

FIRE AND EMERGENCY SERVICES AMENDMENT BILL 2015

Second Reading

Resumed from 25 March.

MS M.M. QUIRK (Girrawheen) [10.05 am]: This bill gives effect to recommendation 3 of the Keelty report that was released in 2013. That recommendation provided that the responsibility for declaring bushfire-prone areas should be transferred from local government to the WA Planning Commission. Further, it was recommended that the WAPC should urgently assess those areas that should be declared bushfire zones. Recommendation 3 is one of the last of the recommendations of the Keelty report of 2011 which the government accepted to be acted on. This is partially because there were some initial concerns about the Department of Planning and whether it had the expertise to make such assessments. These concerns were repeated on a number of occasions and reflected in the stakeholder briefings reports that were part of the implementation group. For example, on 13 September the key issues in relation to this recommendation were —

Lack of existing legislation to authorise the WAPC to declare bushfire prone areas.

The DoP does not have the technical expertise or the resources to urgently assess those areas that should be declared bushfire prone.

Actions to Date

Active investigation is underway to determine the available options and their implications for the WAPC to declare bushfire prone areas.

Next Steps

Organise meeting with FESA, WALGA and DEC to determine existing datasets and their applicability to bushfire prone mapping.

Brief the WAPC on the options for declaring and assessing bushfire prone areas.

Brief the Minister for Planning on the options for legislative change and declaring and assessing bushfire prone areas.

Investigate the suitability of the WAPC to be authorised to assess and declare bushfire prone areas. The outcome of this will directly impact upon the technical expertise, resources and legislation required for the WAPC to give effect to this recommendation.

Those who look at the bill will realise that the declarations made under this bill are made by the Fire and Emergency Services Commissioner and not by the WAPC.

In 2013 the opposition became increasingly concerned at the glacial speed at which that Keelty recommendation was implemented. I asked the following question in this place in October of that year —

I refer to recommendations 3 and 4 of the Keelty report into the Perth hills bushfire that recommended respectively that the state government transfer responsibilities for declaring bushfire-prone areas from local government to the Western Australian Planning Commission and that the state government give legislative effect to the planning for bushfire protection guidelines.

- (1) Why have these recommendations not been delivered more than two years after this report was tabled?
- (2) When will they be delivered?
- (3) Is there any intention to act on these recommendations?

The minister replied —

- (1)–(3) Yes; there certainly is intention to act, and action is being taken. The issue is not as simple as it may appear at first sight. The response to the Keelty report has been coordinated by the Department of the Premier and Cabinet over the last two years. In relation to the specific questions of declaring areas as bushfire-prone and exactly how that occurs, the main issue is which agency is the most appropriate one to have that responsibility. Obviously, the WA Planning Commission is one clear possibility, but it does not have legislative authority to do so at the moment. Obviously, that could be changed if that is what is considered to be the most appropriate course of action. The Planning Commission would necessarily rely on information and advice from other agencies, in particular the Department of Fire and Emergency Services. We need to make a decision on whether it is more appropriate for DFES to have that responsibility or the Department of Local Government and Communities and/or local governments, which have a strong role to play. It is a complex issue. It is certainly being

actively worked on at the moment, and I hope we will have a decision within government soon.

The essence of the issue is which agency is the most appropriate to make that declaration and to deal with the issue. The suggestion I heard through the media last week from the opposition that we have not acted on this matter because of concern about property values is not the case at all. The whole report has been taken seriously by the government. This particular aspect is being dealt with carefully and thoroughly to ensure we make the most appropriate decisions, and I hope we will have a decision soon.

In hindsight, as the Minister for Planning quite rightly pointed out, a lot of activity has gone along with the implementation of this proposal, and I will talk a bit about that shortly. For example, there has been consultation with stakeholders; redrafting of planning guidelines; drafting regulations; and a number of fora, including one that I attended that explained to the industry and other stakeholders the implications of the new regime. Of course, other inquiries have also informed the government as to how it should proceed—namely, the significant work of the royal commission into the bushfires in Victoria, which I think was in 2009.

The rationale behind all this is that we ensure that buildings are well prepared for the possible onslaught of bushfire and that there is some awareness within households and, more broadly, in local government and the building industry of what makes it more likely for buildings to survive bushfires. Having said that there has been a delay, I am curious to know how many houses or developments have been built in areas that potentially could be declared bushfire zones in the interim between the release of the Keelty report and now; they will not be subject to these controls, which will not be retrospective.

In 2014 the Minister for Planning released the proposed “Planning and Development (Bushfire Risk Management) Regulations 2014”, which imposes Australian Building Codes standard AS3959 on housing and areas declared bushfire zones—more about that shortly. It was intended for maps of areas of greatest risk to be finalised by May 2015, at which time the planning guidelines were to come into effect; however, because the maps are not yet ready, the guidelines will not come into effect until 1 September, as I understand it. Accordingly, we now have a situation in which standards are being imposed on areas that are not yet well understood or known.

We have an unusual situation in which the Fire and Emergency Services Amendment Bill 2015 is the final step in imposing a planning regime for bushfire-prone zones, yet it is coming in not as a planning bill but as an emergency services bill. At face value, it is a very simple bill but when one looks behind it, one sees that there is a whole regime that goes with this very simple amendment. We also have the unusual situation of having the guidelines and draft regulations provided for us, which is a very uncommon situation in this place. Certainly in my experience, I have seen a lot of legislation come through this place for which we are told that the detail will be in the regulations, but we do not usually get to see the regulations, so I commend the government on that. I think this is the appropriate way to go. Given the importance of the regulations, it is appropriate that we see them at the time we debate the bill, and, likewise, the guidelines.

However, we do not yet have the maps and I think that is very unfortunate. I understand that they are imminent and that we will have the maps in the not-too-distant future, but to have access to them would facilitate informed debate that would enable members to point out obvious anomalies in their electorates, and we are unable to do that. To give an example, there are Bush Forever sites in some electorates that will impact upon proposed building developments, including developments in inner suburbia, but because we do not have access to those maps, we are unable to talk about possible anomalies. Members who know their own electorates very well will certainly understand the importance of those maps, so I point out that members will have to qualify their remarks by acknowledging that we are running a bit behind because we do not yet have the maps. In that context, I would like an indication from the minister in his reply to the second reading debate as to whether the means by which those maps can be accessed and looked at will be a similar system to that which exists in Victoria, which I think is an excellent system. People can go online and put in a street address and the maps come up. If that IT capacity is not available, it is my view that it should be. People should be able to make due inquiry about any particular area by visiting a website. I understand that only a limited amount of money has been allocated to this process, but the opposition certainly recommends that at some point down the track, if it has not already been done, the maps be made available in that kind of format in Western Australia.

I make the point that a number of submissions were made to the planning guidelines, and I am pleased to say that the government listened to some of them in the drafting of the regulations. That is important, but I also point out that some of the submissions suggested that the lack of maps meant that some local government authorities, for example, were somewhat constrained in what they could or could not comment on in the guidelines and the draft regulations because without the maps, they did not know how they would impact on their particular area.

The opposition is also concerned about the number of other implications of this bill; the very simplicity of the bill means that we will have to tease out some of the issues during consideration in detail. I indicate that the opposition does not have any difficulty with the bill in itself, but that there are implications attendant on this bill being passed that mean we will need clarification as to how the regime will work. In my view, the bill will have significant commercial and social implications.

The imposition of Australian Building Codes standard AS3959 will invariably increase the cost of housing in bushfire-prone zones, and at the lower end of the scale that is likely to be in the region of \$4 000 per dwelling, going up to around \$10 000. That, of course, reduces housing affordability, which is a huge issue in this state. It is almost certain that this will compound that issue. Developers will experience more red tape; I know there has been an assurance that that will not occur, but I think it is inevitable. I think it may also impact on insurance premiums. Some have said that that is already factored in and that insurers already look at where houses are situated to determine the appropriate level of premium and that they would take into account the location in setting the rates of premiums. However, it is my view that the insurance industry may well use this declaration as an excuse to further increase premiums, and of course we can have no guarantee from the industry because that is a commercial decision for it to make.

The declaration cannot be directly appealed. Clearly, decisions of local government in relation to planning matters can be; for example, one can go to the State Administrative Tribunal if there is an issue about a decision in relation to a particular development proposal or group of proposals, but there is no appeal route against the declaration by the commission. The decision as to where that map should be and where the zone should be is not directly subject to appeal. I am not sure I know the solution to this, but this legislation applies, quite rightly, prospectively. The impact of that is that a large proportion of a suburb can be within a bushfire zone, where dwellings have already been built and are not required to be retrofitted, so are at a lesser standard required of any blocks remaining in that area. This bill is about ensuring safety for whole areas, but, potentially, two houses next to one another could have different protections, one of which has greater protections.

The next issue the opposition is concerned about is the accreditation of those who will be making the bushfire attack level assessment. The Western Australian Planning Commission is working on a process of accreditation, but that is not yet in place and will not be in place when this legislation comes into force. Some concerns exist generally in Western Australia about the qualifications of people who are required to certify various aspects of a number of different pieces of legislation, including people who make these fire certifications. In some cases I understand that people can hold themselves out to be qualified without having the necessary qualifications and that Western Australia is the only state in which that occurs. I give the example of the Margaret River fires because we know from the second Keelty report that the flora and fauna of that area is unique; therefore, the way that flora burnt was different from elsewhere. I think it is called coastal heath, and its burning habits are unique to that area. Although I would expect a local BAL assessor in the Margaret River area to have some knowledge of that flora and its burning habits, I do not think that will necessarily be required under the accreditation process. Additional resources are required for this mapping process, and maps will be renewed and updated every year. I understand an extra full-time equivalent and some \$50 000 has been allocated to process in the Office of Bushfire Risk Management. In my view, that is simply not enough, especially if it is intended, as I recommend, that this information be downloaded and updated on a website.

Another issue is extensions to existing dwellings. I would like some clarification on what is proposed in the case of existing dwellings when an extension is proposed. I raised the issue of infill earlier, because it is going to create further challenges in this context. I also would like some clarification on what warning a prospective purchaser of land will have of what is recorded on the title. If nothing is recorded on the title, will Landgate have some responsibility to advise the purchaser or will they be expected to make inquiries on the Department of Fire and Emergency Services and WAPC websites separately? The opposition recommends that there be some level of notation on Landgate records so that when people purchase land, they are made aware of this.

These are all contentious issues but the opposition supports the legislation in principle. As members have heard, the opposition has been pressing for action on these recommendations for some time. This is the time in the course of this whole legislative regime that has open parliamentary scrutiny. The regulations, of course, come before the Joint Standing Committee on Delegated Legislation, which only has the power to look, firstly, at the regulations and not the broader scheme and, secondly, deliberations are held behind closed doors and, short of a disallowance motion, the only part of the scheme that has the possibility for open debate is this legislation.

Almost 100 submissions were made to WAPC from sources such as local government authorities, developers and professional bodies of fire certifiers, if that is the right word. I am pleased to see that some of the submissions that they made inform the content of the ultimate provisions in the regulations, which is certainly handy. However, because this is the only opportunity to look at the regime in a parliamentary context, I indicate to the minister that we will need to go into consideration in detail unless the minister is able to satisfy us on these issues in his response to the second reading debate.

I have been talking about building standards generally and for the purpose of the record I need to say what “Australian Standards AS 3959” contains. It is a very lengthy document and, depending on the BAL, it might be a requirement to install in a building air conditioners, laminated windows, metal fire screens or for ceiling gaps to be filled. Also, in the course of planning decisions, local governments will need to look at more than one way of access and egress, access to water and whether there is an independent water supply and so on. These are the kinds of things informing decisions about whether a house is compliant.

I have to refer, I am afraid, to a flowchart produced under a WAPC bushfire discussion paper released in August 2014, which sets out the proposed operation of the bushfire deemed provisions. The initial question on that flowchart reads —

Is the property within a bushfire-prone area designated on the **State Bushfire-Prone Area Map** prepared and endorsed by the FES Commissioner?

If the answer to that is no, the next question reads —

Is the property 100m or less from bushfire-prone vegetation that covers an area equal to or greater than 1 hectare?

If the answer is no, the property is not considered to be in a bushfire-prone area for the purpose of these regulations and owners should undertake their own due diligence concerning fire risk, but standard development and building approvals apply. That is what the chart specifies when the answer to those questions is no. However, if the property is within a bushfire zone designated on the bushfire-prone area map prepared and endorsed by the Fire and Emergency Services Commissioner, a bushfire attack level assessment, as described in AS 3959, must be undertaken prior to the development of the property. In that event, a decision has to be made whether or not the property or building site is rated BAL 40 or BAL flame zone, and, if it is, a development application is required and the development can be granted or not. If a development of the proposed type is not approved, other forms of development, or development on another site on the property, may be acceptable subject to local government approval. If such an application is approved, a building permit approval is required from the local government. The flow chart goes on to state —

Local governments will require that residential buildings are constructed in accordance with AS3959, dependent on the BAL rating, and may place bushfire risk mitigation conditions on the approval of the construction of other buildings.

I am afraid that, because this is a flow chart, I have probably confused the issue somewhat. But that sets out in general terms the process.

I have to say in relation to standard AS3959 that I discovered only recently, when I googled it, that it is quite a long document—it is over 120 pages—and I am required to pay for it. In the interest of research, I was prepared to do so, but I had some difficulty in accessing it. It is interesting to know that the Victorian royal commission recommended that AS3959 be made available free of charge. Recommendation 48 of the Victorian royal commission states —

Negotiate with Standards Australia and SAI Global Ltd —

Which has a copyright on the building code —

an arrangement for free online access to AS3959–2009, Construction of Buildings in Bushfire-prone Areas, the other Australian standards referred to AS 3959–2009, and any other bushfire-related Australian standards referred to in the Building Code of Australia.

I certainly concur with that recommendation, because it seems to me that if the law and the regulations apply to an individual, they should be able to access that information in a timely and cost-efficient way. An individual should not have to go through the process of accessing what is a large document, when only a portion of that document may apply to their particular inquiry, and be put to the added expense of being able to access that document only at a charge. I make that point because in the legislation and regulations, obviously, and in the supporting documents that the Western Australian Planning Commission has put out, there are numerous references to the building code guidelines, yet they are not readily accessible. It is a basic principle of law that if a law applies to a person, to the largest extent possible it should all be contained, if we like, in the one piece of legislation; and, secondly, the person’s obligations and responsibilities should be understandable. That was an important recommendation of the Victorian royal commission. I am not sure whether it has been implemented yet.

We will canvass some of these issues in more detail in the consideration in detail stage. But, finally, I want to acknowledge that this week is National Volunteer Week, and to again thank—as I do on numerous occasions in this place—volunteers for their significant contribution in the emergency services area. Bushfire volunteers make up around 25 000 or 26 000—minister, what is the number now of bushfire volunteers?

Mr J.M. Francis: For bushfire alone, it is about 22 000 or 23 000.

Ms M.M. QUIRK: About 23 000 volunteers.

Mr J.M. Francis: And fire and rescue as well.

Ms M.M. QUIRK: Yes. I want to acknowledge their significant contribution to the state—it is certainly invaluable—and to indicate that I hope that in the not-too-distant future the government will honour the commitment that it made prior to the 2013 election to extend the presumptive cancer laws to volunteers. I hope that those reforms are imminent.

MR D.A. TEMPLEMAN (Mandurah) [10.34 am]: I also wish to speak on the Fire and Emergency Services Amendment Bill 2015. This legislation is very, very important. As the member for Girrawheen has highlighted, this legislation has significant ramifications for local government, and of course for the planning processes of the state. The opposition obviously understands clearly the reasons for the legislation to be presented and, indeed, the thrust of the legislation and its purpose. But I think we need to flesh out, if we like, some of the implications and consequences of what this legislation seeks to do, the issues associated with land that may not yet be developed but may come into planning for residential purposes in the future, and of course the implications for existing subdivisions and existing neighbourhoods and the will of people to seek to build on land that they already own.

I have read the second reading speech and the bill, and I have also read a number of the submissions that were made to draft state planning policy 3.7. A number of those submissions were made by local governments and by people and organisations that were affected by the devastating fires that have occurred over the last couple of years, including those in the member for Armadale's electorate a couple of years ago, and also by people who have seen the devastation of fire on the built environment and on the natural landscape.

I want to highlight in my contribution to the debate a couple of comments and concerns that were raised during the submission period by some councils in the Peel region, which of course takes in the five local government authorities of the City of Mandurah and the Shires of Murray, Waroona, Boddington and Serpentine–Jarrahdale. I need to highlight to the house that the Peel region has experienced devastating fires, including earlier this year in the summer period when Waroona and parts of the Shire of Murray and the Shire of Boddington were affected by fire. That was a very, very close call for Waroona. Waroona was actually threatened earlier this year in the major fire that threatened the town site, particularly from the eastern side of the township. I met with the chief executive officer and president of the Shire of Waroona, Christine Germain, about a month ago, and we went over the issues associated with the fire that threatened Waroona, and a number of issues were highlighted. During the initial stage of the fire, the shire's main offices were the main command centre for that fire. I can tell members that it was a very scary experience for the people of Waroona, particularly those who live in the township, because it is the first time in a number of years that the township itself has been seriously threatened.

When I met with the shire president, it was highlighted to me that local government has very good corporate knowledge of its natural and built environs and plays a crucial role in the coordinated approach to the response to fire, to the prevalence of fire and, of course, in the immediate and post response and recovery. I have been impressed in recent times with the leadership shown by local government leaders. I remember the leadership shown by the former Mayor of Armadale, Linton Reynolds, during the hills fires in 2011. We cannot underestimate the leadership of mayors, presidents and councillors, along with the wonderful community volunteers and those who assist communities, who step up to the mark when communities are faced with peril and great danger. Linton Reynolds is one, as is Christine Germain, who showed great leadership in the Waroona fires, and the Boddington shire president, John Allert. There were some very severe fires again in Boddington earlier this year and the Minister for Emergency Services acknowledged Councillor Elizabeth Hoek during question time yesterday. I have known Elizabeth for a long time. She served on the Peel Development Commission when I was the then Minister for Peel and she continues to be a great advocate for Boddington.

Members may also remember the Dwellingup fires of 2006–07 that went through the Shire of Murray and up the escarpment and along Scarp Road and through the hills of Dwellingup. I know about that fire because the Pearson family, some very good friends of mine, lost two dwellings on their property that was on the Pinjarra–Williams Road. Thankfully, their daughter escaped in the nick of time before the fire came up and consumed her home. The Pearsons had two dwellings on that property. They were in Mandurah on the morning of that fire, shopping, and saw the smoke and thought that something was wrong. On their way to get back home, the roads had already been closed and unbeknownst to them, but later that night it was confirmed, their home and everything had been lost. Their daughter, Shelby Douglas, was home that day. Luckily, her children were playing sport in Mandurah and she was home by herself. She was lucky to have time to pack up the dogs and a few things before escaping, because 15 minutes after she left, her house was consumed and burnt to the ground.

The history of Dwellingup is marked by the great fire of 1962, which devastated that town, and members are aware that Dwellingup is a fire-prone area. I have also mentioned the Peel region, which includes the Shire of Murray, and also the flats—that is the area of Coolup, which has flatter topography—that are used for agriculture. There have also been fires in Coolup over the past few years that have caused property damage.

I highlight the importance of the Fire and Emergency Services Amendment Bill 2015 and the implications of it for the Peel region because, as the Minister for Planning would be aware, the Peel region will be required, through the Perth and Peel Directions 2031 planning process and strategy, to absorb a significant proportion of the expected increase in population in Western Australia. Of course, that population will be centred on the main population areas of Mandurah and the Shire of Murray. Some of that land that is currently zoned urban deferred is heavily vegetated and a lot of that land borders existing land set aside for the proposed Peel Regional Park, and, of course, there is Yalgorup National Park to the south. If we look at the topography of parts of the city of Mandurah, in my electorate, in the northern sector in an area known as Parklands there is rural residential development with significant remnant vegetation of banksia and other native woodland species. It is always an area that is of concern come the bushfire season. We also have areas to the south in the member for Dawesville's electorate, including the areas of Falcon and Dawesville, down through Bouvard towards Yalgorup National Park, where there are significant bushland areas. Those areas are beautifully treed with magnificent canopies and species of remnant vegetation, a lot of which will continue to be protected, but of course I expect that those areas will be included in the maps that we are waiting to see. The member for Girrawheen made the very important point that although the opposition supports this legislation, it has not yet seen the maps. Perhaps the minister will give some indication when we are likely to see them. I note, of course, that we would be relying on the Western Australian Planning Commission for most of that mapping, would we not, member for Girrawheen?

Ms M.M. Quirk: The mapping has been done by DFES.

Mr D.A. TEMPLEMAN: So that work has been done by the Department of Fire and Emergency Services, but we would be very interested to see some indicative maps because I understand that the legislation will declare areas as bushfire-prone and that will trigger a range of planning requirements.

This legislation has significant implications on my electorate of Mandurah and the wider Peel region. That is why I closely examined the submissions received by some of the shires in the Peel area. As part of the process the City of Mandurah made a submission on the draft state planning policy 3.7. The Shire of Murray also provided extensive feedback, comments and concerns into that process, as did the Shire of Serpentine–Jarrahdale. I am sure members are well aware of the growth occurring in the Shire of Serpentine–Jarrahdale. Whilst the Byford area seems to be the key growth area in the Shire of Serpentine–Jarrahdale, there is a number of pockets of proposed and existing residential subdivisions that will be impacted by the changes in this bill. As the minister said in his second reading speech, the local government will no longer determine bushfire-prone areas—that will change. That is one of the significant elements.

I want to highlight a couple of the issues and concerns that the minister may be able to give feedback on in his second reading response. The first issues were highlighted by the City of Mandurah, and I will try to keep these as succinct as possible. In its comments, the City of Mandurah was supportive of a more consistent approach to the application of development requirements relating to bushfire management and it supports a stronger context to assess applications and develop planning frameworks. It believes that it is essential for consideration to be given to lots that have previously been created but remain undeveloped at this stage. I think that issue has been raised by a number of councils and submitters to this process. The City of Mandurah highlights that the prospect of lots, particularly smaller ones, that are being created and sold now having significant restrictions on their usability, or potentially the cost of construction being significantly increased, must be considered. I think that is the case; someone certainly might have bought a block in a subdivision that they have not yet developed. What are the implications for those landowners in terms of increased costs brought about by restrictions on construction, construction use, clearing and those sorts of elements? The City of Mandurah, as I have mentioned, has a number of residential subdivisions that are in close proximity to large natural bush areas.

[Member's time extended.]

A member interjected.

Mr D.A. TEMPLEMAN: The Premier may be surprised; this is something I actually do know a bit about.

The city highlighted that it supports the City of Busselton's model that highlights circumstances in which a maximum required construction standard needs to be set to recognise potential unforeseen impacts in those situations. The issue for the City of Mandurah is that a lot of existing subdivisions are close to large natural bush areas, and it is interested in highlighting those concerns and having them considered.

The other issue that the City of Mandurah raised was the bushfire-prone mapping process. As the member for Girrawheen highlighted to me, I understand that that process is expected to be concluded imminently. The city is

keen for the government to consider opposing the bushfire urban zone in the bushfire-prone mapping process, as this would trigger a maximum construction requirement. I think it means that for effectively urban areas, a specific zone should be considered to highlight the peculiarities—for want of a better term—of those sorts of land areas.

The city is also interested in the interpretation of coastal foreshore vegetation. This is an important issue. We know that in the Margaret River fires—I am no fire expert—the topography had an influence on the vegetation, but in terms of coastal vegetation, it is different from high-canopy, forested areas. The member for Perth and I are very good friends now. Are there any particular issues that she and/or the Department of Fire and Emergency Services have in interpreting the peculiarities of the changing nature of the vegetation? I visited the Shire of Augusta–Margaret River not long after the fires of 2010. The area where the burn went through is very dense coastal vegetation; some of it is quite low, but it is very dense. Obviously, there are issues with houses tucked away under some of that vegetation and the planning issues associated with that. The City of Mandurah also highlights that specific consideration should be given to the assessment of coastal vegetation and how risk assessment should be undertaken in those circumstances.

The Western Australian Local Government Association’s significant contribution in its submission also highlighted a range of issues that were pertinent to a number of local governments. This issue of the deemed provisions seems to be a recurring concern and the City of Mandurah is keen for adequate consultation to be undertaken on deemed provisions. The city highlighted its concern about the linkage with state planning policy 3.7 and the Building Act 2011 whereby development approvals are not required. I do not know whether this has been resolved in the final processes, but it highlights that restrictions in the ability to seek additional information more than once may impact on the administration of these requirements and this should be clarified.

Mr J.M. Francis: Sorry; can you read that again?

Mr D.A. TEMPLEMAN: Yes. The city is concerned about the linkage with state planning policy 3.7 and the Building Act 2011 whereby development approvals are not required. This was part of its earlier submission, so it may have been circumvented, but it highlights that restrictions on the ability to seek additional information more than once may impact on the administration of these requirements and this should be clarified. I think it is referring to something that the Shire of Serpentine–Jarrahdale also highlighted in its submission about the bushfire management plan process. If there is no bushfire management plan in place making it a condition of subdivision, it cannot ensure compliance. If, as it suggests, it should be part of the application, what happens if it does not provide one? Is it entitled to refuse the application? I suppose it is asking whether it can refuse an application, whether it is for a subdivision or a development plan, specifically in relation to the adequacy or otherwise of a bushfire management plan if it is appropriate or relevant. I suspect that is where the City of Mandurah comes into this, too. Will we get to the stage when some developments may not be approved by councils citing the lack or inadequacy of a bushfire management plan? Again, I am not claiming to be an expert on this, but there is clearing of foreshore vegetation for some developments; there is one happening in Mandurah as I speak on the left-hand side after Mandurah Estuary Bridge. I did not like this development, but it was approved.

Some developments that have been approved now cannot be subject to the provisions and changes that are being proposed as part of this bill. I wonder whether they would have been a trigger. Would the bushfire risk and management planning requirements have been a mechanism to not approve them? Is there any way—I am thinking out loud now—that we would need to go back and look at some of the developments, particularly recent developments or ones that are under construction now, which, had the proposed regime been in place, would not have got through? I do not know whether that is going to be part of an overview of looking at some elements, but it raises the question. I would be interested in the minister’s comments on that in his second reading response.

The Shire of Murray has a number of quite extensive areas of land that are highlighted, or as part of the “Directions 2031: outer metropolitan Perth and Peel sub-regional strategy”, are identified as either existing or potential urban or future urban development, which, of course, means residential. The implications of the Fire and Emergency Services Amendment Bill 2015 and the changes have some significance to the Shire of Murray. One of the concerns that it raised in its submission was —

... that there will be cases where urban areas are identified as being ‘bushfire-prone’ due to their close proximity to a pocket of urban bushland. This will trigger the requirements under SPP3.7 and these Guidelines, resulting in development controls, increased building costs which impacts on housing affordability and additional ‘red tape’ when the real risk of bushfire is potentially low. The Shire considers that other factors should be taken into consideration in these situations, for example, the location of fire hydrants, water availability and the real potential for a bushfire in such an area to take hold and cause serious damage to property and pose a risk to lives. It is suggested that there be a

provision for Local Government to assess the ‘real’ risk in these situations and refine the applicable guidelines accordingly

That is an issue raised by the Shire of Murray. It raised a number of other issues, but time will defeat me.

Minister, we are not opposing this. The member for Girrawheen asked questions and raised issues, and we are in some ways flying a little bit blind on this matter because we have not seen the final indicative maps. We have not had information relating to the final guidelines et cetera. We broadly support this. In a drying climate we know that areas that may or not have been seen as serious fire risks previously are potentially fire risks. Mitigating those, of course, is part of making us more bushfire ready. The individual responsibilities of people who live in existing areas where bushfires are increasingly at risk is an issue. I highlight the recent experience on the eastern side of the township of Waroona in particular when a fierce and ferocious bushfire came through. It was a perfect storm with a range of conditions aligning. For the first time in a fairly long time, the homes and properties of the people in that town were at risk. We know that it is a real threat. We need only look at all of the examples in the last 10 years, both in this state and interstate, to know that fire is a big risk, and we need to make sure that we have all the legislation and the processes in place to mitigate that risk as much as possible to ensure protection of life and property.

MR C.J. TALLENTIRE (Gosnells) [11.04 am]: I rise to speak to the Fire and Emergency Services Amendment Bill 2015. I think some degree of congratulations is due to the Minister for Emergency Services for bringing this into Parliament, noting that the origins of the bill go back to 2011 and the recommendations following the Roleystone–Kelmescott bushfires. It has taken from 2011 until now to bring into Parliament this recommendation that we have a declaration of fire-prone areas. That is an achievement, but I think the real task is before us. I am concerned that the whole process of designating fire-prone areas will be subject to all kinds of lobbying from those who do not like the idea of some areas being declared as fire-prone. That is why I wonder whether the approach that the minister is taking now will be robust enough to withstand the vested interests that will emerge around this issue. I note that the very brief bill enables the Fire and Emergency Services Commissioner designate an area bushfire-prone, but that that designation would be published in the *Government Gazette*. Naturally, I then looked to things such as the minister’s second reading speech to know a little more about the process. I note the minister’s comments —

The generation of the statewide bushfire-prone area map is being coordinated by the Office of Bushfire Risk Management, with local governments, ...

I notice as well that that minister said —

Once finalised, the bushfire planning documents will articulate the importance of addressing bushfire risk at the strategic planning stage; clearly specify requirements that must be met at each stage of the planning process, including structure planning, subdivision and development; improve consistency in administration, interpretation and implementation of bushfire planning controls, including referral agencies and mechanisms; and require non-residential development in bushfire-prone areas to address bushfire protection criteria.

That sounds to me as though the minister is leaving it all open for people to come up with plans that they say address the issue that brings about an area being designated as fire-prone but the minister is leaving it open without biting the bullet. The tough thing he needs to do in some places is to say, “Sorry, no development here.” That is the reality in some parts of the Perth hills where the fire risk and fire potential does not allow for the type of subdivision that some developers want. That is the reality that the minister has not wanted to tackle at this stage. He is deferring the responsibility down. The reality is that those very powerful developers need the firm hand that would come from this Parliament, not some deferred down-the-track process in which local government is involved or a watered-down opportunity that will enable them to submit all kinds of fire management plans with vague ideas about access and egress and different building code applications. The firm hand of this Parliament is needed to endorse those maps. I trained as a volunteer bush fire fighter and I know the minister maintains active participation in his local volunteer bushfire brigade. The maps must state that in certain areas, the reality of a fire triangle—that is, oxygen, fuel and heat—combine with weather and topography, as it does in the Perth hills, means some areas are just not suitable for the type of subdivision that some people would like to see. That begs the question: what kind of subdivisions are we talking about? I suppose there would be some very hilly parts. I am thinking of areas in the City of Swan, such as Brigadoon. Brigadoon has been cleared out because it has lots of horse properties. Behind Brigadoon, some developments further towards Walyunga National Park have been proposed. I think Peet has one. I think that the topography and the nature of the vegetation would make that area unsuitable for subdivision. That area should be mapped as being fire prone and not suitable for any form of subdivision. The developer might say that lots and lots of houses will not be built there and there will be no 800 square metre blocks, just two-hectare lots. That is the general trend in those areas. The developer will say that that is suitable for small horse properties and the like. We will still have an issue. We either totally change the landscape or leave it open to all sorts of other things such as erosion. There

are costs involved in building the roads and other access ways. The costs that would be involved in such a development would outweigh any of the community benefit. We should bear in mind that we are talking about areas that are fairly distant from the city centre. There are other planning issues. The minister's role needs to be combined with that of the Minister for Planning to really assess the declaration of these fire-prone areas. It will need a very firm hand.

A declaration of these fire-prone areas needs to be in two parts: first, areas in which settlement will occur in the future; and, second, areas that are already settled. Other members have touched on the issue of what happens with existing urban development near some bushland on the Swan coastal plain. The bushland has already been subject to frequent burning, as a result of arson more often than not. As a result, the bushland is often infested with weeds. The flammability of those weed species means that some parts of urban bushland are being lit almost on an annual basis. That is a real problem if that puts people's homes at risk. That is the reality that we have to face. It is interesting, though, because it demonstrates that the cost of controlling these highly flammable weeds might be better than waiting to react to a fire that could occur. If we eliminated the weed species and the area was kept in a more natural state with native vegetation—that is, species that should occur on the Swan coastal plain—perhaps we would dramatically reduce the fire risk. Once we get that weed incursion, we have that downwards spiralling and high fire frequency. We need to look at the money. I note the government's announcements of extra money for bush firefighting. Perhaps some of that money needs to go towards weed control, recognising that weed control is an essential part of fire management. If we control the weeds in some areas, we will do a really good job of restricting the amount of flammable material and therefore the likelihood of fires.

The other issue in areas that are already settled that will be declared fire prone is the retrofitting to homes that might be required. One obvious thing that comes to mind is the potential for the pads inside evaporative air conditioners to receive an ember and ignite. Clearly, we should have a design code that requires that evaporative air conditioners have non-flammable material inside them. That is not the case with a lot of existing homes. The material inside these evaporative air conditioners acts as a wick and brings a fire into houses. The retrofitting that is required could be done very simply.

In other areas with rural properties, all sorts of issues arise around ensuring that properties have fire management plans that are properly determined on a property-by-property basis with people deciding whether to stay or go. We talked about that a lot following the Victorian bushfires. Those property owners had to decide whether to stay and defend or go. If they made the decision to go, it was perhaps a wise one. But there may be an opportunity for them to leave their property after flicking a switch on a generator that is not connected to the grid to supply power to the pumps. In all likelihood, the electricity will be down. A pump connected to a tank with a capacity of at least 90 000 litres could be hooked up to a sprinkler system consisting of copper pipes and sprinklers on the roof. That fire planning is necessary for people who have rural properties in these fire-prone areas. We need to encourage that and perhaps assist people with the costs involved but also recognise that it would be beneficial if they did this because they may be able to save their properties.

I lived in the Perth hills for a number of years and I was always amazed at the insurance premiums that I paid. Even though I would have been in a fire-prone area, I always thought that the insurance premiums did not reflect the risk that I faced. I found that amazing. That is going back only 10 years. It was quite remarkable. Perhaps things have changed and now people who live in the hills pay higher insurance premiums to reflect the risk. It is something that people face. With this issue of the transition of areas—again, I am thinking of the Perth hills with the degree of settlement and the number of rural properties—we need to recognise that the frequency of fire in the areas surrounding those rural properties is not always that high because the people who live there understand how to manage their properties and how to get in touch with their local volunteer bush fire brigade to get fast attack vehicles onto a small fire when it is detected. Good fire control mechanisms are in place. We see the frequency of fire dramatically increase when we allow areas to become urbanised. That is when the fire frequency goes up dramatically. That is something that we also have to think about in our design of all this. The combination of the topography of the Perth hills with the increasing number of days that we face each year with very high temperatures, the relative humidity levels and the likelihood of very strong winds has to be factored into our thinking about the declaration of these fire-prone areas.

I return to my original point. Will the government be strong enough to declare areas fire prone and therefore not suitable for urban development? I suspect not. I think we will see areas declared fire prone, but developers will be allowed to pursue development projects and put people at risk. We do not want to recognise that. We have to say it up front to some of these developers. It would be incredibly dangerous for people to live in some of the areas that adjoin my electorate—I think they are in the Minister for Planning's electorate, specifically Mills Road East—should they ever be subject to subdivision and some form of urban development. I do not think we should allow that risk to take place. I noted the minister's comments following the Northcliffe fires when he rightly pointed out that it was often a case of canopy-to-canopy fire. He made the very interesting statement that when we have canopy-to-canopy fires, no amount of prescribed burning can make a difference to the fire risk. We can control the fuel load on the ground, but the vegetation in this part of the world, such as eucalypts, is highly

flammable and the fire travels from canopy to canopy. That is something that I think a lot of people are failing to recognise and that we have to deal with.

It also varies from one type of vegetation to another. To return to the Perth hills, we have areas that are dominated by jarrah-marri vegetation, where there is a significant understorey and we get a build-up of leaf litter, but just adjoining that is the wandoo vegetation area, where there is not the same sort of understorey at all. Instead, there are loamy soils and fairly sparse understorey. A very fine-scale mapping project needs to be undertaken in respect of the fire-prone issue, and that is reflected in the fact that the vegetation is, of course, very variable, as is the landscape.

This is a complex issue. I can understand why it has taken from 2011, when the recommendation was first made, until now for the government to get anywhere near developing the maps. Of course, we do not have the maps before us, and that is my point: those maps need to come to this Parliament and be endorsed so that anyone who wants to lobby against the maps can have their voice heard through this Parliament. It is not satisfactory to just leave these important documents to the whims of those who are really public servants or those who might be vulnerable to different lobbying approaches.

[Member's time extended.]

Mr C.J. TALLENTIRE: I want to talk a little about the work of volunteer bush fire brigades and note the work they do. In fact, it is quite possible that somebody looking at a fire management plan and the declaration of a fire-prone area might say, "Well, we can manage the fire risk because we'll give a certain amount of money to the local bush fire brigade to do some prescribed burning each year and manage the risk." I think that sort of approach is putting an unfair burden on volunteer bush fire brigades, and I think it is an issue that we need to tackle. They do fantastic work and they do not receive any money for it; there is no remuneration. What is more—I think this is something we really need to take up—it is my understanding that only 10 years ago a person could make a tax-deductible donation to the local bush fire brigade as a gesture of goodwill or a gesture of thanks for a prescribed burn that the brigade might have carried out adjoining that person's property. However, that is no longer tax deductible. It is obviously a federal government Australian Taxation Office issue, but I cannot understand why it is no longer tax deductible to make a donation to a person's local volunteer bush fire brigade. That is the advice I have.

Given that we are talking about the management of bushland, and that is what fire management in bushland areas is all about, I think there needs to be greater integration between the work of the bush fire brigades and the work of those who manage bushland. That would be a useful position to take; in that way, we could build knowledge of fire frequency in given areas and have them mapped. That is something that is very difficult to get hold of, right across the state. When we ask questions about when a given area was last burnt, we do not get a very clear response. We get vague responses like, "Oh, yes, it's been burnt in the last seven years." Lots of parts of the state should be burnt every seven years, but it is never particularly clear. We need online well-documented maps that show how often areas are being burnt and when they were last burnt, so that we can really assess whether some areas have been made safer and how much safer they are as a result of the use of a prescribed burning program.

The issue of the declaration of fire-prone areas is long overdue. It is something that we have been waiting for for a long time and that we are pleased to see, but we are also concerned that if this whole process is not done properly, we will have a declaration of fire-prone areas but it will be meaningless—it will not actually prevent certain activities, particularly subdivisions, in areas where they should not occur. I look forward to seeing the maps when they are made available and perhaps in his reply to the second reading debate, the minister will be able to clarify what provisions are in place to make sure that a subdivision that might be in the air now, being talked about or proposed, will not be allowed to go ahead if the fire-prone rating for the area and the degree of fire risk are such that the area should not be subject to a high degree of human settlement.

I conclude my remarks by noting that this is something that we really need to see in much more detail. To just talk about powers for fire-prone areas and the declaration of fire-prone areas, and then to say that it will be dealt with at a more administrative level, is just not good policy and will lead to a significant weakening of what should be an important safety document. If it is not a robust document, one that can withstand all kinds of challenges, it will not do its job.

DR A.D. BUTI (Armadale) [11.26 am]: I also rise to contribute to the second reading debate on the Fire and Emergency Services Amendment Bill 2015. I am glad that the Minister for Environment has arrived in the chamber. We are talking about prescribed burning, which I agree should be happening, but it has become quite unbearable in the Armadale hills over the last four or five days. I think it is because of the unseasonable hot weather and the easterlies that are blowing the smoke in! Does the minister have any idea when it might stop?

Mr A.P. Jacob: I wish I could control the weather and not just be accountable for it! From the weather forecast, it will be a couple more days. I think the fronts we've got coming through will probably put a stop to it.

Dr A.D. BUTI: I thank the minister. The difference between here and the Armadale hills at the moment is quite extraordinary.

This bill is very important—it is a response to the Keelty report—and I congratulate the minister for bringing it before the house. Of course, he has knowledge of the area that was subject to the major bushfires of 6 February 2011 in the Kelmscott hills. They are often referred to as the Roleystone bushfires, but they were actually in the Kelmscott hills, bordering on Roleystone. They did not actually —

Ms R. Saffioti: What have you got against Roleystone?

Dr A.D. BUTI: I have nothing against Roleystone! It was actually very lucky that day, member for West Swan, that the wind was blowing in the direction it was; otherwise, Roleystone would have been destroyed, and I am afraid there probably would have been loss of life because it is not possible for residents to get out of Roleystone as quickly as it is from the Kelmscott hills.

Of course, we all know about that day; 71 to 73 homes were destroyed but, thankfully, there was no loss of life. As a result of that bushfire and other bushfires around that time, the government set up the Keelty inquiry and that brings us to today with the bill before the house, which is in response to recommendation 3 of the Keelty report. It really is looking at the issue of planning, designing or proclaiming bushfire-prone areas. Some of the homes that were destroyed in the Kelmscott fires were not in a bushfire-prone area—for example, Clifton Hills. The issue of air conditioners becomes important in such areas. This is a personal thing for me because I live in the Armadale hills. I live only a kilometre and a half from where the fire started, so anything to do with bushfires is a sensitive topic in my electorate and also from a personal point of view. It is important, in trying to minimise bushfires, to have legislation that specifies an agency that can declare bushfire-prone areas. I think the member for Girrawheen mentioned that this bill is a bit unusual because a planning issue is coming under the authority of the Fire and Emergency Services Commissioner. That makes sense because the commissioner would have more knowledge of bushfires, but there needs to be a lot of coordination between the Fire and Emergency Services Commissioner and the various agencies and statutory authorities over bushfire-prone areas. Of course, it is not enough just to declare a region a bushfire-prone area; it is about the regulations and obligations that will be imposed on local government authorities and residents. This is a difficult political issue because once an area is declared sensitive to bushfires, there can be many ramifications for residents in the area in regard to their obligations to make their properties safer, including financially, with insurance, as the member for Gosnells mentioned, and also in complying with certain building regulations.

The submission by the City of Armadale to the Perth hills bushfire inquiry is interesting. The member for Mandurah mentioned the leadership shown by the Mayor of Armadale at the time, Linton Reynolds, in responding to the bushfires in the Kelmscott hills. I think that all members would agree that his leadership during that period was outstanding in a very trying situation. When someone loses their home, it is a major traumatic experience. There is no easy way to tell people that they have lost their home. I do not think that Minister Francis was the Minister for Emergency Services at the time, but people came to the Armadale Arena to find out what was happening. People had to evacuate their homes and obviously they did not know whether their homes had been destroyed and it was a traumatic experience to attend the daily call of which homes were destroyed and which had been saved, especially when it is under the public gaze.

Mr J.M. Francis: It is done differently now. The way it is done now is far more sensitive.

Dr A.D. BUTI: I want to quickly relate two stories on that. I spoke with someone I have known for a long time. They told me they thought their home on Roberts Road, Kelmscott, had been saved, but they had been given information that the home next door had been destroyed, so they told the neighbour whose house they thought had been destroyed. That neighbour managed to break the security border that had been established and found that their home was still standing and that the home of the resident who thought their house had been saved had actually been destroyed. It was three or four days after that when another person who lived near Roberts Road—I have forgotten the name of the street now—who is a teacher at Armadale Primary School and who taught my three kids, still did not know whether her house was standing. I was lucky to go on a tour with the city ranger, Brian Watkins—the minister would probably know Brian—and I was able to find out whether this teacher's home had been saved. The fire had reached the back door—the area was blackened right to the back door—and then it stopped. I was able to ring her and let her know her home was safe. I had the thought: I hope I have got the right address here! Thankfully, it was the right address and the house was safe.

I refer to the City of Armadale's "Submission to the Perth Hills Bushfire February 2011 Review". I am focusing on the City of Armadale because it is my electorate; although the homes that were destroyed in the 2011 bushfires were in the electorate of the member for Darling Range, but I know many of those people. Members will understand why the whole issue of bushfires is very sensitive and important to the City of Armadale. The city's submission reads —

- The City of Armadale has a population of approx. 60,000, stretches over an area of 545 sq.km. approx two-thirds of which is State Forest or water catchment area.

Armadale contains many areas that are sensitive to bushfires. It continues —

- The population is centred in the western third of the City. Approx. 10,000 live in the hills and foothills of the Darling Range.

I am interested in how the Fire and Emergency Services Amendment Bill will affect development in the hills. I do not want to be a hypocrite because we have built a home in the hills, but I have to query some of the developments. I am not so sure whether the development near Churchman Brook Dam should have gone ahead; that is definitely in a bushfire-prone area. It will be interesting to see whether the ability of the Fire and Emergency Services Commissioner to pronounce an area as a bushfire-prone zone will put some restriction on development—not restriction because that area can still be developed, but hopefully it will act to curb development.

Mr J.M. Francis: It's a financial disincentive to the cost. That is what you are trying to say.

Dr A.D. BUTI: That is a good idea, because we need to consider how much development is allowed in bushfire-prone areas, especially in the hills region. It is a very attractive area in which to live, so there is great demand to live in the hills, but if there is an economic disincentive, that is a powerful force to consider.

In its submission, the City of Armadale refers to planning. The city's submission was based on what it was doing. Under the heading "Planning Control", the submission reads —

Control over development in the City of Armadale resides in its Town Planning Scheme No. 4 which was gazetted on 4th November 2005 or with the Armadale Redevelopment Scheme which was first gazetted on 29th August 2003.

...

The City has prepared a range of local planning policies adopted under a process established under the town planning scheme to assist in addressing development applications. The City follows standard practices when planning areas subject to fire hazards and applies standard conditions of subdivision and development ... In addition the WAPC has adopted a range of policies to guide it in its decisions on subdivision and to guide local governments in their preparation of town planning scheme amendments.

The submission then refers to the Western Australian Planning Commission's fire planning policy. One of the questions that the minister might respond to is: What effect will this bill have on the authority of the WAPC in its planning? Is it just a declaration that the commissioner makes and that others take into account in planning or does it have some legislative, policy and jurisdictional consequence for the WAPC?

It is interesting to look back at the City of Armadale's submission, which is very comprehensive. The city made a submission to the Western Australian Planning Commission on the interim planning for bushfire protection on 25 February 2011. Remember, the bushfires occurred on 6 February 2011, and 6 February happens to be the birthday of my wife, too, so it is a day that I remember quite well. The City of Armadale had largely prepared this submission prior to the bushfires. I quote from the submission —

- The City expressed concern that the Guidelines explicitly exclude legacy lots in established areas created by subdivision prior to the initial *Bush Fire Planning Guidelines* 2001. In Armadale and in many LGA's post-2001, subdivisions have been planned with fire protection an uppermost consideration; therefore, it is the legacy lots which often have the greatest degree of bush fire hazard and risk. The Guidelines state that while the State planning authority has nothing to say about legacy lots, local governments should in any case attend to it as their "duty of care" in regards to approving development in development in hazard areas. The City commented that it is not appropriate for the State to "wash its hands" of its responsibility in this manner.

This bill before us does not deal with that, obviously. But it would be interesting to know, and it may have already happened, what will happen with legacy blocks.

Mr J.M. Francis: I will address that.

Dr A.D. BUTI: Okay. I think it is quite an important area.

Mr J.M. Francis: Yes.

Dr A.D. BUTI: The submission states also —

- The use of AS 3959 —

That is with regard to the building regulations and what materials can be used for homes et cetera in bushfire-prone areas —

as a voluntary choice by the landowner is problematic due to landowners being able to choose to burden themselves by additional expenses or not. Also the Australian Standards document on Construction in Bush Fire Prone areas is not freely available but has to be purchased from the eastern states, which is an effective discouragement to landowners wishing to understand building requirements and use it in preparing their Building Licence applications.

- The City strongly submitted that the final Guidelines should not be released until the present disjunction between the Building Code of Australia reference to AS3959 Standards in Bush Fire Prone Areas and the absence of regional mapping of bush fire hazard areas which include legacy lots, has been remedied by the creation of appropriate regulations at the State or Regional Level.

I assume this to some degree addresses that. But of course a lot more needs to be done, and I look forward to the minister's response to that in due course. It is a shame that we do not have those maps before us, but we are generally supportive of the bill, so we will just continue, as we should.

The submission then went on to the bushfire planning provisions in the city's town planning scheme No 4, and states —

The borad brush mapping is a strategic land use assessment tool used by officers in conjunction with the WAPC/FESA guidelines in advising Council on the suitability of proposals for land use change to enable closer subdivision and development. Where a proposal for closer development is located in an area identified as at risk of bushfire attack it is designated formally as Bushfire Protection Areas on the Special Control Area Map ... through the Scheme Amendment process. Special provisions are identified to reduce impacts and protect the development from bush fires

[Extension of time granted.]

Dr A.D. BUTI: The City of Armadale throughout its submission to that review kept reiterating how the city, as the local authority, has great knowledge of the area that it has jurisdiction over and that it should always be consulted when any decisions are made. Of course we would not necessarily put this in the bill, but it will be interesting to know what process the FES commissioner will need to establish when he is considering designating an area as a bushfire-prone area and whether there are any regulations or requirements that he will have to comply with before he does that. The bill states —

The FES Commissioner may, by order published in the *Gazette*, designate an area of the State as a bush fire prone area if satisfied that the area is subject, or likely to be subject, to bush fires.

Therefore, I am interested to know what criteria will be used, what thresholds will need to be reached and what process the commissioner will undertake before they designate an area as a bushfire-prone area under the bill. There may be other areas in the bill that provide some guidelines or thresholds—I do not think there are, but there may be—but this is a very important decision, and it should not be at the complete discretion of the commissioner, as it appears to be from my understanding of the bill. One could argue that the commissioner should have that discretion, because they are the person who has knowledge of the area, and they should not be bound by red tape. I can understand that. But the commissioner should be required to follow certain criteria or achieve certain threshold points, and also follow a certain consultation process, before they declare an area as a bushfire-prone area, because that may have major ramifications for potential landowners and residents, and local government authorities, with regard to insurance et cetera, and even for volunteer fire brigades in the area because the land use will affect their use of resources. So that is an important issue that needs to be considered. If it is just at the discretion or whim of the commissioner, that is of some concern. The counter to that is if there are certain thresholds and those thresholds are met, is there then an obligation on the commissioner to declare an area a bushfire-prone area? That does not appear to be the case under the bill before us, but that could be important, because it would place a statutory duty of care on the commissioner and therefore on the state. If the commissioner has to act or has to declare an area as a bushfire-prone area if certain thresholds are met, that would impose a statutory duty of care that the commissioner would have to comply with; and, if the commissioner failed to do that, that could open the commissioner up to legal action.

But it is more than a concern about legal action. If the commissioner has a statutory obligation to do X, Y and Z, we hope that will make an area a safe area. I am sure the minister's whole motive is not just to respond to the Keelty report but to try to reduce the number of bushfires. We will never be able to exclude the possibility of bushfires happening in Western Australia, but we want to reduce the number of bushfires in Western Australia. So it is important, if we are to have a statutory scheme in place, that statutory obligations are imposed and that thresholds are established before the commissioner can declare an area a bushfire-prone area. Maybe what could happen, if we want to give the commissioner discretion but we do not want to make it too prescriptive, is that we say that certain thresholds will need to be achieved; and, if they are not achieved, the commissioner will still have the discretion to declare a zone as a bushfire-prone area, but they will have to justify it. The commissioner will have to say why they are going to declare an area as a bushfire-prone area, even if certain thresholds have

not been met. The counter to that is that maybe the commissioner should be given the discretion not to declare an area as a bushfire-prone area even if the thresholds are met, if they can justify the reason for that. Of course, they will have to live by that if something goes terribly wrong, because they have a statutory duty to minimise the chances of bushfires happening. Just because an area is declared to be a bushfire-prone zone, that does not mean a bushfire will not take place. Hopefully, if an area is declared bushfire prone, certain management and building regulation practices and fetters on development will be put in place to hopefully reduce property damage and the loss of life. I am sure the minister will respond to some of those questions; otherwise, we have the chance to examine the bill in consideration in detail.

MS R. SAFFIOTI (West Swan) [11.50 am]: Before I start my contribution to this debate on the Fire and Emergency Services Amendment Bill 2015, I welcome to the public gallery the residents of Crawford and Milroy Lodges who are visiting Parliament House today. They were here for the Cancer Council WA's Australia's Biggest Morning Tea.

I welcome the opportunity to contribute to the debate on the prevention and management of bushfires, which is, frankly, a very difficult policy area for government. It is not easy. It is very complex and involves managing the need to protect houses and people from bushfires, while allowing people the freedom to live where they choose.

My electorate of West Swan is a peri-urban seat. I like the word "peri-urban". It is a word often used in the eastern states to describe the interface between urban and regional areas. My seat has a number of areas that are regional and significant areas, such as Whiteman Park, that pose significant risks for bushfire management. It is a key point that my electorate is a growing area. Areas that were bushland are slowly being urbanised. Basically, my electorate presents a number of the challenges the Keelty report tried to address.

I grew up in the Roleystone–Karragullen area and remember fires on many occasions. They were usually caused by the picking machine next door backfiring. One day, my cousins were over, and we had been packing fruit in the shed. We crossed the road home after a hard morning's work in the packing shed and saw a massive bushfire approaching our house. We ran, and with a few sacks and the sprayers we used to spray fruit trees filled with water, we helped, with the people in the street, to put out that bushfire. Bushfires are something that I have lived with, and my parents and sister continue to live with in the Roleystone–Karragullen area. As the member for Armadale highlighted, Roleystone–Karragullen was not directly under threat from the last fires, but residents chose to evacuate. During the Karragullen fires about seven to eight years ago that came along the other front, residents chose to evacuate earlier because young children were involved. Bushfire management is close to my heart, having grown up in the Roleystone–Karragullen area and now representing an electorate where bushfire management and bushfire risk is a constant issue.

This is a very interesting policy area and I have a lot to contribute to this debate. In particular, I am shadow Minister for Planning and this policy area—as many members outlined—crosses over from the emergency services portfolio to planning. I want to alert the minister to an issue in relation to the recent Ellenbrook fires that I intend to follow up. It is about the text messaging service introduced a number of years ago to effectively communicate to residents and nonresidents of an area that a bushfire, or fire, is approaching. I was contacted by a resident, I think, the day after the fire, who told me they were long-term Ellenbrook residents of an area that was under threat and their text message alert did not come through. We sent a message about that to the minister's office at the end of April. We followed up on the issue on Tuesday and were told that a response is due by the end of this week. Hopefully, we will get a response in relation to that. As I said, an Ellenbrook resident contacted me to pursue the issue of the text messaging service not working. I know there is always the issue of who is contacted. I understand everyone—residents or otherwise—in the area is contacted by mobile phone with a text. I want to know whether the system is working well to ensure that communication works during times of emergency.

Again, this a policy area of constant change as technology improves, but I think some of the communication done through the website is not as effective as it could be. I know that, when looking out for family members, trying to understand the real threat is sometimes not as clearly presented as I want it to be. I know fires move fast and change direction very quickly —

Mr J.M. Francis: Do you mean the Department of Fire and Emergency Services website?

Ms R. SAFFIOTI: I think it comes down to people's judgement of where the fire is and how quickly they think they can get away, because sometimes the website's information is not as clear as they would like. Again, trying to provide more real-time information is important.

It is a difficult policy area to manage. The new policy was released last year in response to the Roleystone–Kelmscott bushfire and the subsequent report. From a planning perspective, I know that many planning organisations—in particular, the Urban Development Institute of Australia—have raised concerns about some of the costs and other issues that have arisen. I want to talk about state government and council land because I think it is a key area of risk for the state. I recall reading not so long ago commentary on how the state

government looks after its own land that, I think, stated that it would be too costly to really prepare or look after state government land because of the vast tracts of land involved. There may be some truth to that, but I think there is a problem in the metropolitan area. I have dealt with a number of issues in my electorate, including Department of Education–owned land that poses a fire risk not being used for a school. Installing firebreaks and cutting back vegetation and undergrowth are not being taken care of in the manner we want them to be. In the Bennett Springs Orchid Park subdivision, there is Main Roads Western Australia land, Water Corporation land, Department of Parks and Wildlife–controlled land and, of course, council land. Councils normally have a certain percentage of land approaching main parks or main streets. I constantly receive complaints from residents about how that land is maintained. I understand that the state would incur significant costs if it tried to appropriately manage all this land throughout the state, but there has been a policy failure around areas of bushland controlled or managed by numerous agencies. When the Water Corporation, Main Roads, the Department of Parks and Wildlife, in some cases councils and other agencies that own large blocks of land, bushland in many instances —

Mr J.M. Francis: And the commonwealth, which I can't bind.

Ms R. SAFFIOTI: Yes, the commonwealth, although its portions are not —

Ms M.M. Quirk: When we secede, we will take it over.

Ms R. SAFFIOTI: The commonwealth lands are bulky but are not as scattered throughout the metropolitan area.

Mr J.M. Francis interjected.

Ms R. SAFFIOTI: That is more the case in Swan Hills, which is a bit more north than my electorate. That has not been too much of a problem in my area.

Mr J.M. Francis: There are a lot of challenges.

Ms R. SAFFIOTI: Yes. As I said, I have I sent three letters to the different agencies asking them to please try to reduce the fire risk in Orchid Park by cutting back and getting rid of undergrowth, making the necessary fire breaks and providing the necessary access. That is a problem throughout my electorate. Currently, Orchid Park is a key area, as is Bennett Springs. However, more recently there was a fire at Whiteman Park and there were graphic images showing just how close that fire got to residents in the new Brabham estate. Again, those are significant areas of government-owned land that pose a fire risk. All the responsibility for that should not be on private landowners, and the state government, in particular, and councils have to step up.

I want to talk about councils. It is my experience that private landowners do a lot to try to keep their land clear, particularly around their houses, yet on the verges—I refer particularly to areas such as Roleystone and Kelmscott where I grew up—there is significant growth, and if a bushfire were to come through, it would have an impact on residents not because of a lack of residents' preparedness, but because of the massive growth on council verges. I am talking about those big verges where there are significant gum trees and very high growth trees. I believe that this is an area in which councils and the state government need to step up.

A related issue—which I do not think has been addressed in the “Draft State Planning Policy 3.7”—is access to developments. This is a major issue. I can point to two subdivisions in my electorate in which a problem has existed for a long time. I refer to Orchid Park, in which there has been one entrance to and exit from that subdivision for a long time. Recently, an emergency exit was put in, with little or no signage—but that has been rectified. I also refer to Caversham, where the situation has now changed because of the new Caversham estate, but for 15 to 20 years it was a subdivision with only one entry and exit for vehicles. There was a bushfire in Caversham, and also a large tree fell down and blocked off that one road into the estate and it was impossible for residents to enter or exit that subdivision. There was some discussion about this when new subdivisions in the hills, beyond my electorate, were established, and some of the points raised related particularly to hilly or very difficult to traverse land and the need to have multiple exits and entrances. When these subdivisions are planned, often those things are left to the timetable of the developer; for example, they may be funded through developer contributions or subject to the developer putting in that access only when they have the funding or when they deem it is appropriate. But pockets of residential areas should not have only one entry and exit, because it poses a significant fire risk. This matter needs to be addressed through the planning regime. There should not be only one entry and exit in subdivisions. I know of a couple of examples in my electorate, and I am sure there are other examples in other areas. Often it is said that it is a timing issue, but we cannot allow five or 10 years to go by before more entries and exits are put into those areas.

I want to also go through some of the key points in relation to the legislation and the policy overriding the legislation. There is still a lot of confusion in the development industry about the new policy, and I want to go through some of the areas of concern. The first key question, of course, is: what is a bushfire-prone area? The fact that there are no maps is upsetting. It is not right to be debating this legislation when we do not have the maps. This is not where we want to be. We are debating this legislation in a vacuum of information. That is not

a position we want to be in. There is an argument about new developments versus existing developments. It is not an easy thing. People build according to the policy, the regulations and the legislation at the time. Imposing new regulations upon people who have already built is a problem. However, questions of equity will be raised when someone is willing to purchase a house in a very bushfire-prone area that does not meet the building standards of new homes being built in less bushfire-prone areas. The equity argument is going to be strong.

The Urban Development Institute of Australia also raises a key point about transitional areas. As members would know, bushland sometimes becomes residential subdivisions very quickly. I saw that happen in Aveley, in the member for Swan Hills' electorate. There is some beautiful pristine bushland up there, with kangaroos hopping and birds singing—it is picturesque—but it will be very quickly bulldozed for residential subdivision. So we know that urban bushland can become residential subdivision very quickly. The issues of transition have not really been addressed in any of the documents produced by this government. I am saying that an area might be seen as bushfire prone currently, but through the planning process, because of the march of the urban front, that area will not be close to bushland in five years' time. I note not only bushfire-prone areas, but also the other part of the policy that states that an area is bushfire prone if it is not covered by either a local government map or the state bushfire-prone area map, but is within 100 metres of an area of bushfire-prone vegetation equal to or greater than one hectare. That occurs all the time.

[Member's time extended.]

Ms R. SAFFIOTI: As we know, that occurs all the time with new subdivisions. A subdivision might be right next to bushland today, but in five years' time it may be three kilometres away, so it would be unfair and inequitable to impose costs on people building homes in that area. That is a key point.

Another key point relates to that one hectare of bushland. I want to quote the UDIA's letter with reference to the proposed Planning and Development (Bushfire Risk Management) Regulations 2014, and what it has to say about areas that confront bushland but in a few years' time no longer confront bushland. The UDIA submission states —

The interim bush fire risk gives rise to a long term elevation in construction standards which become redundant once construction commences on the adjoining land and the bush fire risk reduced. Whilst no specific solution has been identified by either the industry or the government at this time, —

This was as at November last year —

UDIA believes that considerable further consultation and investigation between industry and the department is required to develop appropriate mechanisms which would provide certainty to both industry and the general public. If unresolved, this scenario has the potential to significantly impede the transition of land and ability for industry to deliver land and housing to the market.

This is a key point. We do not want to continually increase the cost of houses, particularly for people who usually buy lower value house and land packages. Increasing the cost of those house and land packages by \$5 000 or \$10 000 will have a significant impact on housing affordability. It may be in the "Perth and Peel@3.5million" document the Minister for Planning released a couple of weeks ago in which he not only highlights land current zoned urban, but also looks at land under urban consideration. It has not undergone any part of the planning process but it is land identified by the state government for consideration for urbanisation. We may need to take a more detailed view of this because the key point is that we do not want a situation in which someone living in a wooden pole structure in the hills with very little fire preparedness does not have to incur costs when a first home buyer buying a house and land package on a 300-metre cottage block has to pay \$10 000 extra to meet building standards. The member for Moore is shaking his head, but that scenario could be the first outcome of this legislation. We do not want that. We should not be increasing costs for first home buyers and people purchasing land in the urban growth areas on the fringe. It is an issue. The Urban Development Institute of Australia has outlined it and developers have also raised it with me. That could be the first outcome of this legislation.

The other key point is in relation to the default definition, which, as I said before, states that an area is bushfire prone if the land is not covered by a local government map or state bushfire-prone area map, but is within 100 metres of bushfire-prone vegetation equal to or greater than one hectare. This is one of the biggest issues that has not yet been resolved by the government. An example is someone building within 100 metres of land set aside as Bush Forever or urban parkland will have to construct to a higher standard than someone living deep in a bush area such as Roleystone. I use Roleystone because that is where I grew up. We do not want that to occur, but I think that will occur under this legislation.

Mr R.S. Love: Where do you get these ideas from, such as Ellenbrook being a fire-prone area?

Ms R. SAFFIOTI: If land is not covered as a bushfire-prone area but is within 100 metres of a hectare of bushland, the owner will be subject to the same requirements.

Mr J.M. Francis: Are you going to stay on your feet for eight minutes?

Ms R. SAFFIOTI: About four minutes. I am telling the truth; I am reading it out.

The key point is that the policy covers two areas: land identified on a local government bushfire map as bushfire prone and land within 100 metres of bushfire-prone vegetation; for example, my sister who lives in a pole home among the trees in Roleystone will not have to do anything to upgrade it. A first home buyer who buys a 300-metre cottage block in Ellenbrook that is within 100 metres of massive bushland because it has not been developed will have to increase the quality of the construction because the regulation is prospective; it is not retrospective. I understand the complexity of making it retrospective—those people would incur costs they did not have when they built. The two key issues are the transitional issue and the 100-metre rule. The transitional issue refers to the fact that someone building in Ellenbrook will be very close to massive bushland. In three years' time when there is new development, that bushland will be gone. But when the new home owners built, they would have had to improve the construction standard to meet a stronger regulation. That is what I am talking about when I refer to affordability and equity. It is a real issue.

Mr J.M. Francis: I'll give a red hot example, pardon the pun, for why we require that. In Banjup early last year, there was a fairly big fire in the peri-urban fringe in the metropolitan area. Four houses were significantly damaged, one in the flame zone that burnt up under the tiles. The other three were in normal suburbia, in Atwell, within 100 metres of the bush that was burning and all three caught fire through ember attack. The standard that would apply to those houses if they were built now would require them to have the screens. Just because one is within 100 metres doesn't mean they are not at risk. If you support the principle that it should not be retrospective, there is no other solution.

Ms R. SAFFIOTI: I agree. The Roleystone–Kelmescott fires were a classic whereby the house in the middle of the trees managed to miss being burnt, but the house in the paddock was burnt down. I completely understand that. My question is also: who is looking after the bushland that burnt down? As I said, in many instances it is state government land that is neglected. The government needs to put in better firebreaks, particularly in the fringe area. Whether the developers have not yet developed the land or it is state government or council land is the other key point, and I do not think it is being done properly. We are saying to first home buyers in areas that pose a significant fire risk to households that they have to incur this cost, but what are we doing about reducing undergrowth and clearing firebreaks where that interface exists? I think the minister was quoted in the paper as saying that it costs too much to adequately deal with state government land to clear firebreaks and undergrowth where that interface is. My issue is that a lot of that responsibility is being put on first home buyers with the construction of new homes in growing areas. It is another pressure on housing costs. I understand completely that homes do not need to be the closest to a fire to be burnt down.

Mr J.M. Francis: At Banjup there was a road and firebreaks and it still drifted across.

Ms R. SAFFIOTI: I understand that completely, but I think there are significant equity issues that people seem to acknowledge but we are not really addressing them. As I said, it is a significant cost. This Fire and Emergency Services Amendment Bill will increase the cost of housing for first home buyers. I am particularly concerned about the transitional issue, which is a big issue. People might be building within 100 metres of bushland now, but after another subdivision is developed in three years, the existing homeowner might be three kilometres away, so the chance of ember attack would be significantly reduced. The transitional issue is big. Given there may be multiple developers in an area, it makes urban development patchy. Ellenbrook has been a nicely organised subdivision, but along the Swan urban growth corridor there are a number of developers. A development may occur in one cell where there is a lot of bushland, which might be developed into housing in three or four years. The transitional issues need to be addressed. We need to be smarter in our policy to minimise the transitional issues.

On the UDIA's concerns about bushfire, the UDIA states —

UDIA requests that the purpose of the 100 metre rule be clarified, to ensure accuracy and consistency in its application.

The bill will create a lot of confusion and there is no distinction in relation to its application of this. As I said, bushfire management and prevention is a very difficult policy area because we are dealing with thousands of people wanting to live the way they want to live. The state has to be sure it is pulling the right levers, whether it be a carrot or a stick, to make sure we successfully prevent bushfires. That certainly includes informing the public, but also making sure that the state has a role and does its thing in fire prevention. As I said, I have countless examples in my electorate of state government-owned land that is not managed well and then becomes a bushfire risk. When it involves multiple land owners, such as the Water Corporation, Main Roads WA, the Department of Parks and Wildlife and the local council, it is completely impossible to try to get these things

sorted. All the departments say, “We don’t own that bit of land; go to the other departments.” The state has to step up as well.

Debate interrupted, pursuant to standing orders.

[Continued on page 3782.]