

EMERGENCY MANAGEMENT AMENDMENT BILL 2016

Second Reading

Resumed from an earlier stage of the sitting.

MS M.M. QUIRK (Girrawheen) [8.00 pm]: Prior to the adjournment of the debate on the Emergency Management Amendment Bill 2016, I was speaking about the issues in getting legislation through, and I had just moved on to the issue of the amendments in this particular bill. As I have already noted, these amendments are the result of a statutory review of the Emergency Management Act 2005 that was tabled in June 2013. They are non-contentious, and we agree with them, subject to one amendment that I intend to move.

As we have heard, the rationale for these amendments is to speed up the process of making an emergency situation declaration; to facilitate rapid emergency management response even before a declaration is made; and to expand the category of hazards or suspected or imminent situations covered under the act. The bill also contains provisions to include disruption of essential services as a hazard in order to ensure a more coordinated response. Therefore, in addition to electricity and gas disruption, which is currently included in the definition of “hazard”, will be water, sewerage and telecommunications.

Additional issues were raised in the statutory review, and I do note them, although at this stage they are not part of the bill. The first issue, which I think is very sensible, was —

The sharing of information for emergency management purposes is a very complex issue that covers different State and Commonwealth agencies and statutes. Further work is required, perhaps by a specialised Information Sharing Working Group, to address the barriers to effective information sharing during an emergency.

The other issue that was found in the review, and is not proceeded with in this bill, is an amendment to the Emergency Management Act to include powers concerning movement and evacuation. However, it was proposed that this issue be examined in further detail to determine the most appropriate mechanism to effect this amendment.

We know that this legislation is about speeding up the process of making an emergency situation declaration. It allows for a verbal declaration of an emergency situation to be made by the hazard management agency or State Emergency Coordinator, which is then to be followed up in writing as soon as practicable. This is the kind of procedure that is often used in law enforcement, for example, where if the police need an urgent warrant, they can sometimes obtain that by phone and follow it up with the written documentation afterwards.

A further measure to facilitate a rapid emergency management response is for emergency management officers—namely, police officers or prescribed persons—to access powers relating to the movement of people, animals and vehicles prior to the making of an emergency declaration. That enables people first on the scene of an emergency to take the appropriate measures to protect the community. In this context, I should note the suboptimal response to traffic management in previous incidents. There is a clear need for better training of police and for unambiguous guidelines. I indicate that when this bill goes through, clearly, the changes need to be well disseminated to those who might find themselves on vehicle control points. If there is insufficient understanding of their powers and responsibilities now, when these changes are made, clearly the police will need to be made fully aware of them.

This bill amends the legislation to also cover an unlisted hazard so that if a situation is not defined in the Emergency Management Act, prompt action can nevertheless be taken. In the event of an unlisted hazard occurring, the State Emergency Coordinator or the minister can then declare the event, situation or condition to be a hazard for the purpose of the act. This declaration would relate to a particular occurrence or imminent occurrence of an event, situation or condition.

The definition of “hazard” is further expanded to include the suspected occurrence of a terrorist act; the presence of an animal, plant, pest or disease; and spillage, release or escape of a chemical, biological, radiological or other substance. These hazards have the potential to produce catastrophic consequences and the certainty of their existence may not be immediately apparent. In other words, it is not possible to wait for testing or other preventive actions to take place; it is necessary to act immediately. In the context of spillage, I just saw a photograph on Twitter of the clean-up of the truck that jackknifed on the Narrows Bridge yesterday, and I noticed the picture is very unkind; it has six people in yellow sitting there and only one person with a spade. I am sure that there is a good reason for that.

Another welcome amendment in the bill is the expansion of the definition of “welfare services” to include social services. This widens the scope of support that can be given to the community by the Department for Child Protection and Family Support during what are very difficult times, usually in the early stages of the crisis or at

recovery stage. It provides more certainty around the term “emergency management” and also, I am told, removes redundant terminology.

The functions of the district emergency management committees are further clarified so that they can more appropriately assist local governments in their management plans. It also permits local governments to take preparatory action ahead of cyclone season, for example. Local government authorities do not have to wait for an actual declaration before they can go around town giving directions to members of the public or cleaning up and removing items that may pose a danger.

The bill also provides for the remuneration of State Emergency Management Committee members, who can be paid an additional payment when they undertake considerable additional work on committees. I asked in estimates what the current rate of remuneration is for these members and I was told that the chairperson receives \$66 290 per annum; the deputy chair, \$49 718; and members, who are effectively civilian members and are not on the committee by virtue of their position in the public sector, \$33 145. Members are also entitled to be reimbursed for travel expenses at the rate for travel expenses paid to members of government boards and committees. A new power is also conferred on the State Emergency Management Committee to provide a report to the minister on the progress of implementation of previous reviews. That is something I have talked about in private members’ business. There is no provision for any such report to be made public or to be tabled. I will move an amendment that within 30 days of the minister receiving such a report from the SEMC, he or she will be required to table it in Parliament. Mandating the tabling of this report in Parliament and the recommendations is the lever, in my view and the opposition’s view, to ensuring that the implementation of recommendations is kept moving and is expedited.

While I am on the SEMC, I have to say, however, that I have for some time had some concerns about the glacial speed with which it seems to produce reports, bearing in mind that it vows that its sole role is policy. It cannot, for example, be said that it is distracted by operational demands. There just does not seem to be a sense of urgency there. For example, I remember that a couple of years ago, some new guidelines for cyclones were brought out on about 1 December. For them to be properly propagated in the north of the state three weeks before Christmas seems to me quite absurd. People need additional training or understanding of what they are required to do under the guidelines, and that was simply too late. That is not an isolated case. I have found that a number of times the SEMC seems to take forever to produce stuff. Maybe if there is a threat of something being tabled in Parliament and we look at the date it was commenced and the date it ended up in the minister’s office, it might act as some sort of incentive. As I said earlier, I think the SEMC started looking at the traffic management issue after the Keelty report in late 2011 and it issued a report concerning traffic management in February 2012. In fact, it finished the guidelines only about a month ago—in 2016. For an issue that is coming up in every single inquiry, there just did not seem to be the motivation to produce material a bit more speedily. I know subcommittees meet regularly, but the SEMC itself should meet more than quarterly so that it can sign off more expeditiously on these issues.

With that, the opposition supports the bill subject to the amendment I have referred to.

MR J.M. FRANCIS (Jandakot — Minister for Emergency Services) [8.13 pm] — in reply: I thank the shadow minister, the member for Girrawheen, for her support and say from the outset that we obviously appreciate the bipartisan way in which these recommendations from the State Emergency Management Committee are being considered both in legislation and obviously by the Parliament. I will not take up too much time, but obviously there are a number of key points that need to be mentioned because it has been some time since the second reading speech.

This Emergency Management Amendment Bill will effectively amend the Emergency Management Act 2005 to address a few anomalies and make it easier for authorities to deal with situations that we hope will never happen, such as the need to declare an emergency situation. My understanding—I do not want to mislead the house so I will say “my understanding”; I may be wrong—is that at the moment for a situation to be declared an emergency requires the signature of the Commissioner of Police on a piece of paper. The member for Murray–Wellington, who is still in the chamber, will know very well that during those fires we were talking about just a few minutes ago, an emergency situation was declared from time to time and it gave authorities a number of powers. It also gave employment protection to volunteers. It gives a lot of different powers to a lot of different people, and there are obviously reasons why we do that, but we never know; the Commissioner of Police might be on a plane or whatever it might be when something happens. We only have to look at the terrible situations that have again unfolded in the last 24 hours in other parts of the world. It is one of those things that we hope will never happen, but we never know just when an emergency situation might need to be declared without very much notice at all. This will allow it to be done, ipso facto, by remote control almost.

There are a couple of key amendments—obviously, five amendments in total. The definition of “emergency management” is being amended to more clearly define the four emergency management aspects.

“Reasonable suspicion” of a hazard is a very important one; we will not need to wait for it to be approved because by then it could be too late. I guess, to a large degree, this is giving a bit more leeway, left or right of arc, into what could be considered in order to have a hazard declared, but it also futureproofs it to a large degree, if we look at all the things that are listed, without me reading them out. I think that is an important one. There is the inclusion of what is effectively a hazard catch-all to allow an emergency management response to be provided for the occurrence of an event, situation or condition that is not listed as a hazard within legislation, because history has told us in recent years that we just do not know what the future may hold. There is the appointment of a hazard management authority for emergency aspects of cyclones, so now we will be able to designate an area of the state as a cyclone area on the advice of the hazard management authority. Of course, there is also the amendment of arrangements for local emergency management plans with regard to local government, and that is another important one. There are five major amendments in total. I will just say that this is not a party political thing; this is necessary for us to do a better job of trying to protect the people of Western Australia, and, in particular, so that authorities can respond in a far more timely and accurate manner to unforeseen circumstances in the future.

The member for Girrawheen’s suggested amendment, which is on the notice paper, is that the minister must cause a copy of any report received by the minister under section 14(fa) to be laid before each house of Parliament within 30 sitting days. I am happy with that amendment; there is a typo that we will obviously clarify, and I have circulated an amendment to the amendment, to which I am sure we will all agree and get it done fairly quickly.

In concluding my reply to the second reading debate, I thank the member for Girrawheen and the opposition for supporting this legislation and allowing it to be passed through the house in an expedient fashion.

Question put and passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.

Consideration in Detail

Clauses 1 to 7 put and passed.

Clause 8: Section 14 amended —

Ms M.M. QUIRK: On the notice paper is an amendment to insert, at page 10 after line 27—in fact it should be—I am sorry I do not have a marked up copy here. I just need some guidance. Do we pass clause 8 first, and then I amend it?

The ACTING SPEAKER (Mr I.M. Britza): Yes, we will pass clauses 8 and 9, and then 10 will be amended. Is the minister happy with that?

Mr J.M. Francis: No; I am just seeking guidance.

The ACTING SPEAKER: Do you want to wait? Okay.

Mr J.M. FRANCIS: I am just trying to help the member for Girrawheen out here. My understanding of the intention of her amendment, which is new clause 10A—I might need some assistance from the Clerk here. Can I suggest that what the member actually wants to amend—we will take our time, because we want to get it right. My understanding is that clause 8 amends section 14, to insert, after section 14(e) —

(fa) to carry out, and report to the Minister on, a review of the extent to which any recommendations made as the result of an inquiry or investigation into an emergency have been implemented;

My understanding is that the member for Girrawheen wants to insert her proposed clause directly after that.

Ms M.M. Quirk: Yes.

Mr J.M. FRANCIS: That is clause 8; not 10.

The ACTING SPEAKER: Minister, the Clerk’s advice is that the amendment must come after clause 10. We have to pass clauses 8, 9 and 10 before we consider the proposed amendment. Is the member happy with that—that her amendment relates to clause 8?

Ms M.M. QUIRK: I was given advice from parliamentary counsel. Now that I look at it, it most probably should be clause 8(fb). It will become section 14(fb).

The ACTING SPEAKER: We should pass clause 8 and then we can pass the amendment. Bear with us, members. We have to check the Emergency Management Act to make sure we can do that. Perhaps the member would like to talk about her proposed amendment at this point, if she does not mind.

Ms M.M. QUIRK: Thank you very much. As I said in my second reading contribution, the purpose of my proposed amendment is to mandate that the minister has to cause a copy of any report received under section 14(fa) to be laid before each house of Parliament within 30 days after the day on which the minister receives the report. It is a level of transparency. It might have the collateral benefit of ensuring more timely reporting to the minister by the State Emergency Management Committee. My main reason is the purposes of transparency.

Mr J.M. FRANCIS: Member for Girrawheen, this will give me the opportunity to rebut some of the claims made earlier by the member for Bassendean and any impression that he may have that I, for some reason, might lack the integrity or the ability to be completely transparent on issues of emergency management. I can imagine that the only reason whatsoever would be if there was an issue of state or national security involved, in which case I am sure the opposition would be consulted.

I have absolutely no problem accepting the member for Girrawheen's amendment. I have no problem with transparency for any report. I think if the public, politicians, volunteers, career firefighters, any organisation or anyone else involved in emergency management in Western Australia can learn anything from a report, it is in the public interest to make it public. The member can look at how we handled the release of the Ferguson report. I know this refers specifically to reports prepared by the State Emergency Management Committee, but the Ferguson report, commissioned by the Premier under the Public Sector Management Act and therefore by the Public Sector Commissioner, was dealt with fairly rapidly. From the time it left the Public Sector Commissioner's office to go to the Premier's office it was far less than 30 days.

The ACTING SPEAKER: Minister, I encourage you to speak into the microphone.

Mr J.M. FRANCIS: Sorry; we do not want that either.

I am more than happy to support this amendment. I am more than happy to ensure that any future government realises that it is in the public interest to release reports in a very timely and open manner.

Ms M.M. QUIRK: I think I understand the confusion. I realise that parliamentary counsel thinks this amendment was about the annual report of the State Emergency Management Committee, which is section 25 of the current act, but it actually deals with the reports at proposed section 14(fa). I tend to think I probably gave parliamentary counsel the right advice, and they then inserted some other numbers, which of course completely changed the meaning.

Mr J.M. FRANCIS: I am on my feet because someone needs to be. I am not quite sure what is happening; we will just wait for someone to come up with some advice on this. It is not for me to suggest, but maybe the member might rewrite her amendment. We might be able to address two issues in one go here.

Ms M.M. QUIRK: I move —

Page 10, after line 8, to insert —

(fb) The Minister must cause a copy of any report received by the Minister under section 14(fa) to be laid before each House of Parliament within 30 sitting days after the day on which the Minister receives the report.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 9 to 33 put and passed.

Title put and passed.