW government agencies and other jurisdictions
- services provided by FRNSW's commercial training division, ComSafe
- some miscellaneous other services identified by FRNSW which should be examined as part of this review.

There are no cost-recovery arrangements for most of these 'other services' and, where there are charges, these charges have not been recently reviewed or aligned with up-to-date policies.

Our view is that services provided by FRNSW to other agencies should be subject to cost recovery. We consider that FRNSW should continue any existing charged arrangements and review any services which fall into this category but are not currently charged.

### Draft recommendations

- 25. FRNSW continue any existing charged arrangements with other NSW government agencies.
- 26. FRNSW review services provided to other NSW government agencies which are not currently charged for their suitability for cost recovery.

FRNSW could currently charge for attending fires outside a fire district, but does not do so as a matter of policy. We consider this is appropriate for land-based fires, but we consider that the rates for responding to fire incidents on waters outside a fire district should be the same as hazmat charges.

FRNSW also responds to requests for information about incidents (usually for insurance purposes), currently without charging.

### Draft recommendations

- 27. FRNSW charge for attending fires on waters outside its fire district, on the same basis as attending hazmat incidents.
- 28. FRNSW charge for requests for incident information reports, at a fixed charge equivalent to the GIPA application fee (\$30).

FRNSW also should have the flexibility to set arrangements and user charges for other services where there are key beneficiaries and the service is contestable. These services include:

- services provided to other agencies or jurisdictions which require resource sharing
- services provided by Comsafe, including attendance at events
- rescues from lifts
- reptile handling.

## 2.7 Impact of our draft recommendations

Our draft recommendations on user charges will have mixed impacts on stakeholders. There will be a combination of new charges, increased and decreased prices. This is discussed further in the supporting information papers.

We have estimated the revenue impact from our recommendations on building safety, false alarm charges, AFA management charges, and hazmat. We did not estimate the impact from other services because they are generally minor and more variable (around \$0.1 – 0.2 million per year).

We estimate that our draft recommendations would result in \$1.8 million less revenue in \$2022-23 annually compared with current charges and charging practices. This is a 4% fall in the revenue collected through these services, or 0.22% of FRNSW's total revenue.

If the fall were collected through the ESL, it would result in a 0.24% increase to the ESL.

Table 2.5 sets out the revenue impact for the 4 main services with comparisons to the total FRNSW revenue and the ESL revenue.

Table 2.5 Expected revenue impact in 2022-23 (\$2022-23, millions)

	Forecast revenue with current charges (\$, millions)	Forecast revenue under our recs (\$, millions)	Difference (\$, millions)	Difference (%)
Fire safety	3.1	3.2	0.1	5%
False alarms	35.5	35.6	0.2	1%
AFA monitoring	11.8	3.7	-8.1	-69%
Hazmat	1.3	7.3	6.0	455%
<b>Net change (\$)</b>	51.7	49.8	-1.8	-4%
Net change % of total FRNSW revenue				-0.22%
Net change % of ESL				.-0.24%

a. To calculate the comparison to total FRNSW revenue and the ESL, we used an estimate of total revenue and ESL revenue in 2022-23. To do this, we used the 5-year averages (2016-17 to 2020-21) in \$2020-21 and added 2.5% annual inflation for 2 years. Numbers may not add due to rounding.

### 3 Draft recommendations on regulatory framework

In addition to recommending charges for FRNSW's services, we have been also asked to recommend a regulatory framework for applying our recommended charges.

#### Draft recommendations

- ✓ 29. The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to determine charges for services that are not specified in the FB Regulation.
- ✓ 30. The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to charge for services that have not been requested (for example, proactive compliance activities)
- ✓ 31. The FRNSW Act be amended to provide for charges for AFA management to be set in the FB Regulation
- ✓ 32. The FB Regulation be amended to clarify that FRNSW may charge for specified contestable services, but without charges being prescribed in the FB Regulation, including:
  - services provided by Comsafe
  - attendance at events
  - rescues from lists
  - reptile handling.
- ✓ 33. The FB Regulation be amended to allow all specified charges to be indexed each year by the Wage Price Index for public sector wages.

These draft recommendations address some of the inflexibilities and complexities of the existing regulatory framework. We discuss our analysis of these issues and how we reached our proposed recommendations in Section 4.5 below.

## 4 How we made our draft recommendations

We have developed an approach to this review to guide our decision making and ensure we take account of all matters specified in the Terms of Reference (provided in Appendix A), and issues raised by stakeholders in submissions and through direct consultation.

The sections below provide an overview of our approach and each of its key steps. We also respond to stakeholder submissions on this approach.

### 4.1 Overview of our approach

To conduct this review, we developed an approach to making draft recommendations and conducted public consultation and detailed analysis as outlined in Box 4.1.

Our approach comprises the following key steps,

1. Develop principles for assessing which services should have user charges, which of those services should have charges set out in the FB Regulation, and how those charges should be set.
2. Based on the principles from Step 1, identify which of FRNSW's services should have user charges, and assess which of those services should have charges set out in the FB Regulation.
3. Develop and apply a pricing methodology for these services. This involves deciding
  - a. What 'form' of price regulation is appropriate for FRNSW's services
  - b. For how many years we will be recommending charges (or a pricing methodology) for those services
  - c. What costs FRNSW should recover from charges and what approach we should use to estimate the efficient level of these costs
  - d. Appropriate pricing structures or other pricing mechanism for FRNSW to recover the efficient costs through its charges
  - e. Recommending charges (or a price methodology) for those services from 1 September 2022
4. Decide on a recommended regulatory framework for applying those charges, including a methodology for reviewing and adjusting charges in future.

In Section 4.2 to 4.5, we describe how we have implemented these steps to reach our draft recommendations.

### Box 4.1 Process for this review

The process we followed in conducting this review included public consultation and detailed analysis. As part of this process, we:

- Released an Issues Paper in August 2021. This paper explained the terms of reference, outlined our proposed approach for the review and invited comments on key issues including our proposed approach.
- Invited FRNSW to provide information for the review, including details of its costs and activities.
- Engaged consultants, the Centre for International Economics, to review information provided by FRNSW and provide expert advice on efficient operating costs of FRNSW's services that we identified should have user charges.

We are now seeking submissions on this Draft Report and invite comment from you. Submissions are due by 8 February 2022. We will also hold an online public forum on the Draft Report on 31 January 2022 where you will have the opportunity to comment or ask questions about our draft recommendations. We will consider all submissions and comments before making our final recommendations to the NSW Government in March 2022.

## 4.2 Develop principles for assessing which services should have user charges

The first step in our approach is to develop pricing principles to help us identify which of FRNSW's services should be subject to user charges and how to set those user charges.

As proposed in our Issues Paper, we identified which of FRNSW's other services should be subject to user charges based on the following principles:

- **Equity:** Where identifiable individuals create specific demand for FRNSW's services, they should pay for them. This includes FRNSW's regulatory activities.
- **Efficiency:** Where charging for a service ensures scarce resources are better allocated, FRNSW should charge for it.
- **Risk mitigation:** Where charging for a service provides an incentive for individuals to mitigate risk, FRNSW should charge for it; and where FRNSW undertakes activities that better mitigate risk, FRNSW should charge for them.



Once we assessed which services should have user charges, then we decided whether charges should be set out in regulations based on whether it is a monopoly service. And in recommending charges, we assessed various options against the following principles:

- **Transparent:** Key information about the charges should be readily available, such as the authority to charge, charging rates, and, where relevant, the basis of the charges.
- **Cost-reflective:** Charges should reflect the efficient cost of providing the service.
- **Equitable:** Charges should be equitable and affordable.
- **Create positive incentives:** Where relevant, charges should incentivise risk mitigation.
- **Simple:** Charges should be straightforward, practical, easy to understand and collect.
- **Flexible:** Charges should be easily applicable to any new activities that FRNSW undertakes in future.
- **Consistent:** Charges should be consistent between similar activities conducted by FRNSW and consistent with charges for similar activities conducted by other NSW agencies.

Submissions generally supported our proposed pricing principles. LGNSW supported our pricing principles but noted that risk mitigation may be hard to assess and risk mitigation that benefits an individual may also benefit the broader community and be part of FRNSW's core services.<sup>7</sup>

In our view, by applying "risk mitigation" as a principle for charging, we are effectively using price to incentivise an impactor (or potential impactor) to reduce risk. There might be other beneficiaries of reduced risk, but it is not relevant as they are beneficiaries only, not impactors.

Also, FRNSW submitted that the cost of providing its services should be borne by impactors. It submitted that recovering the efficient cost of services provides scalability and flexibility - this mitigates the transfer of risk to the community and provides response to the changing nature of risk in the built environment.<sup>8</sup>

We agree with FRNSW that preferably the impactor or risk creator should pay. That is, those ultimately creating the costs, or the need to incur the costs, should pay the costs. If that is not possible, the beneficiary should pay (direct beneficiaries before indirect beneficiaries) where users pay charges on the basis of benefiting from the service. In our view, taxpayers may be considered as a funder of last resort where risk creators or beneficiaries have not been clearly identified; or where it is not administratively efficient or practical to charge impactors or beneficiaries.

LGNSW and FRNSW suggested including additional pricing principles such as transparency, consistency and risk reduction.<sup>9</sup> Our proposed pricing principles already included these principles, and we have considered them in recommending draft charges.

Regarding assessment of FRNSW's services for user charges, LGNSW submitted that for contestable services, we need to assess whether there is a developed market and effective competition, particularly in regional areas. It also commented that the FB Regulation should include additional cost recovery mechanisms.<sup>10</sup>

FRNSW's contestable services are provided at the request of a specific individual or organisation, and customers can choose to engage FRNSW or other service providers in the market. We have seen no evidence of monopoly pricing for these services, and see no reason to regulate charges for contestable services at this time. We support FRNSW having the maximum flexibility to vary charges to reflect changes in costs and our draft recommendations on the regulatory framework reflect this.

### 4.3 Identify FRNSW's services that should have user charges

Our next step is to identify which FRNSW's services should have charges set out in the FB Regulation by assessing FRNSW's services against our principles for applying user charges and considering how the user charges should be set.

FRNSW's core services - responding to fires within its designated fire districts, community safety preparedness and engagement, and rescues - are funded through the ESL. FRNSW does not charge for these services. They are provided on the basis that they have broad community benefit, or are used by property owners and ratepayers who pay via the ESL. This funding model is not part of our review.

Currently, FRNSW is able to charge users for some of its other services ("non-core" services), including automated fire alarm services, some but not all statutory fire safety activities, and training and consultancy services. It is able to charge for any hazmat incident, but has made the policy decision to charge only when attendance exceeds an hour. Some of these charges are set out in the FB Regulation, but others are not, and are set by negotiation or at market rates.

We have conducted a comprehensive review of FRNSW's non-core services and determined whether each service should be subject to user charges, and, if so, whether it should have charges set out in the FB Regulation.

The key principles we have applied are:

1. Whether there is an identifiable impactor who creates the need for the service in question. Our view is that the impactor or risk creator should pay the costs associated with providing the service.
2. Whether the service in question is a monopoly service to decide whether it should have charges set out in the FB Regulation. If FRNSW is not the monopoly provider of the service in question, customers can choose to engage FRNSW or other services providers in the market. In this case, charges for the service do not need to be set out in the FB Regulation.

Table 4.1 sets out our assessment of FRNSW's non-core services based on these principles. In conclusion, we have made a draft decision that the following services should have user charges and have charges set out in the FB Regulation:

- Hazmat incidents (both wires down and other hazmat incidents)

- All fire safety in the built environment services with three exceptions, which relate to FRNSW's core services and are funded through the ESL:
  - assessing fire safety complaints relating to buildings or structures
  - undertaking joint inspections with councils or consent authorities of the fire safety provisions of an occupied building
  - providing comment to consent and regulatory authorities on a fire safety matter, development condition, compliance issue or order applying to an occupied building.
- Responding to a false alarm (although we support FRNSW continuing to have a policy of only levying these charges for false alarms generated by AFA systems)
- Automatic fire alarm management
- FRNSW's other services, which include:
  - Attending marine fires outside a fire district
  - Responding to requests for information about incidents, including from individuals and insurers.

Table 4.1 Application of principles for determining which FRNSW services should have user charges

<b>Services with user charges set in regulation</b> "Identifiable impactor" and "monopoly service"	<b>Contestable services – user charges not set in regulation</b> "Identifiable impactor" but "not monopoly service"	<b>Services with no user charges</b> Cost to beneficiaries – related to core services and funded through ESL
<b>Fire safety in built environment</b> <ul style="list-style-type: none"> <li>Initial fire safety report</li> <li>Final fire safety report</li> <li>Fire safety system report</li> <li>Assessment of BCA Category 2 fire safety provision</li> <li>Attendance at a fire safety meeting associated with development</li> <li>Advisory, assessment or consultancy services for State significant infrastructure, Crown building work or other development (including fire engineering briefs)</li> <li>Fire safety inspection (eg, for maritime lease)</li> <li>Services provided through another agency, e.g. combustible cladding inspections</li> </ul>	<b>Contestable services</b> <ul style="list-style-type: none"> <li>ComSafe training courses</li> <li>ComSafe emergency plans and diagrams</li> <li>Shared services (SAP) provided to RFS and SES</li> <li>Call taking and dispatch services provided to RFS and SES</li> <li>Assisting with lift extractions (not related to rescue)</li> <li>Assisting with reptile handling</li> </ul>	<b>Fire safety in built environment</b> <ul style="list-style-type: none"> <li>Assessing fire safety complaints relating to buildings or structures</li> <li>Undertaking joint inspections with councils or consent authorities of the fire safety provisions of an occupied building</li> <li>Providing comment to consent and regulatory authorities on a fire safety matter, development condition, compliance issue or order applying to an occupied building</li> </ul>
<b>Hazmat</b> <ul style="list-style-type: none"> <li>Attend hazmat incident</li> <li>Attend hazmat incident – wires down</li> <li>Receive notifications of radiation gauges and location of radiation sources</li> <li>Consult and make recommendations about emergency plans for workplaces that handle, use or store hazardous chemicals exceeding a certain quantity, major hazard facilities and licensed explosives sites</li> </ul>	<b>Services provided to other agencies and jurisdictions</b> <ul style="list-style-type: none"> <li>Provide services to other agencies and jurisdictions, e.g. through MoUs and service level agreements</li> <li>Use of Emergency Services Academy Facilities</li> <li>Remote Piloted Aircraft Systems (drones)</li> </ul>	
<b>Automatic fire alarms (AFAs)</b> <ul style="list-style-type: none"> <li>Responding to a false AFA</li> <li>Automatic fire alarm management</li> </ul>	<b>Events and media productions</b> <ul style="list-style-type: none"> <li>Attend major and special events and media productions – commercial purpose</li> </ul>	<b>Events</b> <ul style="list-style-type: none"> <li>Attend major, special and community events for purpose of community education and awareness</li> </ul>
<b>Fires outside fire districts</b> <ul style="list-style-type: none"> <li>Attend marine fire outside fire district</li> </ul>		<b>Fires outside fire districts</b> <ul style="list-style-type: none"> <li>Attend land-based fire outside fire district</li> </ul>
<b>Responding to requests for information</b> <ul style="list-style-type: none"> <li>Responding to requests for information about incidents, including from individuals and insurers</li> </ul>		

## 4.4 Develop and apply a pricing methodology

In the third step of our proposed approach, we decide what methodology we should use to recommend charges for FRNSW's services. We then apply this method to recommend a pricing framework to recover the efficient costs of those services. To do this, we have considered

- What 'form' of price regulation is appropriate for FRNSW's services
- How many years we will be setting charges for those services
- What costs FRNSW should recover from charges and what approach we should use to estimate the efficient level of these costs.

As required by our terms of reference, we have also assessed various options for the price structure or pricing mechanism for FRNSW's services.

### **We recommend charges for the first year and indexing thereafter**

As we are reviewing FRNSW's charges for the first time, we considered what would be the most appropriate 'form of regulation' to establish charges. Once we decided on the form of regulation, we then established the most appropriate period for which we recommend charges for FRNSW's services.

As proposed in the Issues Paper, we have made a draft decision to recommend charges for the first year and recommend these charges be indexed each year. Using an indexation approach implies FRNSW costs are likely to vary in line with the proposed index. It also allows charges to continue to be adjusted periodically beyond the period for which we recommend charges in this review.

We recommend charges for 5 years from 2022-23 to 2026-27. Specifically, our recommended charges would be applicable from 1 July 2022 and indexed using the ABS WPI for public sector wages from 1 July 2023 to 30 June 2027. We considered 5 years provide a reasonable balance between ensuring stability and predictability in FRNSW's charges and lowering risks associated with inaccuracies in the forecast data used to recommend these charges.

In our Issues Paper we proposed to index charges using the Consumer Price Index (CPI). Submissions supported annual indexation of FRNSW's charges, but did not support the CPI as the appropriate index. FRNSW and Local Government NSW (LGNSW) consider a wage index is more likely to accurately reflect cost movements and recommend using a wage growth index to update charges periodically.<sup>11</sup> Also, LGNSW suggested we consider a composite index like the Local Government Cost Index (LGCI).<sup>12</sup>

We agree a wage index is likely to be more reflective of the costs of providing FRNSW services given that labour costs represent 80% of its costs. The public sector WPI is likely to be the best reflection of FRNSW's labour cost changes. A composite FRNSW-specific index cannot be implemented within the existing regulatory charging framework, and in our view the potential additional accuracy would not justify the additional complexity in any case.

## We have used a cost build-up approach

Our Issues Paper proposed to use a 'cost build-up' approach to estimate total efficient costs of providing FRNSW's services and add an efficient capital allowance to compensate FRNSW for committing capital investment. It proposed to look at the construction industry to estimate an appropriate capital allowance.

Submissions broadly supported using the cost build up approach. However, FRNSW submitted that there are strict rules around using revenue for capital expenditure, and that asset wear and tear should be considered in cost recovery.<sup>13</sup> LGNSW questioned basing a capital allowance on the construction industry as it considers FRNSW does not face the same risks as construction firms.<sup>14</sup>

Consistent with the Issues Paper, we adopted a cost build up approach. We assessed efficient operating, maintenance and depreciation costs. We then added an appropriate capital allowance to account for a share of the cost of purchasing capital items such as IT systems and equipment to arrive at the total efficient costs.

To estimate the efficient operating, maintenance and depreciation costs:

- We analysed information provided by FRNSW on its historical and projected operating costs and activities
- We engaged consultants, the Centre for International Economics (the CIE), to review information provided by FRNSW and provide expert advice on efficient operating costs of providing hazmat services.

We included only efficient operating, maintenance and depreciation costs. The allowance for such costs reflects our view of the efficient level of costs FRNSW would incur in providing its services over our review period, from 2022-23 to 2026-27. We also included depreciation

The efficient operating, maintenance and depreciation costs commonly included labour costs (i.e. salaries), billing and administration costs, overheads and depreciation costs. Some of the cost items were service-specific. For example, we accounted for pumper costs in the efficient operating costs for false alarm call outs and hazmat charges. For some fire safety services, we allowed for travel costs.

Once we established the efficient operating, maintenance and depreciation costs, we added a capital allowance of 10%. This is to account for a share of the cost of purchasing capital items such as IT systems and equipment.

We agreed with LGNSW that the construction industry is not a suitable proxy for estimating a capital allowance. We considered alternative proxy firms in the following industries:

- fire and security alarm installation services
- investigation and security services
- fire protection services and hazardous waste hauling services.

The average earnings before interest and tax (EBIT) margins of these industries ranged from 6.1% to 13.5%. We considered the average EBIT margin across these industries of 10% provide a reasonable estimate of capital allowance for FRNSW's services. Appendix B provides our analysis of capital allowance in more detail.



## 4.5 Decide on a recommended regulatory framework for applying those charges

The FRNSW Act empowers FRNSW to charge for some of its activities, and the FB Regulation further specifies what FRNSW can charge for, and what amounts it can charge. The net effect is a somewhat complicated and inflexible charging framework.

In our view, the charging framework should provide for FRNSW to charge for its monopoly services where appropriate, by reference to charges set out in the FB Regulation. While FRNSW should have a clear power to charge for contestable services under the FRNSW Act, it should have the flexibility to set the level of those charges based on commercial principles.

This section sets out the current charging framework, the issues that we have identified with it, and our recommendations to provide a simpler, more flexible and more equitable regulatory charging framework.

### 4.5.1 The current framework

#### **Part 4 of the *Fire and Rescue NSW Act 1989* (FRNSW Act)**

Part 4 of the FRNSW Act empowers FRNSW to charge as follows:

- **Attending fires**

FRNSW cannot charge for attending a fire unless the fire is outside a fire district. If the fire is outside a fire district, FRNSW can recover costs up to any maximum charges prescribed in the FB Regulation. Any charges also cannot exceed 20% of the pre-fire value of the building, vessel, cargo and/or freight.<sup>15</sup> FRNSW does not currently exercise the power to charge for attending fires outside a fire district and there are no maximum charges prescribed in the FB Regulation.

- **Hazardous material incidents**

FRNSW may charge up to prescribed charges for attending a hazardous material incident (but cannot charge for fighting a fire that is the result of a hazardous material incident).<sup>16</sup>

- **Other services**

FRNSW can, on request for a service, charge for:

- inspecting any premises
- inspecting, testing, servicing or repairing any equipment
- furnishing advice or a report concerning fire prevention or protection, fire fighting equipment or other matters
- conducting a training course
- responding to any alarm (if it is afterwards discovered that the alarm was false), or
- performing any other service specified in the regulations,

The charge must be the charge prescribed by the regulations in respect of the service performed or, if no amount is so prescribed, of such amount as the Commissioner thinks fit.<sup>17</sup>

However, where any of these services are performed under an automatic fire alarm network service arrangement, these charging arrangements do not apply.<sup>18</sup> Instead, a contract prescribes the charges.

### **Part 5 and Schedules 1-3 of the *Fire Brigades Regulation 2014* (FB Regulation)**

Part 5 and Schedules 1-3 of the FB Regulation 2014 empower Fire and Rescue to charge as follows:

- **Attendance at hazardous material incidents**

Hazmat incident attendance charges are set out in Schedule 1, in three categories.

- specified standard equipment to be charged at different hourly rates
- any special items (goods, services or premises) hired or purchased for a particular hazmat incident are to be passed through at cost
- any consumables are to be passed through at cost + 10% handling fee.

The charges can be calculated on a half-hourly basis.<sup>19</sup>

- **Statutory fire safety services**

Clause 46 sets out five different charging bases for statutory fire safety services:

- Cl 46(1) prescribes charges for an Initial Fire Safety Report by reference to Schedule 2, which specifies charging rates as a percentage of the estimated cost of development with a 5-part sliding scale.
- Cl 46(2) prescribes charges for inspecting premises for a Final Fire Safety Report, as a specified charge for up to 2 hours (including travel time) and an additional specified hourly charge thereafter.
- Cl 46(3) prescribes a specified charge for each assessment of a Building Code of Australia Category 2 fire safety provision.
- Cl 46(4) prescribes a specified hourly charge for attendance at a fire safety meeting.
- Cl 46(5) prescribes a specified daily charge for any other advisory, assessment or consultancy services in respect of development (with development, including State significant infrastructure and Crown building work, as defined by the *Environmental Planning and Assessment Act 1979*).

- **Attendance at false alarms**

The charge for attendance at a false alarm is \$1600 and the charge only applies for the second or subsequent charge in a 60-day period.<sup>20</sup>

- **Other services**

Clause 48 prescribes charges for any other services specified in s42(1) of the FRNSW Act, where the charge has not already been prescribed by the FB Regulation, by reference to Schedule 3.

The services are:

- (a) inspecting any premises
- (b) inspecting, testing, servicing or repairing any equipment
- (c) furnishing advice or a report concerning fire prevention or protection, fire fighting equipment or other matters
- (d) conducting a training course
- (e) responding to any alarm (if it is afterwards discovered that the alarm was false).

Category (f) from the FRNSW Act, s42(1), "any other services specified in the regulations" is not used.

Schedule 3:

- specifies different hourly rates for each fire brigade rank
- states that special items (goods, services or premises) hired or purchased for performing the other services are to be passed through at cost
- states that consumables are to be passed through at cost + 10% handling fee.

#### 4.5.2 Issues identified with the current framework

FRNSW can introduce new services within existing specified categories in section 42(1) of the FRNSW Act and charge for them, but has no flexibility to charge anything other than the catch-all Schedule 3 rates.

FRNSW has no ability to charge for new services at all if they do not fit in to the existing specified service categories in section 42(1), due to the interaction of s42(1)(f) and Cl 48.

FRNSW may be constrained by the requirement that it be requested to provide a service before it can charge (s42(1)). This may be an impediment to FRNSW recovering the costs of undertaking more proactive fire safety work programs.

Unlike user charges for other FRNSW services that are set in the FB Regulation, automatic fire alarm management charges are set out in the automatic fire alarm network service arrangements.<sup>21</sup>

Lastly, there is no mechanism for FRNSW to adjust charges within the existing regulatory framework.

#### 4.5.3 Draft recommendations for the regulatory framework

We recommend amendments to the FRNSW Act and FB Regulation to:

- provide more flexibility to charge for categories of service that are not specified in the FB Regulation
- provide more flexibility to charge for services that have not been requested (for example proactive compliance activities)

- provide more flexibility to develop charges for contestable services
- bring the regulation of automatic fire alarm management service charges in line with the regulation of charges for other monopoly services provided by FRNSW
- include a mechanism to adjust charges annually.

To provide FRNSW with a mechanism to adjust charges annually, we recommend that the FB Regulation be amended to allow charges to be indexed each year by the change in the Australian Bureau of Statistics (ABS) Wage Price Index (WPI) for public sector wages based on the following formula:

$$P_{i,t+1} = P_{i,t} \frac{WPI_{t+1}}{WPI_t}$$

where

- $P_{i,t+1}$  is charge for service  $i$  in year  $t+1$  and  $P_{i,t}$  is charge for service  $i$  in year  $t$
- $WPI_{t+1}$  is the Wage Price Index for NSW public sector total hourly rates of pay excluding bonuses<sup>1</sup> in the March quarter in year  $t+1$
- $WPI_t$  is the Wage Price Index for NSW public sector total hourly rates of pay excluding bonuses in the March quarter in year  $t$

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<sup>1</sup> The Australian Bureau of Statistics Series ID is A2704472W.

## 5 Have your say on our draft recommendations

For this review, we are conducting public consultation as well as detailed analysis. To date, we have:

- met with key stakeholders (see Table 5.1 for an overview of our stakeholder engagement)
- released an Issues Paper in August 2021 which outlined our proposed approach to the review and invited comment.
- issued an information request to FRNSW and gathered information about operating costs and activities.
- commissioned a consultancy to examine the efficient costs of providing FRNSW's services
- considered submissions to our Issues Paper
- undertaken analysis for our Draft Report.

Table 5.1 Overview of stakeholder engagement

Submissions received	Meetings with NSW stakeholders	Meetings with fire and rescue organisations in other jurisdictions
<ul style="list-style-type: none"> <li>• Anonymous individual</li> <li>• Australian Institute of Building Surveyors</li> <li>• FRNSW</li> <li>• LGNSW</li> <li>• Multiplex</li> <li>• Property Owners' Assoc. NSW</li> <li>• Shopping Centre Council of Australia</li> </ul>	<ul style="list-style-type: none"> <li>• ADT (an AFASP<sub>a</sub>)</li> <li>• Associate Professor Kathy Tannous<sub>b</sub></li> <li>• City of Sydney Council</li> <li>• LGNSW</li> <li>• Multiplex</li> <li>• NSW Treasury</li> <li>• Office of the NSW Building Commissioner</li> <li>• Romteck Grid (an AFASP<sub>a</sub>)</li> <li>• Shopping Centre Council of Australia</li> </ul>	<ul style="list-style-type: none"> <li>• Department of Fire and Emergency Services (WA)</li> <li>• Fire Rescue Victoria</li> <li>• South Australian Metropolitan Fire Service</li> <li>• Tasmania Fire Service</li> </ul>

### Have your say

We are now seeking feedback on the recommendations in this Draft Report. Submissions are due by 8 February 2022.

Information on how to make a submission is provided on page ii at the front of this report.

We will hold an on-line public hearing on 31 January 2022. This forum will also provide an opportunity to comment on our draft recommendations.

[Submit feedback >](#)

[Attend the public hearing >](#)

## 6 List of all draft recommendations

### Draft recommendations

1.	User charges be set out in the Fire Brigades Regulation for the following services:	2
	<ul style="list-style-type: none"> <li>- Hazmat service</li> <li>- Fire safety services</li> <li>- False alarm call outs</li> <li>- Automatic fire alarm management services</li> <li>- Responding to requests for incident information</li> <li>- Responding to fire incidents on waters outside a fire district</li> </ul>	
2.	FRNSW charge a call out fee plus hourly charges for chargeable hazmat incidents as set out in Table 2.1.	4
	<ul style="list-style-type: none"> <li>- Incidents less than one hour (inclusive) will incur a call out fee of \$335 for wires down incidents and \$480 for other hazmat incidents.</li> <li>- Incidents more than one hour will incur a call out fee plus hourly charges depending on the equipment used.</li> </ul>	
3.	FRNSW apply equipment charges set out in Table 2.1 to chargeable hazmat incidents with attendance time greater than 1 hour.	4
4.	FRNSW remove the current time-based thresholds for chargeable incidents, whereby wires down incidents under 2 hours are not charged, and other hazmat incidents under 1 hour are not charged.	4
5.	FRNSW charge all Distribution Network Service Providers for wires down incident attendance.	4
6.	FRNSW further consolidate a list of consumables wherever possible, possibly by bundling up consumables that are used together for a typical response.	4
7.	FRNSW be provided with flexibility to charge for the use of equipment that is not listed in the FB Regulation.	4
8.	FRNSW charge for its fire safety services in accordance with Table 2.2.	6
9.	To manage the increasing demand for its fire safety services and improve its efficiency, FRNSW:	6
	<ul style="list-style-type: none"> <li>- implement automated risk assessment processes for high volume application types</li> <li>- refine its application forms and templates to ensure all necessary information is captured and can be easily identified</li> <li>- pursue opportunities for greater utilisation of the NSW Planning Portal, including for lodgement of Annual Fire Safety Statements and Emergency Plans and notification of radiation gauges.</li> </ul>	
10.	FRNSW continue to charge for attending an alarm from an automatic alarm system that is later found to be a false alarm.	9
11.	FRNSW continue its policy to not charge for attendance at false alarms that are not generated from an automatic fire alarm system.	9

12.	FRNSW consider the merits of trialling charging for false alarms from privately monitored premises to assess its effectiveness at reducing the number of false alarms.	9
13.	FRNSW continue to proactively engage with alarm owners to reduce false alarms from automatic fire alarm systems with a risk-based approach.	9
14.	FRNSW work with NSW Fair Trading to develop a fact sheet for occupants and building owners to clarify responsibilities, rights and options for appeal when building owners pass charges on to occupants	10
15.	FRNSW continue its current practice of not charging for a false alarm generated by an automatic fire alarm system where the cause is beyond the control of the building owner.	10
16.	FRNSW implement a 2-tiered charging structure where there are different charges for attendance at false alarms generated by an automatic fire alarm system, depending on the cause of the alarm.	10
17.	FRNSW charge a discounted charge for false alarms generated by an automatic fire alarm system where the cause is identified to be any of the following: <ul style="list-style-type: none"> <li>- Cooking fumes – toast, foodstuffs, etc</li> <li>- Simulated conditions – incense, candles, sparklers, smoke machine, etc</li> <li>- Alarm activation due to aerosol use – hair spray, insecticides, etc</li> <li>- Alarm Activation due to steam – shower bath sauna, steam room etc</li> </ul>	10
18.	FRNSW revise the stop-code descriptor for false alarms generated by an automatic fire alarm system 'Alarm activation due to workers'/occupiers' activities' to separate workers' and occupiers' activities.	10
19.	FRNSW take steps to help identify where there are design issues in buildings with automatic fire alarm systems causing false alarms from normal activities such as showering. This could include: <ul style="list-style-type: none"> <li>- publishing information for occupants to reach out if they think that there is a design issue and take steps to follow up</li> <li>- tracking the number of this type of alarm and engaging with the building owner where there is a significant number of alarms</li> <li>- work with the Building Commissioner to investigate options to reduce these happening in new buildings.</li> </ul>	10
20.	FRNSW continue to apply the '24-hour leniency', so that second and subsequent alarms in a 24-hour period are not charged; but amend its implementation to exclude non-chargeable causes of false alarms from triggering the 24-hour period.	11
21.	FRNSW not charge for attending the first false alarm from an Automatic Fire Alarm in 90 days (current policy is 60 days) and: <ul style="list-style-type: none"> <li>- exempt non-chargeable causes of false alarms from being the first false alarm and triggering the 90-day period</li> <li>- exclude false alarms that are caused by poor building maintenance from receiving this leniency.</li> </ul>	11
22.	FRNSW continue to waive the charge where adequate steps are taken to prevent future false alarms under its current waiver policy.	11
23.	The charges for attending false alarms in 2022-23 to be set in the FB Regulation: <ul style="list-style-type: none"> <li>- \$1,975 for the full charge (\$2022-23)</li> <li>- \$395 for the discounted charge (\$2022-23).</li> </ul>	11

24.	Automatic fire alarm management charges be set for 2022-23 as set out in Table 2.4	12
25.	FRNSW continue any existing charged arrangements with other NSW government agencies.	13
26.	FRNSW review services provided to other NSW government agencies which are not currently charged for their suitability for cost recovery.	13
27.	FRNSW charge for attending fires on waters outside its fire district, on the same basis as attending hazmat incidents.	13
28.	FRNSW charge for requests for incident information reports, at a fixed charge equivalent to the GIPA application fee (\$30).	13
29.	The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to determine charges for services that are not specified in the FB Regulation.	15
30.	The FRNSW Act be amended to provide more flexibility for Fire and Rescue NSW to charge for services that have not been requested (for example, proactive compliance activities)	15
31.	The FRNSW Act be amended to provide for charges for AFA management to be set in the FB Regulation	15
32.	The FB Regulation be amended to clarify that FRNSW may charge for specified contestable services, but without charges being prescribed in the FB Regulation, including: <ul style="list-style-type: none"> <li>- services provided by Comsafe</li> <li>- attendance at events</li> <li>- rescues from lists</li> <li>- reptile handling.</li> </ul>	15
33.	The FB Regulation be amended to allow all specified charges to be indexed each year by the Wage Price Index for public sector wages.	15



# Appendices



## A Terms of reference



**The Honourable Victor Dominello MP**

Minister for Digital  
Minister for Customer Service

*Our reference: BN-03862-2021  
Your reference: D21/14676 & BN-02557-2021*

Ms Carmel Donnelly  
Chair  
IPART  
By email: [ipart@ipart.nsw.gov.au](mailto:ipart@ipart.nsw.gov.au)

Dear Ms Donnelly

I am writing in response to your correspondence on the revised terms of reference for an IPART review of Fire and Rescue NSW's fee charging model.

In April 2021, pursuant to section 12 A of the Independent Pricing and Regulatory Tribunal Act 1992, I referred the matter to the Tribunal for investigation and report. I note that IPART gave notice of this referral and sought public comment on the draft terms of reference.

I have considered the revised terms of reference you provided and I am pleased to issue IPART with the final terms of reference (attached).

The Tribunal is requested to conduct a review, with the final report to be completed and provided to the Minister of Police and Emergency Services within 8 months of receiving the final terms of reference.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Victor Dominello'.

**Victor Dominello MP**  
Minister for Digital  
Minister for Customer Service

Date: 18/07/21

## **Draft Terms of Reference – Review of Fire and Rescue NSW’s fees and charges**

I, Victor Dominello, Minister for Customer Service, under section 12A of the Independent Pricing and Regulatory Tribunal Act 1992 (IPART Act), request the Independent Pricing and Regulatory Tribunal (IPART) to investigate and report on fees and charges levied by Fire and Rescue NSW.

### **Background**

Fire and Rescue NSW (FRNSW) is the State Government agency responsible for the provision of fire, rescue and hazmat services in cities and towns across New South Wales in accordance with the Fire and Rescue NSW Act 1989, the State Emergency and Rescue Management Act 1989 and other related legislation.

FRNSW’s activities are predominantly funded by the Emergency Services Levy paid by insurers of property in NSW, via insurance levies, and local councils, as well as NSW Budget funding. FRNSW does not charge for attending fires, or attending hazardous materials emergencies for less than one hour, or for rescue operations.

However, FRNSW may charge for some of its activities as prescribed by the Fire Brigades Regulation 2014 (FB Regulation).

Fees and charges as prescribed within the FB regulation have not been reviewed for several years. With the pending repeal of the FB Regulation, there is an opportunity to review current charges in line with modern practices and determine the most appropriate pricing model.

### **Reference to the Tribunal**

The Minister requests IPART to review FRNSW’s current charging model, and make recommendations on:

- Which FRNSW services should be subject to user-pays charges
- A pricing framework to recover the efficient costs of those services, including:
  - A methodology or level for prices from 1 September 2022
  - A methodology for reviewing and adjusting prices in future
  - A regulatory framework for applying those prices.

### **Matters for consideration**

- The efficient cost of delivering the services in question
- Appropriate incentives for service users to avoid incidents and events that require FRNSW attendance (eg, fire alarm maintenance to prevent false alarms, safe handling of hazardous materials etc)
- Any public benefit of the FRNSW’s activities which should not be charged to the service user.

## B Capital allowance for FRNSW

In this appendix we provide our analysis of an appropriate capital allowance for FRNSW and how it is applied in our cost build up approach.

### B.1 An appropriate capital allowance

#### **Relevant FRNSW activities do not have a well-defined asset base**

A large part of FRNSW's physical plant is used to fight fires and conduct rescue operations which are funded by the ESL. This part of the asset base would not necessarily form part of the regulated asset base (RAB) we are required to consider in determining prices for FRNSW's chargeable services.

Other assets of a more general nature, including premises, computer systems and office equipment would need to be apportioned between fire-fighting/rescue operations and chargeable services. Also, as FRNSW is primarily funded to be "ready to respond" to incidents, a large part of the value of the assets would be allocated to standby capacity. Given these points, identifying the chargeable-specific RAB would be difficult.

#### **Establishing beta and gearing for FRNSW is not feasible**

In order to establish the necessary weighted average cost of capital (WACC) parameters, we would need to identify listed companies with similar risk characteristics to FRNSW's activities that we have considered as part of this review. By their nature, emergency services do not lend themselves to private sector provision. Often, the private firms that do operate in this space (for example private ambulance services in the USA) may be small-scale and not publicly traded. Therefore, reasonable proxies for beta and gearing may not be observable in capital markets.

#### **EBIT margin analysis is available for proxy firms**

Given the problems with establishing a relevant RAB or WACC for the services in question, we considered whether a simpler approach to determining a risk-reflective capital allowance could be used in our cost build up analysis. Profit margin estimates as a proxy for a risk-reflective capital allowance are available through industry reports on a wider range of firms, including some that are not publicly traded. We therefore used profit margin analysis for our FRNSW review.

#### **Proxy analysis suggests a 10% EBIT margin is appropriate**

The analysis section below presents the proxy analysis of EBIT margins we undertook for 4 related industries. The simple arithmetic average of these 4 EBIT margins rounds to 10%.

IBISWorld publishes reports on a range of Australian industries that include estimates of the average profit margin of firms. IBISWorld data is not restricted to publicly listed companies, and therefore it permits us to examine a wider variety of firm types.

These margins represent EBIT/sales revenue (excluding GST and other sales taxes). Table B.1 below summarises the EBIT margins for 4 relevant proxy industries.

Table B.1 EBIT margins for selected proxy industries

Industry	Report date	EBIT margin
Fire and security alarm installation services <sup>b</sup>	May 2021	8.6%
Investigation and security services <sup>c</sup>	June 2021	6.1%
Fire protection services <sup>d</sup>	Nov 2020	10.7%
Hazardous waste hauling <sup>e</sup>	June 2021	13.5%
<b>Average EBIT margin (rounded)</b>		<b>10%</b>

Source: IBISWorld

Each of these industries has some overlap with what FRNSW does in the services we are trying to price. The overlap is imperfect for all of them. A simple average of these margins is 9.7%. We note that FRNSW currently charges 10% handling costs on the cost of consumables as part of hazmat charges.

We consider a capital allowance of 10% is appropriate for FRNSW's services. It is consistent with the available evidence. In building block terms, this margin represents gross sales revenue minus GST, operating expenditure and depreciation. It includes return on assets (interest and equity return) and tax allowance.

## B.2 Use of margin in cost build up approach

In conventional RAB building-block terms, total costs comprise:

- Operating and maintenance costs
- Depreciation
- Return on assets
- Tax

<sup>b</sup> Firms in this category install and repair security systems and fire protection, detection and control systems.

<sup>c</sup> Firms in this category provide security, protection or private enquiry services other than those provided by police forces and government security agencies. Services include guards and patrols, monitored security systems, locksmiths, casual and permanent security staff and crowd controllers. Companies also offer ATM and cash-collection services, and some aspects of secure document and computer data storage.

<sup>d</sup> Firms in this category install and service fire protection systems. Industry operators also provide consultancy services.

<sup>e</sup> Firms in this category collect and transport hazardous waste. Waste is classified as hazardous if it poses a substantial threat to public health or the environment. 4 factors determine whether a substance is considered hazardous: ignitability, reactivity, corrosivity and toxicity. The industry excludes councils or municipalities that provide hazardous waste services to residents.

Under our cost build-up approach, we identify a per unit cost for operating, maintenance and depreciation costs. We then add the margin to these costs which, as indicated above, adds the return on assets and tax allowance components of the total cost.

For example, we identify the operating, maintenance and depreciation cost, in \$ per hour and/or \$ per incident, for

- employees for the different ranks such as firefighter, fires safety officer and fire safety engineer
- specialised equipment, such as fire engines, special response vehicles and hoses
- overhead operating and depreciation costs, such as legal services and building maintenance

We then add the capital allowance to each of these unit costs. In turn, we use the total unit costs (i.e. including the margin) to build up the charges.

To provide a simple mathematical example, assume we identified a pre-capital allowance cost of \$100 per hour per fire safety officer. We then add a 10% capital allowance, by applying the following formula:

$$\frac{\$ \text{ per hour}}{1 - \text{margin}} = \frac{\$100}{1 - 10\%} = \$111$$

In this example, the capital allowance of \$11 is 10% of the total cost of \$111 per hour.

<sup>1</sup> FRNSW Act, s 3(1).

<sup>2</sup> The CIE, *Efficient Operating Costs of providing Fire and Rescue NSW's services: Draft Report*, December 2021, pp 77-78.

<sup>3</sup> FRNSW Act, s 11(1).

<sup>4</sup> FRNSW Act, s 42(1)(e).

<sup>5</sup> FRNSW Act, ss 42(1) and 79A.

<sup>6</sup> FRNSW Act, s 11(1).

<sup>7</sup> LGNSW submission to Issues Paper, October 2021, p 5.

<sup>8</sup> FRNSW submission to Issues Paper, October 2021, p 3.

<sup>9</sup> LGNSW submission to Issues Paper, October 2021, p 8; FRNSW submission to Issues Paper, October 2021, p 4.

<sup>10</sup> LGNSW submission to Issues Paper, October 2021, p 5.

<sup>11</sup> FRNSW submission to Issues Paper, October 2021, p 9; LGNSW submission to Issues Paper, October 2021, p 11.

<sup>12</sup> LGNSW submission to Issues Paper, October 2021, p 11.

<sup>13</sup> FRNSW submission to Issues Paper, October 2021, p 7.

<sup>14</sup> LGNSW submission to Issues Paper, October 2021, p 8.

<sup>15</sup> FRNSW Act, s40(1) to s40(4).

<sup>16</sup> FRNSW Act, s40(4A) to s40(4C).

<sup>17</sup> FRNSW Act, s42.

<sup>18</sup> FRNSW Act, s42(1A).

<sup>19</sup> FB Regulation, Cl 45.

<sup>20</sup> FB Regulation, Cl 47.

<sup>21</sup> FRNSW Act, s42(1A).

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**ISBN** 978-1-76049-549-7