

EMERGENCY MANAGEMENT BILL 2005

Second Reading

Resumed from 13 September.

HON KEN BASTON (Mining and Pastoral) [5.17 pm]: As I was saying last night, I believe the Emergency Management Bill contains some good provisions, in the sense that it seeks to help pool the resources that are needed in an emergency and to bring them together to give the whole-of-government approach. I gave many examples last night of things going wrong in emergencies, such as with floods, fires and cyclones in the north. I notice in this bill that the definition of "hazard" includes tsunamis and terrorist acts. It is fine to pool the resources, but if there is no funding to back the central control of an emergency, it all falls down, as in the examples I gave of local government sitting back and waiting for somebody to come forward with the funds before it acted. That is not good enough. I have not found anything in the bill that covers that, but I presume the government intends to do that.

Last night I also alluded to the fact that satellite imagery can play a major role in fire control. I am very proud to say that the Department for Planning and Infrastructure in Western Australia is a leader in the area of fire control by satellite imagery. However, it is quite expensive to subscribe to that. Any individual can subscribe to it, and that person can announce when a bushfire starts on any large tract of pastoral land or near any local town. I see that as very much a necessity; that is, if there is central management of an emergency, the committee in the town should have that facility available to it.

Other parts of the bill are a little disturbing. Part 8, clause 85, refers to the \$50 000 penalty that is applicable if a person obstructs or hinders a hazard management officer or an authorised officer in the exercise of his or her power. The fine for failure to comply with a direction, which is dealt with under clause 86, is also \$50 000. The fine for failure to give help, which is dealt with under clause 87, is also \$50 000. More penalties are listed for matters that are a little more serious.

During emergency situations, many people - dare I say it - become a little power hungry when they put on their blue or orange overalls. Conflict may arise when people are ordered to leave their homes. Some people do not want to leave their homes because they believe that they can defend their castle better than anyone else can. If they refuse to leave, they will be liable and, if taken to court, could be fined up to \$50 000. That is an excessive amount. Part 8 of the bill, which deals with offences, is the most offensive part of the bill.

A centralised body must have, at all times, a list of available infrastructure and it must know who will pay for that infrastructure. A sinking fund should cover that aspect. Items such as bulldozers, graders and firefighting equipment are often badly needed during a fire. Aeroplanes and helicopters are often needed for airlifts during a flood. That issue must be covered; it is no good sitting back and asking for funding after a disaster occurs. I will certainly be raising the issues of funding and offences when the bill reaches the committee stage.

HON GIZ WATSON (North Metropolitan) [5.23 pm]: On behalf of the Greens (WA), I will make a few comments about the bill. We will support the bill, although we will raise questions during the committee stage. As I understand it, Western Australia is the only state currently without emergency management legislation. The argument has been advanced that there is no right or imperative in statute to establish an emergency management framework. Under current arrangements, emergency situations are managed under policy statement 7, which is titled "Western Australian Emergency Management Arrangements". That policy flowed from a 1985 cabinet minute. As much as there is the argument that every other state has special emergency management legislation, I would like to know what problems exist with the process in place at the moment. I support the intention to ensure that any person who is acting in good faith or as a volunteer in an emergency situation should be covered for liability and should be provided with compensation if, for example, his or her equipment is commandeered. That is admirable. I understand the need to cover that aspect of emergency situations. However, I am interested to hear the government outline the specific evidence that suggests the existing provisions are inadequate. The first point we must take into account as legislators is that there is no point passing laws for the sake of it. This bill provides significant powers. Arguably, those powers are already being used. I understand the desire to have some certainty and to ensure the force of law behind people who are responsible for giving directions during emergency situations, so that their directions are complied with.

I note Hon Ken Baston's comments about the penalties that are applicable if people do not comply with certain provisions. I agree that those penalties are very high. They are disproportionate by at least 10 times with the aims of legislation such as this. A \$5 000 fine might be somewhat nearer the mark. A penalty of \$50 000 is the type of fine that one would expect a corporation to pay if it broke the law or to relate to significant criminal offences. Interestingly, I had not considered the issue of penalties until it was raised by Hon Ken Baston in his contribution to the second reading debate. The Greens would like to know where the \$50 000 figure has been

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plucked from. Does it compare with similar provisions in other legislation? A considerably smaller fine would probably still achieve the objective.

Another factor that the Greens always take into account when considering legislation is whether it imposes an unreasonable burden on personal liberties. I read this bill very thoroughly because the provisions that are established in law for emergency situations are likely to constrain people. We must be careful to achieve a balance. As I said, having been through the bill in some detail - I received a good briefing on it - I am reasonably comfortable that a balance has been struck. However, I will raise some matters with the government. It is fair to say that this legislation will assist in dealing with an emergency. However, I note that the second reading speech states that the bill -

. . . provides the framework for the state to mitigate against, prevent, prepare for, respond to and recover from incidents of a large scale or catastrophic nature.

I query how a management bill can prevent an emergency. It can certainly help us plan for an emergency situation and allow us to put contingency plans in place. It could probably prevent an emergency escalating. However, it certainly cannot prevent an emergency situation from arising. By its very nature, an emergency situation is usually unforeseen or is predicted only to a certain extent. I do not see how this bill can prevent such situations from arising. The bill is drafted to deal with both man-made and natural disasters and emergencies. I note that the second reading speech, which is fairly enthusiastic in its tone, places a lot of emphasis on international events and the threat of terrorism. Again, the Greens (WA) always find this sort of language alarmist. As much as we acknowledge the dangers of acts of destruction and terror, it is also very important not to overplay that card. Known risks and likely increases in risks are very much centred around so-called natural disasters, but many of these natural events are being exacerbated by human activity. I refer particularly to increases in dramatic weather events as a result of global warming. All members are very aware of recent circumstances in the southern states of America, and in New Orleans in particular. As mentioned by other members, that event of catastrophic propositions was driven by weather.

While dealing with these hazard and natural disasters, it is worth noting that climate change driven natural disasters are forecast to cost the world's financial centres as much as \$150 billion a year within the next 10 years, according to the United Nations' environmental program financial initiative report. Between 1950 and 2003, there has been a massive increase in major weather-related natural catastrophes. Between 1994 and 2003, there were almost three times as many weather-related catastrophes as occurred in the 1960s. If members are interested in statistics in the likelihood of natural disasters - this is relevant to debate on emergency planning - and if we want to understand the probability of certain events, members should refer to an excellent presentation made by a representative of the Insurance Australia Group at an event organised by the government's Western Australian Greenhouse Strategy office a few weeks ago. Some extraordinary statistics were presented about the likelihood of not only increased frequency in, but also increased intensity of, storm events in Australia, whether that be cyclones, associated floods or dangers of severe storms and tornados, such as those we are beginning to experience in the south west of the state. For that reason alone, the likelihood of a severe weather events affecting Western Australia is statistically on the rise, which undoubtedly is linked to ongoing global warming factors. Therefore, this sort of emergency management legislation has a place; the Greens accept that.

It is important to understand that this bill deals with a range of hazards. Clause 3 reads, in part -

“hazard” means -

(a) a cyclone, earthquake, flood, storm, tsunami or other natural event;

I note that this bill was introduced in the previous Parliament, but its passage was interrupted when Parliament was dissolved. The Indian Ocean tsunami occurred at the end of last year. I note that “tsunami” is now included specifically in the list of hazards, which was not the case with the earlier version of the bill. The clause continues -

(b) a fire;

(c) a road, rail or air crash;

(d) a plague or an epidemic; -

I do not know whether other members saw *Lateline* last night and the discussion about the potential for an avian flu pandemic in Australia. It was a sobering presentation by Tony Abbott about the preparations currently under way for the possibility of such an epidemic. It got me thinking specifically about this legislation. It was suggested that there was a 10 per cent chance that such a pandemic could occur in Australia. It is important that this legislation has the capacity to deal with such horrors. I was particularly interested that “hazard” is also defined as follows -

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- (e) a terrorist act as defined in *The Criminal Code* section 100.1 set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth.

That caused me to visit that commonwealth act to see how terrorism is defined. The Australian Greens opposed that legislation when it passed the federal Parliament, and we still have some concerns about the definition of terrorist act. For members' information, the schedule in the commonwealth Criminal Code Act 1995 on page 95 reads -

terrorist act means an action or threat of action where:

- (a) the action falls within subsection (2) and does not fall within subsection (3); and
 - (b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
 - (c) the action is done or the threat is made with the intention of:
 - (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or
 - (ii) intimidating the public or a section of the public.
- (2) Action falls within this section if it:
- (a) causes serious harm that is physical harm to a person; or
 - (b) causes serious damage to property; or
 - (c) causes a person's death; or
 - (d) endangers a person's life, other than the life of the person taking the action; or
 - (e) creates a serious risk to the health or safety of the public or to a section of the public; or

This is the paragraph about which I have some concerns -

- (f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:
 - (i) an information system; or
 - (ii) a telecommunications system; or
 - (iii) a financial system; or
 - (iv) a system used for the delivery of essential government services; or
 - (v) a system used for, or by, an essential public utility; or
 - (vi) a system used for, or by, a transport system.
- (3) Action falls within this subsection if it:
- (a) is advocacy, protest, dissent or industrial action; and
 - (b) is not intended:
 - (i) to cause serious harm that is physical harm to a person; or
 - (ii) to cause a person's death; or
 - (iii) to endanger the life of a person, other than the person taking the action; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.

That definition is not too bad. I am concerned when a definition of "terrorist act" includes damage to things like financial or information systems. That is very broad. The Greens (WA) will not oppose the fact that "terrorism" is defined in the state bill as under the commonwealth act. That approach makes the definition uniform, as it is how I assume the other states have dealt with the matter. However, the Greens still have some concerns that that is a very broad definition of an act of terrorism.

Hon Jon Ford: This bill is designed to deal with the results; it is not proactive other than to plan for emergencies.

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Hon GIZ WATSON: Why is it necessary therefore to go to the length of providing that definition?

Hon Jon Ford: As we said, it is to be consistent with definitions from other jurisdictions.

Hon GIZ WATSON: I assumed that. Given the speed with which the commonwealth legislation was introduced, and that that definition is all encompassing, I am somewhat uncomfortable about including it in the state statutes. Nonetheless, that is what we have; we will not die in a ditch over it.

I seek a response from the minister on whether this legislation will deal with an emergency resulting from an accident on a visiting nuclear-powered or armed vessel that is moored out of Fremantle. In light of this issue, I looked for the current Fremantle Port Authority safety plan for such an emergency. The issue has been raised of what exactly is in place to deal with an emergency that might arise on a visiting United States warship, for example, because of a faulty reactor or a defective warhead. As we know, the US Navy neither confirms nor denies the presence of nuclear warheads on its vessels. Would this emergency management plan also deal with those sorts of foreseeable emergencies? The Fremantle Port Authority web site does not mention any contingency for accidents involving radioactive material. That is interesting because I have read a document, inadequate as it is, but it might not now be operational or part of the Fremantle port's safety plan. The port safety plan that I have read contains no contingency for any evacuations in the event of a nuclear accident aboard a nuclear-powered or armed vessel. Will this emergency management framework provide for such an emergency? I understand that it is Australian Labor Party policy to not support visits of nuclear-powered or armed vessels to Fremantle. Not allowing them to visit would be one way of ensuring an emergency does not arise.

Hon Jon Ford: It is a commonwealth issue.

Hon GIZ WATSON: They are not in commonwealth waters when they are in Gage Roads. I suggest we get those ships to park much further away - in the US, for example.

In his second reading speech, the minister states -

The Bill makes provision for powers to address gaps in the existing legislative authority of emergency management agencies that have limited the ability of the responsible agencies to take appropriate action to ensure the safety of people and minimise damage to property.

Can the minister provide specific examples of when those gaps have been a problem. I have not heard of any specific evidence that the existing arrangements have caused problems other than the issue of liability insurance coverage for emergency workers. It seems to me that emergency situations have been well responded to. I am loath to legislate for a process unless there is a clear need for doing so. We have a very laudable and good system in WA under which the community responds to emergency situations cooperatively. If some procedures are prescriptive in legislation, there is a danger of undermining that sort of cooperation. However, I accept that it is important to clarify who has authority and how it can be used. I am interested in some examples of those gaps, if there are any.

Another issue that has been raised with me and that other members have raised is the concern some local authorities have expressed through the Western Australian Local Government Authority that the legislation will add to their costs. I discussed that in a briefing and I phoned the WA Local Government Authority, but none of its members has returned the call; therefore, their lack of response indicates that they are not terribly anxious about the matter. I understand local authorities provide quite a lot of cooperation and assistance under the present arrangement. I have heard the argument that this is not an additional impost to what occurs under the cooperative arrangement to date.

Clauses 61 and 62 provide for the identification of authorised officers. Wherever possible, people who are given authority under this legislation will be issued with identification. I support that because in an emergency situation it is important to know that the person giving instructions has the appropriate qualifications and is authorised to give instructions. If an emergency system is to be established under a legal framework, it makes sense to provide people with ID who are authorised to direct people to leave their house, hand over their car or whatever. That would be one good thing about formalising these arrangements. There is a tension. The coordinator will not always have time in an emergency situation to provide identification cards to all the people he wants to authorise. The bill contains a mixture of authorisation. Clause 61 states that authorisation can be given orally or in writing, but if given orally, it must be put in writing as soon as practicable. Clause 62 deals with the identification of authorised officers and states that the State Emergency Coordinator may issue an identification card to an authorised officer. The coordinator should do that; that should be the default position. Whenever possible, an authorised person should be identified. Authorised officers may need to direct people to do things that they might be reluctant to do, such as leaving their homes or handing over their car keys, and those

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people need to know that they are dealing with someone who is authorised to issue those directions. The clause leaves quite a lot of room. For example, clause 62(2) states -

An authorised officer should -

- (a) carry his or her identification card while performing functions under this Act; and
- (b) if it is practicable to do so, -

That is the bit I have some problems with -

produce it before exercising a power of an authorised officer under this Act.

If an authorised officer has a card, he should carry it and show it. Otherwise, what is the point of going through that process? It has been suggested to me that the words “if practicable” must be included because we are dealing with emergency situations and there might be some reason that an authorised officer cannot show an identification card, such as if he does not have it with him. In that case we might as well get rid of the clause. Oral authorisation will be able to be given, so a person so authorised will not have ID. I was somewhat inclined to delete that clause because it was -

Hon Ken Baston: Wishy-washy.

Hon GIZ WATSON: Yes, because the authorised officers do not have to have a card, and if they do have to have it, they do not have to show it.

Hon Jon Ford: The intention is for as many people as possible who are identified in local plans to have the cards. I will outline some situations in which some problems would be caused if you were prescriptive.

Hon GIZ WATSON: I understand. The clause is too rubbery to have much effect, because it basically says that if a card can be provided, it will be, and that if it is practicable to show it, it will be shown. The clause does not have a lot of impact.

Clause 66 relates to obtaining identifying particulars. The bill makes reference to and provides the powers prescribed under the Criminal Investigation (Identifying People) Act 2002, which drew my attention. Clause 66(1) states -

The office of hazard management officer is prescribed for the purposes of the *Criminal Investigation (Identifying People) Act 2002* and any holder of that office may exercise the powers in Part 3 of that Act during an emergency situation.

Subclause (2) states that the office of authorised officer is prescribed in the same way. What concerned me was that, having been part of the debate on the Criminal Investigation (Identifying People) Act, I knew that those powers were quite broad and the penalties quite strong. Section 16 of the Criminal Investigation (Identifying People) Act 2002, which is headed “Officer may ask for name, address, etc.” states -

(1) In this section -

“Personal details”, in relation to a person, means -

- (a) the person’s full name;
- (b) the person’s date of birth;
- (c) the address of where the person is living;
- (d) the address of where the person usually lives.

That is not a problem. However, the next bit states -

(2) If an officer reasonably suspects that a person whose personal details are unknown to the officer -

- (a) has committed or is committing or is about to commit an offence; or
- (b) may be able to assist in the investigation of an offence or a suspected offence, -

It does not need to be an identified offence; it can just be suspected -

the officer may request the person to give the officer any or all of the person’s personal details.

(3) If an officer reasonably suspects that a personal detail given by a person in response to a request is false, the officer may request the person to produce evidence of the correctness of the detail.

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- (4) A person to whom a request is made under subsection (2) or (3) may request the officer making the request to identify himself or herself.

That could be interesting if the officer does not have his card with him, and goes back to the clause I was just discussing. It continues -

- (5) An officer who is requested by a person to identify himself or herself must do so.
(6) A person who, without reasonable excuse, does not comply with a request made under subsection (2) or (3) commits an offence.

Penalty: Imprisonment for 12 months.

That is a high penalty. My concern is that it is not clear that these powers, which also deal with a situation in which someone is suspected of an offence, will be limited to the offences contained in the bill. The way it reads is that it could relate to any law of the state. The Criminal Investigation (Identifying People) Act relates to police powers and criminal matters. My issue with clause 66 was that these powers should relate only to hazard management officers and authorised officers who are carrying out these particular emergency management powers. I understand that the government has accepted the need to clarify this matter. I am pleased that a couple of amendments are standing in the name of the minister on the supplementary notice paper. We will clearly support that clarification.

The only other point I raised on the bill during the briefing concerned clause 72, which relates to the exchange of information. I understand that this clause will ensure that relevant information can be shared with other relevant agencies, such as the Australian Red Cross or other voluntary or non-government organisations that are likely to become involved in an emergency situation. Clause 72(1) contains a definition of "relevant information". Paragraph (a) refers to the personal details of a person. Clause 3, which is the definition clause, provides a definition of "personal details", being a person's full name, date of birth, the address of where the person is living and the address of where the person usually lives. That is all fine, but it struck me that relevant information ought to include a photograph, because if people are missing, one of the first things that is useful to exchange, whether it be on web sites or by other means, is visual identification. I note that clause 72(1)(d) provides a catch-all provision of information of a kind prescribed by the regulations. I understand that, at this stage, the government does not wish to add an additional point to the definition on photographic information; it would rather think about that a bit more. Of course, that matter could be dealt with by way of regulation. Clause 72(1)(d) could, at a later date, enable a photograph to be included as relevant information by way of regulation. It was a helpful suggestion. I did not want the bill to be limited in a way that meant that relevant information, including a photograph, could not be circulated. I urge that issue to be part of the matters that are considered. I look forward to the committee stage of the debate. The Greens (WA) will support the bill.

Sitting suspended from 6.00 to 7.30 pm

HON HELEN MORTON (East Metropolitan) [7.30 pm]: I am concerned that some of the sentiments expressed in the second reading speech of the Emergency Management Bill 2005 cannot be backed up by the government. Hon Giz Watson talked about some of the big-ticket items that will be addressed by the bill. Hon Robyn McSweeney talked about local issues in the south west area, while Hon Ken Baston talked about local issues in the mining and pastoral area. I will raise issues pertinent to the east metropolitan area.

The second reading speech states -

In Western Australia there are other more frequently occurring and predictable natural and technological emergencies. The bill supports the government's response to these hazards, including tropical cyclones, bushfires and floods.

It continues -

Emergency management is a vital element of community safety, which is a key priority of this government.

People in the east metropolitan area are completely surrounded by hills with lots of forests and orchards. The biggest natural emergency they are likely to face is a fire. I will highlight the government's record in responding to fires from a statewide point of view. The government's record is detailed in the Productivity Commission's "Report on Government Services 2005". In particular, I will consider the fire services in that report. The introduction of the report indicates that, in 2003-04, Western Australian fire services attended 25 705 incidents of which 53.9 per cent were fires and 46.1 per cent were other emergencies and incidents. Fires within or involving a structure were the least attended type of fire for all jurisdictions, except the Australian Capital Territory. In Queensland, Western Australia, Tasmania and the Northern Territory, the highest proportion of fires attended were landscape, bush and grass fires. In other words, householders pay the emergency services

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levy when the reality is that most fires in Western Australia do not involve a structure. In fact, in 2003-04 Western Australia had the second lowest number of accidental residential structural fires after the Northern Territory. In the same year, Western Australia recorded the third highest number of total fire incidents attended by fire service organisations. It was just behind the Northern Territory and Tasmania.

The Productivity Commission's report also refers to the importance of volunteers, especially in rural and remote areas, and states that there has been a reduction in the number of volunteers in Western Australia over the past couple of years. In 2002-03, there were 23 608 volunteers. By 2003-04, that figure had decreased to 21 987.

The report also refers to response times. WA has the longest response time in the nation. Response times and containment of structural fires are indicators of the effectiveness of fire service organisations and their ability to respond to and suppress fires. The response time is defined as the interval between the receipt of a call at the dispatch centre and the arrival of a vehicle at the scene. The fiftieth percentile response time in 2003-04 was the highest in WA with 8.6 minutes. The lowest response time was 5.1 minutes. The ninetieth percentile response time in 2003-04 was second highest in Western Australia with 16 minutes, while Tasmania recorded the highest with 16.6 minutes. For major cities, the fiftieth percentile response time in 2003-04 was again the highest in Western Australia with eight minutes. It was also the highest in remote areas at 13 minutes. For major cities, the ninetieth percentile response time in 2003-04 was highest again in Western Australia at 12 minutes. For outer regional areas, it was also highest in Western Australia at 23 minutes. For very remote areas it was again the highest in Western Australia at 60 minutes.

Western Australia also has the second lowest level of direct government funding for fire and emergency services. The lowest level is in South Australia. Funding is seen as a percentage of total funds spent on fire and emergency services. In other words, the government has transferred its fire service funding responsibilities to the householders of Western Australia. Expenditure per person is included as an output indicator of governments' objective to deliver efficient emergency management services. The indicator is defined as fire service organisation expenditure per 1 000 head of population. Nationally, the total expenditure on fire service organisations per 1 000 head of population in 2003 was \$81 352. Across jurisdictions it ranged from \$119 140 in the ACT to \$57 232 in WA.

The fire injury rate is also recorded in the report. The three-year average fire injury rate was highest in Western Australia. The fire injury rate is an indicator of governments' objective to minimise the adverse effects of fire on the Australian community. Fire injuries are represented by hospital admissions. Fire injury rates are volatile over time, given the small number of fire injuries. To overcome data volatility, a three-year average fire injury rate is reported. Nationally the three-year average fire injury rate for 2001-2003 was 14.5 per 100 000 people. Across jurisdictions, Western Australia had the highest three-year average fire injury rate of 18.3 per 100 000 people, with Victoria the lowest at 10.3.

Losses from structure fires are considered, again, as a measure of efficiency. The real median dollar loss increased in Queensland and Western Australia in 2003-04 and decreased in all other jurisdictions. The median dollar losses from structure fires are included as an outcome indicator of the government's objective to minimise the adverse effects of fires on the Australian community. This indicator is defined as the median dollar losses from structure fires adjusted for inflation. Lower median dollar losses represent a better outcome and, as I said, across jurisdictions this increased in Queensland and WA while all other jurisdictions decreased. So here we have a government introducing an emergency management bill to tackle terrorism and other big-ticket items, saying that community safety is a key priority. I have just said that the evidence indicates something else.

I will go on to comment on the part of the second reading speech that stated the government depends upon and values its volunteers. The second reading speech said, equally, that this bill also provides even more protection to volunteers. Western Australia relies heavily on volunteers from a wide range of organisations, not only the emergency services, in responding to and recovering from emergencies. I have already mentioned that the number of emergency services volunteers has reduced.

I want to show members an advertisement that appeared in the *Hills Gazette* on Saturday, 10 September. It is a half-page advertisement that was paid for by the Mundaring volunteers. It states across the top -

MUNDARING VOLUNTEER FIRE BRIDGE IS CONCERNED FOR SAFETY OF LOCAL
COMMUNITY AFTER MINISTER BACKS DOWN ON HER WRITTEN PRE-ELECTION
PROMISE

The advertisement contains a photocopy of a letter written by the honourable Minister for Police and Emergency Services to Ms Jaye Radisich, the member for Swan Hills, and reads -

Hon Ken Baston; Hon Giz Watson; Hon Helen Morton; Hon Bruce Donaldson; Deputy President; Hon Jon Ford;
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I am writing to advise that contrary to reports in the media, no re-location of the Mundaring Volunteer Fire and Rescue Brigade will occur unless any new location allows the brigade to maintain its response times.

On the basis of the representations that you have made to me, I have made this decision to ensure the long term viability of the Brigade, and to support the current women and men who volunteer to protect the local community in Mundaring.

As per your request, I have arranged to meet the Captain of the Brigade Peter McMahon this week to assure him that the final decision will be made in accordance with this principle.

Please be assured that I value the hard work of our fire and rescue volunteers.

It was signed "Michelle Roberts". One part of the letter states in handwriting -

In light of recent discussions in the community, I thought you would be interested to receive this information.

Jaye Radisich

This letter was photocopied many times over and placed in letterboxes throughout the Mundaring community in a letterbox drop three days before the last election. The advertisement then notes seven points that the volunteers are concerned about. It states -

The Minister's letter was a result of the petition being signed by concerned community members one week prior to the last election.

The volunteers had more than 2 000 signatures on that petition one day before the minister wrote the letter. The points go on to state -

1. Minister's back down shows lack of support for community safety and "the women and men who volunteer to protect the local community in Mundaring."
2. Response times will not be able to be maintained if brigade is forced to move to industrial area. FESA originally agreed that the industrial area site was unsuitable due to sharp increase in response times.

The advertisement goes on to refer to a number of other issues and concerns expressed by the volunteers at Mundaring.

I reiterate that first point -

1. Minister's back down shows lack of support for community safety and "the women and men who volunteer to protect the local community in Mundaring."

What led to this appalling situation in which the volunteer fire brigade staff paid for their own half-page advertisement at a cost of \$997, the same volunteers about whom Michelle Roberts wrote in her letter? She said -

As per your request, I have arranged to meet the Captain of the Brigade Peter McMahon this week to assure him that the final decision will be made in accordance with this principle.

What led to this appalling situation is that Minister Michelle Roberts sold out the Mundaring volunteer fire brigade after a stunning act of deception to sway voters at the last election. The Minister for Police and Emergency Services wrote to Jaye Radisich six days before the election saying that contrary to reports in the media, no relocation would take place unless the new location allowed the brigade to maintain its response times. Three days before the election, Jaye Radisich distributed copies of this letter to the letterboxes of Mundaring residents. Five months later the Mundaring fire and rescue brigade found out that action to relocate it to an industrial block out of town had continued, with the minister's support, despite the fact that the move will double the service's response time. The 22 volunteers were originally thrilled to get the news prior to the election that they would not be forced to move to the industrial site, and they put aside the petition that already had 2 000 signatures. When the volunteers found out that they had been tricked into not continuing with their petition, they were devastated, many wanting to drop out of the brigade. The deception by the minister and the local member of Parliament, Jaye Radisich, has left the brigade members feeling angry and distrustful of any further assurances that may be made to them.

The Fire and Emergency Services Authority of Western Australia owns land in the townsite of Mundaring, to which the Mundaring volunteer fire brigade and the communications centre were due to relocate. The Shire of Mundaring offered huge financial incentives to FESA to use a block in the industrial site instead, and the shire went ahead and bought that land. The State Emergency Service has a block of land and is already located in the

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industrial site and wants to stay there. The Mundaring volunteer fire brigade and the SES believe that they are being bullied into accepting an outcome that is far less acceptable. The block of land in the middle of Mundaring townsite is the same size as the land in the industrial area, but because the one in the townsite has had easements increasingly placed on it, it is now considered that the land is not big enough for the co-location of services there. As was indicated by Peter McMahon in his comments in the advertisement, FESA initially agreed with the volunteers that this site in the industrial section was not suitable. However, when the Mundaring shire made money available to entice the volunteers there, the chief executive officer of the Fire and Emergency Services Authority said that he could not walk away from that sort of money. How much are we talking about? The total cost of the proposed new facility is \$920 000 and the shire has agreed to contribute 50 per cent of that amount, conditional on the Fire and Emergency Services Authority using the site in the industrial centre. No wonder the fire and emergency service people feel they are being bullied.

Hon Graham Giffard: Why did FESA say it would not support the industrial estate site?

Hon HELEN MORTON: The volunteers?

Hon Graham Giffard: You said that FESA originally -

Hon HELEN MORTON: Because of the increased response times.

Hon Graham Giffard: Did FESA say that?

Hon HELEN MORTON: It did originally but the money made the difference. As a result, the Mundaring volunteers feel that the standards they want to maintain are being sold out for the sake of \$460 000.

Hon Graham Giffard: Who did they say that to? You said the FESA chief was reported as saying they couldn't -

Hon HELEN MORTON: He said that to the volunteers.

Hon Graham Giffard: Who said that?

Hon HELEN MORTON: Peter McMahon. At all times the Mundaring volunteer fire brigade has been concerned only about maintaining those response times and about community safety. The volunteers undertook some trials and they provided the results to the minister. The trials proved that their response times from the new site would blow out from the current seven and eight minutes to 13 and 14 minutes. As I said, they provided that information to the minister in support of their concerns. FESA also undertook its own response time trial. Interestingly, FESA did not bother to provide that information to the volunteers. When a question was asked in this house about why that information had not been provided to the volunteers, the response was along the lines that they did not ask for it. That was a pathetic response. FESA claimed to have undertaken valid response time trials, yet it did not bother to provide the results to the volunteers. The volunteers are not sure what method of trialling was used. Even the trial times undertaken by FESA representatives showed an increase in response times. At no time was it ever suggested by the Minister for Police and Emergency Services or FESA that the Mundaring volunteer fire brigade response time could be maintained at the new site. The indication has always been that it would increase. The FESA volunteers are unsure about many elements of the FESA-trialled response time. In an effort to ease the situation, the minister has indicated that an extra road would be built in the Mundaring area to link parts of the township with the industrial area. However, when the volunteers have sought confirmation from the minister and local government that the road will be built, assurance has not been forthcoming. At this stage, the road will be a single-lane, gravel track, and neither the minister nor the local government will guarantee that it will remain open.

Given the level of distrust between the minister, FESA and the local fire brigade, is it any wonder that the volunteers feel they are being tricked again? In the process of showing goodwill, they have participated in consultation to help design the new building regardless of whether it will be located on the industrial site or on the FESA site in town. The volunteers have sought to participate in the design of the building to ensure the outcome is a building into which they have had some input. However, short of backing away from any further input into the building, they are now faced with the fact that their input into the building design is being taken as their agreement to its construction on that site, even though they have stated clearly that they want input into just the design of the building regardless of its location.

I reiterate the minister's comments about volunteers in the second reading speech. It reads -

Equally, this bill also provides more protection to volunteers. Western Australia relies heavily on volunteers from not only the emergency services but also a range of organisations in responding to and recovering from emergencies.

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This group of volunteers in Mundaring undertook 115 call-outs in 2004-05, an increase from 82 the previous year. They are incredibly proud of their response time to an emergency of seven to eight minutes. Nothing will make them accept a blow-out in that response time to 13 or 14 minutes. That response time would bring their times down to worse than the state's average. The response times from the industrial site, even with the extra road, are still above their current time of seven to eight minutes. As I said, if they accept that site and that road is closed, it will make their response times equal to the worst times in the state. No wonder they paid \$997 for a half-page advertisement in an effort to get the minister to understand their concerns. The advertisement in the *Hills Gazette* reads in part -

4. Since the Minister's broken promise, Local MLA Jaye Radisich has not responded to our call to her office to arrange a meeting. -

This has been going on for five months -

5. Recent letter from the Shire to the brigade threatens to remove Mundaring Volunteer Bush Fire Brigade vehicle to industrial area if the brigade does not move.

Threats are now being made in the form of blackmail of some sort or another. It continues -

This would leave parts of Mundaring and Mahogany Creek without a dedicated bush fire vehicle.

The volunteers will not move; only the vehicle will be moved. It continues further on -

7. The FESA owned block in the centre of town is ideal for a fire station. Shire has said they will not support funding of a building on this block. Any future permanent fire station will not be located there.

It is a misunderstanding of monumental proportions. For whatever reason, the minister is unable to understand the importance of response times to the volunteers. They provide a benchmark for their efficiency and they motivate them to participate in their weekend training programs. Their teamwork in striving to maintain low response times engenders their camaraderie and fosters the spirit and the energy they need for their voluntary work. It motivates them to immediately drop their tools at their place of work and respond to calls to attend an emergency in the community. It is not possible for them to accept an outcome that will double their response times so that they become the worst response times in the state. I reiterate my opening comments: this bill has potential but one hopes that its implementation will match the government's rhetoric, because the government's record on fire and emergency services compared with that in other jurisdictions is extremely poor. Based on my experience of how the volunteers are being treated in Mundaring, on a local level, the government's record is equally poor.

HON BRUCE DONALDSON (Agricultural) [7.59 pm]: The opposition supports this bill. It has triggered memories of what occurred in the very early 1980s, prior to when a cabinet minute was drafted to establish a framework for emergency services. Local government was then encouraged to send people to Mt Macedon in Victoria. I cannot think of the college we went to - someone may be able to help me - but a group of us were flown over and we met other people from around Australia. The idea was for local government to set up disaster management plans. Some of the local government authorities were representing large cities and ports, but I had to sheepishly admit that in poor little Koorda there were approximately 900 people, we were situated right out in the bush and our greatest fears were bushfires and earthquakes. People were very interested because we were not very far from where the Cadoux earthquake or the Meckering earthquake occurred. There have been a couple of earthquakes at Cadoux, which is east of Wongan Hills. When we came back, a member of the council picked up this planning idea and plans were sent in by each individual council. We funded the State Emergency Service building and even purchased the trailer and a four-wheel drive out of council funds, and that was the start of the SES in Koorda.

This legislation has had a long gestation period with a loose-net framework, with policy rather than any legislative effect. I guess this bill introduces the necessary legislation. There is confusion in my own mind about where this bill picks up the big-ticket items, which is how Hon Helen Morton referred to them - tsunamis, tropical cyclones and bushfires. I do not know what is meant by bushfires. Does it mean a bushfire in a forest, a CALM reserve or in the Mundaring catchment area, or does it mean a bushfire in pastoral or rural areas? When will the FESA act come into being? Local government has a responsibility. I am sure this will be clarified.

Hon Jon Ford: I asked the same question.

Hon BRUCE DONALDSON: I am delighted, because I felt a bit vague about all this and thought that maybe I had it wrong. I am glad that the minister also had to ask the same question, and I am looking forward to hearing the answer, because this is slightly confusing to the wider community.

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I cannot remember the year - it was after 1985 - but there was a very large fire at Cervantes and the police and other government agencies were located in a building with a caravan outside. The fire was bearing down on Cervantes and was sufficiently large to have cut the road, preventing access into or out of Cervantes. With good intent, one of this group of people decided to commandeer all MetroBus buses in Perth at that time and take them to Cervantes to bus the people out. There was one failing with that idea: the buses could not get in and they certainly would not have been able to get out. The locals decided that they were not going anywhere; they could not even get their own vehicles out. They were very concerned because of the howling wind and the amount of bush close to Cervantes; they thought there would be serious problems. The locals decided that they would walk into the ocean as far as they could go. There is quite a good area of beach at Cervantes. I know what I would have done: I would have gone into the water; I would not have worried about trying to drive out of the place. One of my friends from a government agency was there and he said it was interesting to see the conflict between different people because it was such a loose arrangement. Nobody was in control. One person wanted to get all of the buses up to Cervantes and bus the people out; another person said that that was a ridiculous idea, and things became very heated. They left the building and went outside, and this person told me afterwards that he thought it was going to come to a punch-up. Nothing was set in place to make sure that there was a coordinated response to a major emergency.

The volunteer network has been mentioned, because it is pretty important. Hon Helen Morton mentioned quite a bit about the volunteers. The Legislative Assembly Community Development and Justice Standing Committee presented its report No 2 of the thirty-sixth Parliament on Thursday, 7 November 2002. That report referred to the contribution by volunteers and emergency services, and it stated -

- There are at least 250,000 active volunteers in Western Australia;
- One in five adults contributes a total of more than 46 million hours of unpaid work;
- Costed at the minimum adult wage of \$11.35 per hour -

That was in 2002; I am sure it has changed -

and worked on about 3.5 hours per week, their contribution provides more than half a billion dollars worth of service every year to the Western Australian community; and

- About 10 per cent of these, or 25,000 people, work in emergency services.

I know from having done a report on the ambulance service in Western Australia a few years ago that over 2 000 of those ambulance officers are volunteers. I cannot remember the figure, but we tried to work out what it would mean if that volunteer network stopped and we had to pay people. The government would be up for millions and millions of dollars to keep that service if St John Ambulance was not there to do it. We all know the value of what volunteers do.

Some major catastrophes have occurred in Western Australia. The report referred to the disastrous Moora floods that occurred a few years before this report No 2 was presented. The report states -

When the disastrous Moora floods occurred a few years ago, FESA and the State Emergency Service acted as a hazard management authority. However, the people did not look to the SES for guidance during that disaster; they looked to local government. It is important that our legislation clearly outlines that there is a role for the State Government and a role for local government.

That statement was made by Mr Bob Mitchell, the then chief executive officer of the Fire and Emergency Services Authority. The report continues -

This view was supported by the Moora Shire President -

The late -

Mr Mike Bates, who told the Committee that:

As far as I am concerned, it is essential that local government be involved at the recovery stage, first, because of its local knowledge and, second, because of the respect that the community has for local government. You must understand that there is a hierarchy in all communities. The local government is the hierarchy, as it were, of the local community. Somebody who is an accepted peer will be shown more respect than somebody who is forced on the local community. That is the local government's role.

That has been clearly indicated in this bill. Some amendments made in the other house protected people from the costs of insurance, compensation and so on. I am sure the minister has read this report from front to back, but he may be interested to be reminded that when the committee went to Port Hedland it was told that the entire State Emergency Service organisation in Port Hedland was voluntary. The report states -

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The emergency coordinator works 50 hours per week, and her deputy, in addition to his full-time employment works a further 30 hours.

Additionally, the organisation's members have to fund raise for equipment and many use their annual leave for training courses. Without this level of commitment and hours worked, the State could not afford to effectively operate emergency management arrangements.

Anyone who has lived in the country would understand that. However, it was good for a committee to go up there and to report on what it found. The report is an eye-opener. People from country areas are fully aware that people not only give up their time, for example for the ambulance service, but also make lamingtons and rattle tins to raise funds so that they can get further funding from Lotterywest to purchase a second-hand ambulance from St John Ambulance. They also rattle cans to raise money to meet the high maintenance costs of those vehicles. With a car, people usually wait until the fanbelt has broken before they change it, but with ambulances, the belts and hoses must be replaced every six or 12 months because the ambulance officers cannot afford to blow a radiator hose or something else when they have a very ill person in the back of an ambulance. They have a high-cost maintenance program.

One issue that is of concern to me is the number of management procedures that are being put in place. I say that because such things sometimes become a little top-heavy. The bill provides for designated management committees, a State Emergency Coordination Group, hazard management groups, a State Emergency Management Committee, a State Emergency Coordinator and a State Disaster Council. It worries me that if we do not get the coordination of these services right, there will be a problem. The more people who are put on overarching committees, the more problems there will be, because people tend to look after their own patch and become very protective of it, because they see their role as being more important than the role that another committee may perform. That goes down to the level of local area management.

The bill possibly encourages some smaller local governments to take a more regional approach by allowing two or more local government authorities to come together and devise a plan for a region. Such local governments might have similar interests. For example, Wongan Hills and Koorda have both been affected by earthquakes. It is very important. A question was asked in the other place about whether any cost shifting would occur to local government to enable these plans to be produced and to do whatever is necessary. It is important that we recognise that.

Revenue from the emergency services levy has become quite huge. A lot of that money has been used to upgrade fire equipment. Local authorities have access to the new fire trucks, which has been most appreciated. However, the levy seems to be steadily climbing. I think there was a \$7 or \$8 increase in the cost of the levy for every household over the past 12 months. The levy will continue to increase as gross rental values increase, because that is how the levy is assessed. Quite a lot of money will be raised.

I hope that cost shifting does not occur for the plans and reporting. I do not know about that. The minister might be able to tell me. The government may feel that at this stage it should wait to see whether additional costs will be placed on local governments to implement some of the necessary changes or whether their responsibilities will increase. If that is the case, we may need to look at some sort of funding down the track. I hope that will occur if that happens.

We have a problem with fire and emergency services, especially with the volunteer network. There are some concerns because occupational health and safety issues have been raised. I grew up using the drop-on firefighting units on the back of four-wheel-drives and on trailers. They have been a part of rural life. For example, at harvest time farmers move their headers, trucks and bins etc. One of the first things they move into the paddock is the firefighting trailer or vehicle that is set up with water, pumps - the lot. When farmers see smoke somewhere, the first thing they do is grab knapsack sprays, overalls etc, which they always have with them, and away they go. They get on the two-way radio and find out where the fire is and, if it is not far away, they sometimes tow their trailer or whatever it might be to the fire to help out. That has been the backbone of rural bushfire fighting. An occupational health and safety issue arose when a truck rolled on the Wanneroo-Lancelin road in a bad fire. It was tragic; a person was killed. The slip-on unit on the fire truck had moved. I understand that that could have been part of the reason that the tragedy occurred. Drop-on units are no longer recognised. That in itself is not very conducive to the volunteer network, because I cannot remember anybody being injured in country Western Australia by the farm-based slip-on units when fighting fires. That is now causing a small problem.

I do not know the provisions under which volunteers are covered by insurance when they fight a fire, and whether it is under the Fire and Emergency Services Authority of Western Australia Act. I note that that has been extended to clause 101. The explanatory memorandum to the bill states -

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This clause empowers the Governor to make regulations to require a Hazard Management Agency, combat agency or support organisation to insure volunteers for compensation for injury caused to them whilst carrying out emergency management activities.

Although it is understood that the insurance policies of Government departments/agencies and local governments include cover for volunteers, there are few legislative requirements to do so. (The *Fire Brigades Regulations 1943* and the *Bush Fires Act 1954* include such requirements.)

Extensive consultation will be required with stakeholders in the drafting of these regulations.

At the end of the day, the devil will be in the detail. It is stated somewhere that the organisation is responsible for ensuring that insurance issues are addressed. I cannot find the reference at the moment, but I will ask that question during the committee stage. If, for example, people go out with the local State Emergency Service team and help with a major catastrophe, does the requirement to ensure that those people are insured rest with the local government, the government agency or the State Emergency Service, or does it fall under the Fire Brigades Act? I was a bit unclear about that point, but I will ask that question during the committee stage.

Hon Jon Ford: Is it clause 101(4)?

Hon BRUCE DONALDSON: It could be.

The DEPUTY PRESIDENT (Hon Ken Travers): The minister should wait until the committee stage to give the member some help!

Hon BRUCE DONALDSON: He was only trying to help.

The DEPUTY PRESIDENT: I realise that the minister was only trying to help, but he will have that chance at the committee stage.

Hon BRUCE DONALDSON: We will find it and then I can ask who is responsible for taking out that insurance.

A number of issues have been raised with me by local governments. Some of those issues have been addressed in the amendments that were made to the bill in the other place. Their greatest concern was with insurance and compensation issues, because they knew that they would be covered for fighting fires under the fire brigades and Fire and Emergency Services Authority of Western Australia legislation when they were authorised to do so. Another issue that confuses me is that certain sections of the Fire Brigades Act pertain to local government. One section relates to fire weather warnings, the movement of vehicles in paddocks, the issuing of summonses when fire breaks have not been constructed, and the issuing of permits for the lighting of fires in the unrestricted period. I presume that all those functions will remain as they are in the other acts. Does the Emergency Management Bill relate more to terrorism, tsunamis, major bushfires, earthquakes, floods -

The DEPUTY PRESIDENT: Air crashes.

Hon BRUCE DONALDSON: I thank you for that help, Mr Deputy President. It is air crashes. That is quite true. I need this help and it is very pleasing to receive it.

The DEPUTY PRESIDENT: I am surprised that Hon Bruce Donaldson forgot that one.

Hon BRUCE DONALDSON: I know what you were getting at, Mr Deputy President, and I was not going to bite.

Hon Kim Chance: It is clause 747!

The DEPUTY PRESIDENT: A320 in this bill!

Hon BRUCE DONALDSON: I knew that if I said air crashes, certain members in the house would burst out laughing at the fact that I would even consider that.

I support the bill, and especially some of the amendments that have already been made to it. We need coordinated arrangements for major disasters. Nobody wants a major disaster to happen. People train for those occasions. Some of the things that we were taught in the early 1980s at Macedon certainly would not relate to Western Australia. People hope to goodness that they never have to be involved in such a disaster, but we just never know, as we found out with the bombings in London and Bali and a number of other acts of terrorism around the world. We are blessed in Australia. A lot of people are saying that it is a matter of when, not if. I hope they are wrong. We have border controls but we will never be able to stop such an act; if somebody wants to do it, it will happen. If a disaster were to occur, we hope that, with a coordinated approach, we will be ready to move, that there will not be too much overlap and that people will know exactly what to do. They said that in London. The emergency services in London had not long completed an exercise, if I remember correctly. Their

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coordinated approach to the London Underground bombings was very smart and efficient. If they had not had some dummy runs and set up a coordinated approach, it may have been a lot worse.

I support the bill and I hope that the minister has taken on board some of the issues I have raised. During the committee stage, we will explore some of the issues that I still find a bit fuzzy.

HON JON FORD (Mining and Pastoral - Minister for Fisheries) [8.27 pm]: As has been said, this bill was first introduced in the Assembly in 2004 after extensive initial consultation. The legislation then went through a committee stage, which involved more consultation. It suffered because of the political time frame and then the Parliament was prorogued. However, consultation continued. That enabled the government to insert in the bill extra definitions and extra provisions designed to address issues that were topical at the time, such as tsunamis and other such events. The legislation was again introduced in the Parliament this year. I thank members for their contributions. I will endeavour to respond to as many of the issues as I can. I certainly invite, and I am sure that I will get, further questions to deliberate on during the committee stage, when I will have a number of experts to help me.

I will start at the end of the debate with some of the comments of Hon Bruce Donaldson, which might assist us as we go along. After reading the bill, it is easy to think that there is a danger that a huge conglomeration will be created, which would defeat the purpose of the bill; that is, to provide a strong, coordinated response to emergencies. To that end, I requested an organogram of the organisations. I always find that they are useful to see how organisations are constructed. The Emergency Management Bill 2005 creates two organisations: the policy and planning infrastructure organisation and the operational infrastructure organisation. The policy and planning infrastructure consists of the minister at the top of the structure, followed by the State Emergency Management Committee. Reporting to that committee are the emergency services group, the lifeline services group, the recovery services group, the public information group, the district emergency management committees and the local emergency services management committees. The State Emergency Management Committee has established a plan of repair for an efficient emergency management capability for the state. Its membership includes the chairman, the deputy chairman, the executive officer and a representative of local government, and other members appointed in accordance with the regulations.

The membership of the existing State Emergency Management Committee is the Commissioner of Police, the Chief Executive Officer of the Fire and Emergency Services Authority, the FESA executive director of emergency management services as deputy chairman, the executive officer, the chairpersons of the four functional groups - the emergency services group, the lifeline services group, the recovery services group and the public information group - and the directors general of the Department of Health and the Department for Community Development. I outline those matters because it is important that members understand the situation when I refer to them later.

Four subcommittees operate under that structure. The functional services group is one, and the emergency services group another, which comprises all the hazard management agencies operating under the chairmanship of the WA police. I will explain how that body is constructed in a minute.

The lifeline services group is another subcommittee, which comprises essential service organisations such as Western Power, Alinta, Main Roads and the Water Corporation, as well as the recovery services group, the Department for Community Development, the Insurance Council, the Disability Services Commission and local government. The public information management agency comprises organisations involved in the provision and dissemination of information to the public; for example, the Australian Broadcasting Corporation, the Media Entertainment and Arts Alliance and the Government Media Office. It is currently chaired by the Bureau of Meteorology!

Two other committee structures operate under the chart. First, the district emergency management committees are established in each management district, and their membership includes a chairman appointed by the SEMC, the district emergency coordinator and other emergency management agencies determined by the state emergency management committee in the district. There are 14 country and six metropolitan district emergency management committees under the current system.

The local emergency management committee is the last structure, and these committees are established by respective local governments. Membership and the chairman are appointed by the local government in question and the local emergency coordinator. There are 126 LEMCs covering 138 local governments, 55 per cent of which are chaired by local government representatives. The local emergency management committees were mentioned in a number of comments by members in this debate.

The structure I have outlined involves quite a big organisation. I show members a chart indicating the current organisation. This chart outlines the structure that is designed to respond to events. The first chart outlines the structure for planning, and the second response structure chart indicates a tight and lean operation, which is

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exactly what is needed, and has probably been needed for a while, in such circumstances. Other jurisdictions around the world certainly need a lean structure to respond to incidents. Only one of the top two bodies of the State Disaster Council and the State Emergency Coordination Group will come into play in an emergency situation, depending upon the magnitude of the hazard or incident. This will be determined upon the recommendation of the State Emergency Coordinator, who, under this structure, will be the Commissioner of Police.

The State Disaster Council will be established when a state of emergency is declared. This council will provide for governance and timely decision making by the government at the time of a crisis. The Premier is the chair of this council, the minister responsible for the act will be deputy chairman, and the State Emergency Coordinator and other people and ministers will be appointed by the chair as necessary. The State Emergency Coordination Group will be established when an emergency incident is declared by the State Emergency Coordinator at the request of, or in consultation with, the relevant hazard management agency. The membership includes the State Emergency Coordinator as the chair; the chairman and executive officer of the State Emergency Management Committee; a representative of the relevant hazard management agency; a person representative of local governments in the area affected by the emergency; and such other members as are considered necessary by the SEC. Local government is represented at two levels; namely, at the top level in designing the actual structures, and at the local planning level. It is also involved in the response at a very high level by the State Emergency Coordination Group, and it may also be involved in actually responding to the incident.

The hazard management agencies will manage an emergency resulting from a hazard for which they are responsible. The combat agencies will assist the relevant HMA in responding to an emergency by performing an emergency management activity. Support organisations will offer support and response to, and recovery from, an emergency by providing support functions such as welfare or medical services, restoration of essential services etc.

With regard to hazard management agencies, Hon Robyn McSweeney gave the example of CALM. Depending on the location, CALM may be the hazard management agency that plays the lead role in coordinating the plan for a particular response. However, CALM may not actually be the combat agency that is involved in responding to that emergency. It will depend upon the nature of the incident. It may not be a bushfire. It may be a truck that has rolled over. Therefore, CALM may respond to part of the emergency, and other agencies may also respond, depending upon the nature of the incident.

Hon Robyn McSweeney also raised the issue of protecting property. That raises a couple of issues, as she recognised in her speech. Although we recognise that in some cases that may be the best way in which to respond, that would be decided by the local emergency management committee, depending upon the circumstances. Of course, local involvement is very important, because what is relevant at Mt Barker may not be relevant in Karratha. However, local people, or people domiciled in a certain area, are often unaware of the potential of a threat or the magnitude of an incident and may be required to move quickly. Again, I reiterate that in the end that will be decided by the local emergency management committees, and that will then be fed into the district responses. I imagine that when a risk assessment is done, in many cases different incidents will need completely different responses. To give an example from my own area of understanding in Karratha, the response to a major emergency at the LNG plant in the Burrup would be very different from the response to a major tidal surge caused by a cyclone.

Up north, the routes for road trains carrying liquefied natural gas must be planned at a local level. If that vehicle was a regular transport across a particular route, it may go through Karratha, Port Hedland, Broome and all the areas in between. Different responses would be required through those different jurisdictions, and that is a good example in which three jurisdictions could get together, and it would be appropriate to have an LEMC, or local emergency management committee - I hate acronyms, especially as there are so many in this bill - designed to come up with an appropriate coordinated response to that situation. It would do a risk analysis after identifying the hazard, and then design an appropriate response. It could be that, in a geographically large jurisdiction, there is a potential for a number of major incidents that require separate responses. The bill allows for more or fewer of these local emergency management and coordination teams to be established by local government. It might be appropriate for a number of jurisdictions to join together, because a hazard is spread through those jurisdictions, or because of the shared resources required. It may also be that specific responses are needed in different areas of that district.

Hon Robyn McSweeney talked about how essential local knowledge is, and a number of members have also talked about the local government involvement, and the concerns about cost impediments on local government, including mitigation expenses. I see this legislation as a great tool for local authorities and larger districts to clearly identify risks and hazards and plan for their mitigation. Because of the way the bill will require plans to be designed, there will be a consistency in how those risk assessments are done and in the processes for

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designing responses. One of the great things about this bill is that the risk assessments to be carried out in districts for certain hazards will identify resources required to mitigate those hazards and incidents. For instance, if a levy bank is required to prevent a town from being flooded out, the process will identify that. In the process of risk analysis, an area might be identified that is unsuitable for development, so the Department for Planning and Infrastructure may not build in that area and the Department of Industry and Resources may not allow a resource development to be constructed because of the risk involved, or they may place requirements on development that mitigate that risk.

The government does not believe that the Emergency Management Bill imposes any additional responsibilities upon local government, but rather that the bill formalises the roles and responsibilities that local governments have been encouraged to undertake prior to and since the establishment of the current Western Australian emergency management arrangements under the 1989 cabinet minute. The cabinet decision resulted from a review of emergency services that recognised that a high level of involvement of local government is pivotal in protecting the interests of every community in our state. Support for local government will continue to be provided by emergency management organisations, such as the Western Australia Police Service and the Fire and Emergency Services Authority, fulfilling those roles and responsibilities. Support will also come from a range of commonwealth and state programs, including funding through the natural disaster mitigation program and the All Western Australians Reducing Emergencies program. Training will continue to be provided at no cost by Emergency Management Australia, FESA and the emergency management services.

The government has also recently approved the funding necessary to employ seven dedicated community emergency management officers for six months to direct and support local governments in bushfire response planning. A request has been made for the funding of these officers' employment to continue beyond the six months, and that is currently under consideration. Clause 96, "Expenses", empowers the minister to approve the payment to a hazard management agency, combat agency or support organisation for expenses incurred in implementing emergency management during an emergency situation or a state of emergency, provided that such expenses are not otherwise payable out of moneys provided by the Parliament for that purpose. Expenses approved by the minister under this clause are to be charged to the consolidated fund. This is a great process for local authorities to identify equipment and mitigation measures at an early stage, which will certainly then be considered in regard to important projects that need to be funded by government through a variety of funding sources and programs. Hon Ken Baston also asked a number of those questions. I hope that I have answered those in the broader explanation. He was very concerned about expenses by local government.

Hon Giz Watson raised a number of issues, including identification nametags. The government believes that, although it is very important for officers with these powers to have identification and it intends to send that identification material as quickly as it can and as different plans are approved and come into operation, it would not be effective if it became too prescriptive. There are powers of delegation in the bill. Depending on the situation, persons who had a number of important roles within the response could fall victim to the incident. As a result, other persons would be delegated to take on those roles. Alternatively, an emergency worker might lose his identification when travelling on a boat or whatever while moving people along. We have seen the responses recently in New Orleans. I hope we never have to conduct a similar type of operation. The government believes that if the legislation were too prescriptive, it would unreasonably restrict the intention of the bill to enable an effective response to be carried out. However, the government understands what the member is saying; it is a matter of weighing up the most important issues.

Hon Giz Watson and other members raised the issue of penalties, particularly the penalty that attracts a \$50 000 fine. These are maximum penalties and are designed to be a deterrent. The court would decide on the actual penalty, under the guidelines of the Sentencing Act, having regard to the magnitude of the offence. Given the history of the courts, I cannot imagine that a person who failed to deliver on an instruction because of the mitigating circumstance of being in shock or whatever would wear a \$50 000 penalty. However, a major corporation or company that was particularly obstructive for whatever reason might be fined that amount.

Hon Giz Watson interjected.

Hon JON FORD: As I said, magistrates make those decisions. I am probably drawing a long bow, but it goes to what I said before. The government recognises what the Greens (WA) are saying, but it does not consider that to be a great risk. Historically, the judiciary takes into account the magnitude of an offence when imposing a fine. The penalty for contempt, for instance, carries a penalty of indefinite imprisonment but I have never heard of anybody being locked up for a long time on a charge of contempt. That is just one example I can think of.

What is wrong with the current system? This bill seeks to set up consistency in responses and risk assessments, and to identify resources. These powers can be enacted only on the recommendation of the state emergency coordinator to the minister. It is envisaged that these measures are designed to respond to a major emergency incident or a state of emergency. A small fire in the back block of Gidgegannup would not invoke these powers.

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However, if the whole of the hills were alight, I imagine it would. I hope that does not happen, because I live in the hills! It is a recommendation of the Community Development and Justice Standing Committee. This is, in part, a response to that committee's report.

Some of the good aspects of risk assessment that this legislation will deliver is consistent planning and development, identification of high-risk areas and emission footprints from fires, and allowance for appropriate responses. It will also allow for the identification of suitable mitigation, as required. That may involve levees in flood-prone areas or the need for heavy machinery. It will identify what resources are available in local areas. Such a process will identify where the shortfalls are in the equipment and personnel needed to respond to an emergency. Part of a risk assessment is to assess the probability of an incident occurring. We must ensure that there is consistent risk assessment from the highest levels of government to local government.

Hon Giz Watson mentioned gaps in legislative provisions for the evacuation of people in large numbers and identifying suitable evacuation centres and mustering areas. There was also discussion about the protection of people involved in emergency response operations. Hon Giz Watson also raised some concerns about the powers of people to demand people's identification. My understanding is that the powers are consistent with the powers that police officers currently have. The situation can be clarified when we go into committee.

Hon Helen Morton discussed a number of issues associated with the Fire and Emergency Services Authority of Western Australia Act. A review of that act is currently being undertaken by the Community Development and Justice Standing Committee. I imagine the issues will be dealt with by that committee.

Having said all that, I again thank members for their response. This bill will deliver consistent and effective responses to major emergencies. I thank members for their support and comments. I commend the bill to the house.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon George Cash) in the chair; Hon Jon Ford (Minister for Fisheries) in charge of the bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation -

Hon BRUCE DONALDSON: I will go back to what is for me a grey area. In the interpretation clause, "hazard" means -

- (a) a cyclone, earthquake, flood, storm, tsunami or other natural event;
- (b) a fire;
- (c) a road, rail or air crash;

It goes on. The two parts in which I am interested are -

"hazard" means -

...

- (b) a fire;
- (c) a road, rail or air crash;

Forget the rail or air crash, because I understand that in that case a big response is needed, rather than just a local response. However, in the case of a fire, are we talking about a major bushfire or just an ordinary fire? There are different types of fires. There are crop fires and pasture fires etc. The second part in which I am interested is a road crash. At present, the fire brigade is located in Perth and major regional centres. In other areas there are volunteer firefighting people. In the country and in Perth, the Fire and Emergency Services Authority crash response unit, or whatever it is called, is used at road crashes. The police are also involved with road crashes. However, what happens in the country where there are not only the police but also the State Emergency Service, which has the jaws of life and its trailers? I am trying to work out the level of this so-called hazard. Is there a pecking order in intensity or what? With a road crash, there are already many procedures to take care of the issues. Where do we go from here with that provision in the clause? When we get to clause 40 or clause 50 - I am not sure which clause it is - we will see that there must be a report, and a coordinator must be notified etc. However, we will get to that. I am still not sure - I think a lot of people in the community are not sure - where something starts and where something stops. Maybe the minister will be able to give us an idea. Under

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“emergency” it states “which is of such a nature or magnitude that requires a significant and coordinated response”. Is that the answer? I am interested to hear the minister’s comments.

Hon KIM CHANCE: Standing order 81 permits a member not to stand if he is experiencing difficulty. I seek leave of the house such that would excuse the minister from standing to answer questions.

The CHAIRMAN: There is no need to seek leave as long as the Chair agrees. Certainly the Chair will recognise the minister if he wishes to not rise because of his back ailment. Equally, the same can apply to Hon Robyn McSweeney.

Hon Robyn McSweeney: For a different reason.

The CHAIRMAN: I will say no more. The question is that clause 3 do stand as printed.

Hon JON FORD: Thank you for that indulgence, Mr Chairman.

In reply to the member, it relates to magnitude. As I said previously a small back-block fire that requires a local response would be responded to by the existing emergency services. That would form part of the plan; the people involved know there is a magnitude level. In regard to a road crash, a car roll-over would be responded to by the normal emergency services. A gas tanker rolling over in a highly populated area may be a different matter. In the end, it can be evoked only by a recommendation from the state emergency coordinator to the minister. It is designed specifically to respond to major emergencies, but I can see a benefit from this in the planning processes - the local emergency management advisory committees will identify more effective responses to some of the smaller incidents.

Clause put and passed.

Clause 4: Hazard management agencies may be prescribed -

Hon ROBYN McSWEENEY: Thank you, Mr Chairman, for your interest in equality - one Liberal, one Labor.

Clause 4(1) includes the words “prescribed by the regulations”. Whenever I see the word “regulations” I become nervous, especially when it involves this government. On behalf of the opposition, I handled that Environmental Protection Authority legislation when it was before this chamber. That legislation was draconian in certain clauses. If I thought that legislation was bad, then the regulations that came out sometime later were unrealistic for farmers who had to put the regulations into practice. As Hon Kim Chance knows, we took it to three drafts before it was gazetted. It still leaves a lot to be desired. There was a total lack of consultation and a huge lack of understanding by the parliamentary draftsmen.

Will the government consult before the drafting of emergency management regulations, and with whom will it consult? Local government would like to be involved in the framing of the regulations, and a whole raft of people need to be consulted. Will the government give a guarantee that they will be consulted, given that this is important legislation?

Hon JON FORD: The government does give a guarantee that people in local areas and local government will be involved in the process of consultation. When I referred previously to local emergency management advisory committees, I said that whenever regulations needed to be framed it was essential that local people be involved in framing them. They play an essential part in designing the response. On top of that, the bill requires that such plans be made public. Of course, there are also the annual reports of all those groups. The consultation process will be ongoing. Regulations will go through the normal processes of Parliament and it will have an opportunity to scrutinise those regulations.

Hon ROBYN McSWEENEY: Will there be much of a time lag between the bill being passed and the introduction of regulations? It seems to me that regulations are fairly important to bills such as this.

Hon JON FORD: When arrangements are already in place, I imagine that regulations will be introduced fairly quickly. We must remember that this bill establishes a response framework. Over a number of years, I imagine more and more regulations will be introduced into this chamber to deal with certain responses.

Hon ROBYN McSWEENEY: Will the Bush Fires Act stand until the regulations are released? Will addenda be made to the Bush Fires Act?

Hon JON FORD: This bill is designed to establish a coordinated approach. It will not affect acts such as the Bush Fires Act or the Fire and Emergency Services Authority of Western Australia Act, which is designed to create an agency. This bill is designed to establish a coordinated approach among the numerous agencies and local authorities.

Clause put and passed.

Clause 5: Delegation by hazard management agency -

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Hon ROBYN McSWEENEY: Clause 5(4) reads -

Nothing in this section limits the ability of a hazard management agency to act through an officer or person representing the agency.

Under the bill, is local government considered a combat and support organisation? As we have discussed, local management recovery is important after an emergency, because the community looks towards local government. This matter was a concern of local government.

Hon JON FORD: Yes. That is covered by clause 6(2), which reads -

A combat agency prescribed under subsection (1) is to be a public authority or other person who or which, because of the agency's functions under any written law or specialised knowledge, expertise and resources, is responsible for performing an emergency management activity prescribed by the regulations in relation to that agency.

It may be deemed that a local authority is the best authority to respond. As I said before, CALM might be the hazard management agency, but the combat or response agency could be a combination of agencies.

Hon ROBYN McSWEENEY: If an order from Perth states that CALM is the combat agency and it takes control of a fire situation, for example, will CALM take control of the bush fire brigade? Will a bush fire brigade have to report to CALM and then head office? How will the chain of command work in the bush?

Hon JON FORD: The HMA's major role is to design plans and identify appropriate responses. There is a difference with regard to the response. The member will recall that I talked about the structures of the organisation. The agency that is identified as the combat agency will be directed by the State Emergency Coordinator as per the plan. Of course, these plans are designed up front. The idea is to have all these plans up-front so that everybody knows what the response is to the particular hazard. It also allows the State Emergency Coordinator to delegate his or her authority, except the power to delegate, to any other person. Of course, I imagine that in response to a major emergency there would be a district emergency coordinator and those powers would be delegated to that local level as part of that response. It is designed to create effective responses, not a huge hierarchy. It is about streamlining.

Hon Robyn McSweeney: Would that be a quick, verbal response from the Commissioner of Police? When an emergency is declared, would the response have to come from the Commissioner of Police, or who would it come from, to say that the Department of Conservation and Land Management or local government is delegated in that chain of command?

Hon JON FORD: In the first instance the response to an incident would be a local response. How that incident would be responded to and managed is up-front and prescribed in the regulations. I imagine that if the local combat agency made an assessment that the incident was getting out of hand and needed more resources, it would go back to the State Emergency Coordinator who would then assist in coordinating more resources to assist that local response. It would therefore be a local response in the first instance. It is not designed to prevent that initial response; in fact, we want that initial, effective response. The idea is that in a response at a local level everybody understands up-front their roles in that response, and they just get on with the job.

Clause put and passed.

Clauses 6 to 8 put and passed.

Clause 9: Limitation on Act - industrial disputes and civil disturbances -

Hon ROBYN McSWEENEY: This clause states -

This Act does not authorise the taking of measures directed at -

(a) ending an industrial dispute; or

That is fairly clear. However, the next paragraph reads -

(b) controlling a riot or other civil disturbance.

Local government believes that this clause should incorporate the words -

If any activities described in this section are impeding or preventing the dealing with an emergency situation, the police have the power to break up or disperse those activities.

Is there any provision in this bill to do that? On my assessment, there is not. However, there could be a riot or a civil disturbance in an emergency situation, and it does not state in the bill that the police can break up a riot or civil disturbance in an emergency situation. That is local government's concern.

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Hon JON FORD: The scenario that the member is talking about would be covered under the Police Act. There is nothing in the bill that would impede the police from acting to control a riot or civil disturbance. The bill later deals with people who actively try to obstruct a response.

Hon Robyn McSweeney: I presumed that.

Clause put and passed.

Clause 10: State Emergency Coordinator -

Hon ROBYN McSWEENEY: If the Commissioner of Police is to hold the office of State Emergency Coordinator, I presume he will have delegated powers to bring in the local police chief in emergencies. No doubt the local police chief will be part of a Local Emergency Management Advisory Committee and will take over where necessary. Could there a conflict of interest arise between the Commissioner of Police and the minister? I think one of the clauses indicates that the minister will also have control of an emergency. Will the ranking be the Commissioner of Police and then the minister?

Hon JON FORD: There will be district chairs and district emergency coordinators. The State Emergency Coordinator will have powers to delegate responsibility to any person at any level.

The minister does not have a direct role. The powers will be invoked by the minister on the recommendation of the State Emergency Coordinator. The minister cannot invoke the legislation without that recommendation.

Clause put and passed.

Clauses 11 and 12 put and passed.

Clause 13: State Emergency Management Committee -

Hon ROBYN McSWEENEY: Subclause 2(d) refers to a person who is representative of local government, appointed by the minister. I presume that that person will be a fire chief or someone who has emergency management experience. How representative will that local government person be? Will it be the chief of the WA Local Government Association or a local person, or will it be delegated down? How representative will that person be?

Hon JON FORD: Under subclause 3(b) the minister is required to appoint a member who has expertise or experience that, in the minister's opinion, is relevant to the functions of the State Emergency Management Committee. The government has indicated that that person would be a local government employee or a person with relevant experience who is recommended by the local government.

Hon ROBYN McSWEENEY: Could any representative of local government anywhere in this state be appointed?

Hon JON FORD: Yes.

Hon ROBYN McSWEENEY: It would not necessarily be the head of WALGA, but someone who the minister thinks has expertise?

Hon JON FORD: Not necessarily. I imagine all local governments will have to have faith that that person has the expertise and experience.

Hon ROBYN McSWEENEY: Can an appointment be made at the time of a disaster or will that person be appointed a long time before any disaster occurs?

Hon JON FORD: No. This is a standing committee in regard to the State Emergency Management Committee. This is involved in coordinating the planning.

Clause put and passed.

Clauses 14 to 17 put and passed.

Clause 18: State emergency management plans -

Hon ROBYN McSWEENEY: Local governments have expressed concerns and they say it is evident that the involvement of the SEMC in developing strategic direction and roles and responsibilities, which could impact on local government, is another reason that requires the involvement of a local government representative as a member of the SEMCE. Has that been done?

Hon JON FORD: Yes.

Hon ROBYN McSWEENEY: That has been done. Local government brought that up. The government has done this?

Hon Jon Ford: Yes. It is contained in clause 13(2)(d), the previous clause we dealt with.

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Clause put and passed.

Progress reported and leave granted to sit again.