

Board resolution



Resolution

The Board had before it the proposed County Fire Authority / United Firefighters Union of Australia Operational Staff Enterprise Agreement 2016 (proposed Agreement) between it and the Operational Staff.

The Board considered:

1. The *Country Fire Authority Act 1958 (Vic)*;
2. The history of the negotiations including conciliation in the Fair Work Commission (Commission) and the final recommendation of Commissioner Roe;
3. The concerns expressed by the previous Board;
4. The policy of the Victorian Government advising that the CFA will abide by and implement the Commission's final recommendation of 1 June 2016, with the changes necessary to implement the substance of President Ross's proposal as soon as practical;
5. The Volunteer Charter and the concerns expressed by the Volunteer Fire Brigades Association together with the extensive material it provided including during consultative meeting on 8 July, 14 July and 1 August 2016;
6. The matters discussed at the meeting with the UFU on 1 August 2016;
7. The legal opinions given to the CFA by Mr Frank Parry QC and Ms Melinda Richards QC together with opinions from the Victorian Government Solicitors Office (VGSO) and Mr S Moore QC;
8. The report of the Chief Officer as to the operation of the proposed Agreement and his assurance that he has the requisite authority;
9. The recommendation of the CEO to approve the proposed Agreement; and
10. The Statement of mutual intent.

The Board notes:

1. The changes to the proposed Agreement since it was considered by the previous Board;
2. The statement of mutual intent which will aid an understanding of the proposed Agreement;
3. The provisions in the proposed Agreement which, in particular, states that the role of volunteers in fighting bushfires and maintaining community safety and delivering high quality services to the public in remote and regional areas is not altered;
4. That the *Fair Work Act 2009 (Vic)* operates so as to ensure that nothing in the Agreement can:
 - a) Alter the responsibility of CFA in relation to the operation of the *Occupational Health & Safety Act 2004 (Vic)*;
 - b) Alter the responsibility of CFA in relation to the provisions of the *Victorian Equal Opportunity Act 2010 (Vic)*; and
 - c) Inhibit the Chief Officer from giving Directions about the performance of work in an emergency situation.
5. The alteration to the proposed agreement on the advice of the VGSO to respond to concerns about discriminatory clauses;

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6. The Government commitment to ensure that the CFA is funded to meet the costs associated with the implementation of the proposed Agreement and that the funding for volunteers will not be impacted as a result of funding the proposed Agreement implementation.

The Board notes with disappointment:

1. The confusion created in relation to the proposed Agreement;
2. The adverse interaction in some areas between career firefighters and volunteers; and
3. The impact of the negotiations and events surrounding the negotiations have had on morale and the public perception of these events which may have impacted on the standing of CFA in the Victorian Community.

Decision

The Board also recognises the potential of the proposed Agreement to impact on the speed at which CFA can adopt policies, procedures and practices in the interests of employees, volunteers and the Victorian Community. In this connection, and in recognition of these concerns, if the proposed Agreement is approved, the Board directs the CEO to:

- a) establish capability and capacity within CFA to implement, monitor and ensure that the proposed agreement promotes the aims and objectives, including the application of both State Act of Parliament, the *Fair Work Act 2009 (Commonwealth)* and the statement of mutual intent; and
- b) take steps to ensure that effective consultative mechanisms and change management are in place with representatives of both volunteer and career firefighters so that CFA may build a greater level of trust and understanding that advances cultural and organisation improvement.

The Board further notes the impact the negotiations and events surrounding the negotiations have had on morale and the public perception of these events which may have strained the standing of CFA in the Community. In this connection, the Board directs the CEO to develop and implement both an internal and external communications strategy to emphasise and enhance the trust in CFA and its vital role in serving the Victorian Community. This would involve the role played by management, volunteers, staff and career firefighters.

Finally, in addition to the matters contained in the proposed Agreement for career firefighters, the Board resolves to create a Chairs' Advisory Committee on volunteerism. The Chair will invite volunteers to participate in this Advisory Committee. The purpose of the Advisory Committee is to give high level advice to the Chair so that Board decisions may continue to be informed by issues which will assist the promotion and effective service of CFA volunteers.

It is against that Background that CFA authorises the CEO to put the proposed Agreement to a vote in accordance with the provisions of the *Fair Work Act 2009 (Commonwealth)* of its career firefighter staff and if the proposed Agreement is supported by that vote, the Board authorises the CEO to submit the proposed Agreement to the Fair Work Commission for approval. The Board specifically reserves its right to make whatever submission may be appropriate in the event that the Fair Work Commission raises any matter which may impact upon its approval.



Office of the CEO
Headquarters

Steve Warrington
Chief Officer
CFA

Dear Steve

Draft Enterprise Agreement

As you are aware, a draft enterprise agreement is currently being considered by the CFA Board. Once the Board has authorised progressing the proposed agreement, it will be made available to CFA employees who will be asked to vote on it during the week 25 August to 1 September 2016. If it is approved by a majority of the affected employees it will go to the Fair Work Commission for vetting and approval and, once approved, will replace the current enterprise agreement.

The purpose of this letter is to advise you that, if the agreement becomes operative, this will not and cannot affect the operation of certain Victorian laws and your powers and obligations under those laws. The principal legislation to bear in mind is the *Equal Opportunity Act 2010* and the *Occupational Health & Safety Act 2004*. You must at all times ensure that we comply with those laws.

It is also relevant to note that the *Fair Work Act 2009* and any award or agreement made under it cannot interfere with or detract from your powers and obligations under the *Country Fire Authority Act 1958* concerning directions to perform work relating to the provision of essential services or in situations of emergency. In that regard, I draw your attention specifically to your powers under section 27 of the CFA Act which places all officers and members of CFA brigades under your order and control.

Please do not hesitate to contact me if you wish to discuss any issue aspect of this directive.

Greg Smith AM

Chairman