

Mr Rob Johnson; Mr Mark McGowan; Dr Janet Woollard; Mr John Kobelke; Speaker; Mr Paul Papalia; Ms Margaret Quirk; Mr Frank Alban; Mr Chris Tallentire; Ms Rita Saffioti; Ms Lisa Baker; Mr Bill Johnston; Mr Mick Murray; Mr Martin Whitely

BUSH FIRES AMENDMENT BILL 2009

Declaration as Urgent — Motion

MR R.F. JOHNSON (Hillarys — Leader of the House) [2.53 pm] — without notice: I move —

That the Bush Fires Amendment Bill 2009 be considered an urgent bill.

MR M. McGOWAN (Rockingham) [2.53 pm]: I intend to speak to this matter of whether the Bush Fires Amendment Bill 2009 is an urgent bill. I indicate that the opposition is supportive of the bushfires legislation, and I am sure that the member for Girrawheen will make a significant contribution to the debate on the bushfires legislation shortly to advise the house of our position on it.

The declaring of a bill as urgent is an exceptional matter. It is not something that happens in the ordinary course of events in the Parliament. It is designed to take place when something is urgent. What we need from the Leader of the House is an explanation of why it is urgent and why it is put forward today. Notwithstanding that, I indicate that we are supportive of the legislation. However, we need a firm and full indication from the Leader of the House of why this legislation is urgent and why it needs to be dealt with in the manner that it is being dealt with.

I indicated to the house yesterday that I received notice of this legislation being declared urgent at 2.05 pm last Friday when I received a call from Mr Peter Kennon, who works in the Department of the Premier and Cabinet. He informed me that this legislation would be declared urgent and brought on this week. I also indicated that the last cabinet meeting was a week ago Monday, which would have been the last opportunity this legislation would have had to have been brought on in Parliament. If it had to be approved by the party room, which it does, the last party room meeting would have been last Tuesday morning, yet I received advice at 2.05 pm last Friday that this matter was to be declared urgent; newer members might wonder why that is important. I also received a letter on Friday of last week detailing government legislation for this week, and this legislation was not listed. In order to have an orderly running of the Parliament, and to allow members the opportunity to properly prepare for legislation by consulting interest groups and people in the broader community who might be interested in the legislation—of which there are many when it comes to fire legislation, ranging from those involved with the extinguishment of fire, to community groups, to people who live in rural locations—we need a little time to consider the legislation. That is a given.

The member for Girrawheen, as I understand it, had an initial briefing on the matter and was not even given a copy of the legislation.

Ms M.M. Quirk: I was given a copy, but I was not allowed to retain it.

Mr M. McGOWAN: That is right; she was given a copy to look at, but had to hand it back. As the spokesperson for the opposition on this legislation, she has to consult with people, and one would think she would have been given time to do that. As I indicated to the house, that opportunity could have been given on Monday of last week, or if it went through the party room after the cabinet meeting, not an earlier cabinet meeting, it could have been given on Tuesday of last week. We could have had, in effect, a week and a half of preparatory time in which to consult and meet with the relevant groups and talk to people. I would have thought that would have been an absolute minimum length of time that should be given to members of this house who have to deal with laws that will have a substantial impact on the community, as this legislation will, when new legislation is brought in. We should have at least been given that absolute minimum of notice to consult with members of the broader community. But, true to form, the management of this Parliament is such that the traditions and conventions that give a party—the biggest in this Parliament—the opportunity to consult all involved, including our colleagues, were not adhered to.

I have no doubt that bushfire legislation is important; as I understand it, the member for Girrawheen suggested these amendments earlier this year. But for God's sake, the government should give us the opportunity to examine it properly and should not manage the issue in the way that it has. My point is that the least that could have been done was to have given us some appropriate notice. I could cite a whole range of examples of this Parliament being managed in a way that is nothing short of a sham and a shambles, and this is another.

DR J.M. WOOLLARD (Alfred Cove) [2.58 pm]: The Education and Health Standing Committee held hearings in Albany on Friday and in Kalgoorlie on Monday. Although I appreciate that the Leader of the House sent the information to the office on Friday, I have not had an opportunity to look at it. The minister said that his adviser would be available this week, but, again, it is almost rubber-stamping legislation. I think I will support the Bush Fires Amendment Bill 2009, but I spoke against this practice once before, and I really think that the Leader of the House should explain why it is urgent.

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Mr R.F. Johnson: I think you would be on your own on one side of the house if you didn't, because even the Labor Party supports it.

Dr J.M. WOOLLARD: Even so, I should have had an opportunity to consider the legislation. I am not sure why it has been declared an urgent bill, and I think the Leader of the House should have explained to the house why he is declaring it urgent. If that were to happen, I think the Leader of the House would get full support for it. But just putting it on the table and telling us that it is an urgent bill, without explaining why, is not good enough. Next time, an explanation should be given.

Point of Order

Mr J.C. KOBELKE: I raise a point of order because we are dealing with a matter under standing order 168(2), under which debate on a motion should not exceed 20 minutes, and no member may speak on it for more than five minutes. I would seek the Speaker's ruling or advice about whether that standing order allows the minister to have a right of reply within that time limit.

The SPEAKER: I have had a look at standing orders. There is nothing in standing order 168(2) that I would interpret as precluding the minister from having the right of reply.

Debate Resumed

MR J.C. KOBELKE (Balcatta) [3.00 pm]: I want to speak on the motion to declare the Bush Fires Amendment Bill 2009 urgent. I place on the record first up that the opposition will support this bill and will not delay it. The problem is that the minister has not explained, as the member for Alfred Cove asked, why this bill is urgent. I can understand that the government would want it in place before the bushfire season. Normally that does not occur before November, and we are currently in September. The government certainly has quite a few weeks of Parliament and it will receive cooperation, because it has been indicated to me by the member for Girrawheen, who is the opposition spokesperson, that this bill will go through and there will be no delay. The problem with declaring this an urgent bill when it was only introduced this week is that the opposition does not have the opportunity to consult about what other people think of this bill.

The minister in his second reading speech, which I listened to, alluded to the fact that a number of matters in this legislation arose out of a committee of the Parliament several years ago. I was the Minister for Fire and Emergency Services when consideration was given to the committee recommendations. I acknowledge that the response was too slow. The main reason for that was that the Fire and Emergency Services Authority went out and consulted widely, right across the state. I chided the authority a little because I thought it took too long on further consultation, and that delayed part of the process. The difficulty is that this bill reflects only parts of the recommendations of that committee. The fact that it has been declared urgent means that we do not have the opportunity to discover which parts were included and which were not. Should we be suggesting further amendments? What are the issues there? There may be different points of view about the way in which the government has crafted the response to some of those recommendations. Even one week, or four or five days, would be an opportunity to double-check that all the consultation that took place a year or two ago is being fed into the provisions contained in this amending bill.

As I have already indicated, the opposition understands that the minister wants this legislation in place before the beginning of the fire season. Unless there is a problem that much extra work needs to be done after the legislation's passage through Parliament to have it implemented, I cannot see why this bill could not wait until next week. We are sitting next week, and it could be passed on next Tuesday or Wednesday and transmitted to the Legislative Council next week. However, declaring this bill urgent when it was only read in yesterday makes it absolutely impossible for people on this side of the house or the member for Alfred Cove to talk to any of the stakeholders. As I have indicated, I have confidence that the consultation carried out across the community on the broad range of provisions has been very extensive, so I am not questioning that at all. However, we have not had the opportunity to look in detail at the exact provisions contained in the bill. I have read the provisions carefully, but I have not had a chance to go and talk to people with whom I might want to consult, particularly as this legislation mainly applies to people outside of the metropolitan area. There is therefore a difficulty with catching those people and asking them to have a quick look at the bill to determine whether it delivers exactly what they expected of it, or whether it needs some very minor amendments.

On my reading, I do not have a problem with the bill at all, but the whole point of standing order 168 is to allow both the opposition to have time to familiarise itself and the wider community to be consulted before legislation passes through this chamber. The minister is simply saying that this bill is urgent without any explanation and precluding that opportunity. I understand that the minister gave prior notice to the member for Girrawheen. There were limitations to that, because she could not take a copy of the bill with her. The opposition was advised

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on Friday that the bill would very likely be coming forward this week. We had it emailed to us, so I was able to read it, and we were able to put it through our party room in quick smart time. We are supporting the bill, and we have bent over backwards to make sure that we could familiarise ourselves with it and make a decision to support the bill. It has been indicated by the member for Girrawheen that we intend to support this bill. However, the minister has given no explanation about why we should be cutting the time so short that we have no opportunity to speak to the wider community and the key interest groups, including the thousands of volunteer firefighters, and people employed in local government who have a role to play. We would like to know that they also are fully supportive and cannot make any improvements to what we think is an important bill. We can still have the bill passed in time for the fire season.

MR P. PAPALIA (Warnbro) [3.05 pm]: I say at the outset that of course the opposition will support the amendment to the Bush Fires Act, and I would like to mirror the statements made by the leader of opposition business, the member for Alfred Cove and the member for Balcatta in their criticisms of the manner in which this piece of business has been brought before the house.

It is clear that the opposition spokesperson for fire and emergency services suggested I believe some months ago that this sort of amendment should be —

Ms M.M. Quirk: It was February.

Mr P. PAPALIA: In February the opposition spokesperson made the suggestion to the minister at that time that this action should be taken. I do not know whether she was responded to at that time; I think she might have been dismissed out of hand. As usual, the leader of government business would have suggested that he had things under control. However, members in this Parliament in Western Australia now find themselves in a situation whereby the upper house is not even sitting today because the government cannot bring legislation into the upper house to be considered. The entire upper house of the state of Western Australia has taken a day off because of the incompetence of the government. So packed is the government's legislative agenda and it is so backed up with urgent bits of business, that the government told everyone in the upper house to go home for the day. It has been reflected upon on a number of occasions in this place that perhaps not that much goes on in the upper house at the best of times, but when the members of the upper house are not in the chamber there is definitely nothing going on! The responsibility for that lies with the government. I want to put on the record in this place today the question: is the reason for this bill suddenly becoming so urgent—that it must tell the opposition about it at five minutes past two on Friday afternoon last week and not give the bill to the relevant spokesperson until Monday, three days ago, thereby limiting the capacity of both the relevant spokesperson and other members of Parliament to consult with interest groups and their own constituencies around the state—that the lower house does not have an agenda either? Is it because the government does not have any legislation to bring into this place? This is a desperate and barely concealed attempt to try to cover the fact that this government has no agenda, no plan and no vision and it has no idea about how to run business in the Parliament of Western Australia. The government has demonstrated an incapacity to consult. It operates in a confrontational fashion at every opportunity with any number of interest groups around the state be it fisheries, local government or any number of others that we could list, but when it comes to actually passing legislation, the government has no idea.

The government has no reason to now bring on this bit of legislation that I can think of other than to cover its own incompetence and its own inability to have something prepared to introduce. The government has no agenda, it is an embarrassment and it should explain itself.

MR R.F. JOHNSON (Hillarys — Leader of the House) [3.09 pm] — in reply: I think I have been left with something like five minutes to reply to some of the comments that have been made so far.

I will start with the member for Alfred Cove. I am informed that the member was offered a briefing but she knocked it back because a smoking thing came up. That is what I have been informed. The member was offered a briefing —

Dr J.M. Woollard: Minister, when was I informed about the bill? It was on Friday.

Mr R.F. JOHNSON: I want to address some of the comments of the leader of opposition business. The bill had to go before our party room, in the same way as it has to go before Labor's party room. That is the same in our different party systems.

Mr M. McGowan: Did it go through last Tuesday?

Mr R.F. JOHNSON: Yes, and I assumed it would be passed.

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I wanted to offer the member for Girrawheen, as the opposition's lead spokesperson on this bill, a briefing at the earliest opportunity. However, I could not agree to the opposition having the bill at that stage because it had not gone through the normal processes that we have in our party and that members opposite have in their party. The member for Balcatta would understand that; he has been around a long time. I respect the member for Balcatta enormously because of his parliamentary intellect and integrity. Unfortunately, I cannot say the same thing about other members. I cannot say it about the member for Rockingham! The member is just trying to make a name for himself. He has caused a disruption to the Parliament of Western Australia—not just to this house, but the other house. I will come to that on another day.

As for the member for Warnbro, I have never heard such nonsense and irrelevant trash in all my life.

Mr J.C. Kobelke: We have limited time. The Minister for Emergency Services has five minutes; could he use his time to explain to the house?

Mr R.F. JOHNSON: I will, certainly, member for Balcatta. I had to respond to the insulting comments that certain members made to me. I have the right to do that. I still have three minutes left.

This bill is urgent. As I explained in the second reading debate, the bushfire season is fast looming and a lot of organisational things have to be put in place. The member for Balcatta would know that because he has been a minister for emergency services.

Mr J.C. Kobelke: The minister is fluffing it! Tell us what they are or indicate you do not know.

Mr R.F. JOHNSON: The member for Balcatta—my friend—knows that the bill has to go through this house before it goes to the upper house. I cannot control what happens in the upper house. Members opposite know as well as I do that members in the other place are a law unto themselves. What they do up there and their order of business —

Several members interjected.

Mr R.F. JOHNSON: For goodness sake!

Mr W.J. Johnston: Tell us then; don't you know?

Mr R.F. JOHNSON: I will respond only to the member for Balcatta because he is the most sensible person over there. This is an urgent bill. I have declared it an urgent bill and members opposite know as well as I do what steps have to be taken before the implications of this bill come into effect—that is, all the organisational things that have to be done.

Mr J.C. Kobelke: I do not, as they are different for every bill. Tell us what they are for this bill.

Mr R.F. JOHNSON: I do not want to go through the bill because it would be wasting your time and mine. The member for Balcatta knows what the bill is; he has had a look at it. The member knows the basis of the bill: in a serious situation when a fire is out of control and lives and property are at risk, one organisation will assume control. That is essential. That is something we have learned from the tragic events that happened in Victoria. I do not want—the member for Balcatta does not want, I know that for a fact—those same tragic events to happen here in WA as well. That is why I have made considerable efforts to try to get this bill dealt with as quickly as possible. By the time the bill leaves this place and goes to the other place, it will sit on its table for a week. The other place does not have the same system as this house in declaring a bill as urgent. It has certain protocols it must go through, so I am limited in what I can do in that place.

I gave a copy of the bill to the member for Girrawheen on Monday, as soon as I was able to, so that she could take it to her party room. A briefing has been on offer all week. All members opposite, and anybody else who wants a briefing, have only to ask, "Can we have a briefing, please?" We would give members a briefing in a heartbeat. This is a serious bill—a very serious bill—and it is essential that it pass through this house as a matter of urgency. I urge members to support the motion.

Question put and passed.

Second Reading

Resumed from 16 September.

MS M.M. QUIRK (Girrawheen) [3.15 pm]: The opposition did not vote against the Bush Fires Amendment Bill 2009 being declared an urgent bill, but I do want to talk a bit about timing. Since the minister seems to have had a hard day, I should start by congratulating him on eventually adopting the ideas that I raised in a press release of 9 February this year in which I suggested three out of the four amendments that the minister is now

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introducing as urgent. I congratulate the minister on his good sense in seeing the wisdom of bringing in those amendments.

Mr R.F. Johnson: I obviously listened to you.

Ms M.M. QUIRK: The minister obviously did. I might just refer to the press release because I think it is germane to some of the issues that the minister raised when saying why the bill should be treated as urgent. That press release stated —

Western Australian firefighters must be given the tools to impose total fire bans and prosecute arsonists who set fire to Crown Land, Shadow Emergency Services Minister Margaret Quirk said today.

...

Ms Quirk said several amendments to the Bushfire Act were needed as a matter of urgency.

I said this in February. It continues —

“Currently FESA are not able to declare a total fire ban period in extreme weather conditions unless the Emergency Services Minister calls a Bush Fire Emergency Period,” Ms Quirk said.

“A total fire ban would mean no fire could be lit, or no activity likely to set a fire to the bush may be undertaken, within a declared area for a specific time. This could then apply to local government areas.

Ms Quirk said a second amendment would close the loop hole to ensure arsonists could be prosecuted if they lit a fire on Crown Land.

“The State Government disagrees that legislative amendment is required but this matter must be clarified,” ...

When I referred to state government, I am sure that the minister did not raise this issue, but when I spoke on the radio about it, the Attorney General once again expressed his legal opinion that the legal amendment was not necessary. I am very pleased that the minister’s view prevailed. The press release continued —

... two reports released over the past five years highlighted how divided government responsibility and inefficient co-ordination weakened the capacity for Western Australia to manage major bushfires effectively.

“With predictions that large scale bushfires will become more prevalent in years to come, it is vital that WA is able to effectively handle large scale bushfire incidents, ...

Some might think I am labouring it, but I just make the point that we need to be constantly vigilant, alert and timely when responding to these kinds of issues. I believe the minister has been extremely derelict in his duty.

Mr R.F. Johnson: You lot did nothing in two years.

Ms M.M. QUIRK: I will get onto that in a minute. I do not agree with that.

Mr R.F. Johnson: A report was handed down in 2006. You did nothing before the election in 2008.

Ms M.M. QUIRK: In August of this year, I wrote and reminded the minister of some recent media reports about police having powers to remove persons who needed to evacuate when there was danger of a bushfire. We will discuss that a bit later. It is not the crux of this legislation. I wrote to the minister in that context and asked that if these amendments were coming in, perhaps he could see his way clear to put in the amendments that we had first raised in February. That was two or three weeks ago. I got no response to that letter until I found out that this bill was to be declared an urgent bill and I was given a briefing last week.

Mr R.F. Johnson: When did you send the letter?

Ms M.M. QUIRK: It was 26 August.

Mr R.F. Johnson: Have you not received a response?

Ms M.M. QUIRK: No. As I understand it, the bushfire season starts in late October-early November.

Mr R.F. Johnson: It is 1 December.

Ms M.M. QUIRK: So the bushfire season starts on the first day of summer. That seems really late to me.

Mr R.F. Johnson: It was the same last year under your government.

Ms M.M. QUIRK: I am not criticising that. The minister is saying that it is the same this year as it was last year, so he could have anticipated that. The minister could have anticipated the pressing need for these amendments

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and commenced his work to make sure that they were passed. As I said, we will be supporting this legislation. We do not want to unduly delay it. The point needs to be made repeatedly that we do not believe that the minister is prosecuting his case as diligently as he needs to.

As for the minister saying in his explanation a minute ago that the catalyst for all of these amendments was the Victorian bushfires, that was extremely disingenuous. As the minister said, in 2006 the Community Development and Justice Standing Committee handed down a very comprehensive report on this matter. The report was 271 pages long and contained 88 recommendations. The issue has been around for some time. The minister said that the former government was dilatory in bringing in the recommendations of that standing committee. In fact one of the central recommendations was recommendation 2 —

One comprehensive emergency services Act is to be developed.

It is my understanding that that process is ongoing. That is the reason there has been some delay in responding to the report. Because of the delay in developing the comprehensive emergency services legislation, and because another summer and another fire season is coming, the sentiment has been, “Maybe in the meantime we need to pass these urgent amendments, which will streamline inefficiencies in management.” I think that is actually the true picture. That is a more honest picture of what has happened, and the timing.

As I said, this bill is really about machinery amendments. They are to enable the more seamless management of bushfires. By way of preliminary comment, following the Victorian bushfires the Premier announced a WA bushfire readiness review. We are still waiting for that. When I raised the issue in a grievance directed to the Premier a couple of weeks ago, he did not present himself for the grievance. I am none the wiser. I have been forced to seek that information by way of a freedom of information request. I will no doubt be vilified in this chamber by the Premier for making needless requests for what is, I think, pretty basic information. I again make the point that the minister thinks this bill is urgent and that we need it by bushfire season. I suggest that the minister might also like to tell the Premier that, for the same reason, we need to see the bushfire readiness report in plenty of time so that the implementation measures that are recommended in that review can similarly be implemented before the bushfire season.

Interestingly, just by aside, I had hoped that the freedom of information request to get this information that I sought of the Premier might initiate a response. However, I was asked to narrow the scope of my request. I was told that my initial request covered over 600 pages of information. The response I got was interesting, because I was asked to narrow the scope of the request, and the correspondence also said that all emails would be excluded. I am still quite unsure of the legal basis for that occurring.

I will talk now about the bill. As we have already heard in the minister’s second reading speech, there are effectively four elements to the legislation: there is a total fire ban; there is a control of major fires and who will manage those major fires; there is a definition of “property” and the implications of the Spooner decision; and there is the fire danger rating system. To be fair, and to qualify my previous comments, I think that particular issue has come about as a result of commonwealth and state discussions subsequent to the Victorian bushfires. We do not regard any of these issues as contentious. With regard to the definition of “property”—which is to clarify an issue that arose in the Spooner decision—the member for Gosnells will be moving an amendment to deal with that matter. I do not know whether the member for Gosnells has given the minister notice of that amendment. I do not think that will cause major difficulty in any event.

I turn now to the provisions of the bill that deal with a total fire ban. Western Australia is currently the only state in Australia in which the fire agency has no legislative authority to declare a total fire ban. Section 21 of the Bush Fires Act 1954 provides that a bushfire emergency period can be declared in extreme weather conditions. However this has major implications for industries that undertake what is known as “hot work”, such as welding or grinding. That is because they require permits if they want to continue those activities during the course of a bushfire emergency period. The amendments that will be made in this bill will enable those industries to apply for an exemption to a total fire ban in advance of that declaration. That will mean that their activities will not be disrupted unduly so long as they comply with the terms of the exemption. I understand that it is proposed that local governments will be consulted about the granting of any exemptions in their area, and regulations will be developed to ensure that these long-term exemptions are reviewed and any conditions imposed are regarded as adequate. I think the term “total fire ban” is better understood by the community than “bushfire emergency”. This change in wording will assist in communicating with people in affected areas about what their responsibilities are during a total fire ban. I am told that a total fire ban will be declared only when weather conditions make such a ban imperative, or when the impact of a fire in the state has stretched resources to such an extent that without high-level coordination, a further outbreak of fire could not be managed properly. I understand that that

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will sit over the current restrictions and will not remove the ability of local governments to impose harvest bans and manage restricted and prohibited burning periods.

That is all fairly straightforward. As I have said, we have no major objections to the bill. As I have foreshadowed, the member for Gosnells will be proposing a minor amendment to the definition of “property”. This issue arose out of the Spooner case. That case involved a person who had committed a series of arson attacks on national park or crown land. When the case went before a magistrate, a very creative and diligent defence lawyer said that because crown land is not covered by the normal definition of “property”, no finding of guilt could be made for the offence of committing arson on crown land. As it turned out, Mr Spooner had committed some other instances of arson on a different type of land, so he was nonetheless convicted of arson. Although the matter did go on appeal, it went on appeal just on sentence, so we have no superior court determination of whether the ruling that had been made by the initial magistrate was correct. In fact, as I said earlier, the Attorney General opined on radio in about February this year, when I put out my press release, that he did not think this amendment was necessary. I do not know if members can see a theme coming through here. I certainly can. In any event, I take the view that it is better to be cautious. It would be highly undesirable if someone who committed arson in a national park could get off on a technicality such as that. Therefore, if the amendment that has been proposed by the member for Gosnells will clarify that position, as I am satisfied it will, we will support it wholeheartedly.

The next issue that I want to talk about briefly is the new fire danger ratings. As I understand it, these new fire danger ratings will be used throughout Australia, so they will have a common usage and people will readily understand what they mean. Two new terms of “severe” and “catastrophic” will be added to the list of fire danger ratings.

For the benefit of those members who are not familiar with the different ratings, I will run through them. A “catastrophic” fire is defined as a fire that is unpredictable, uncontrollable and fast moving, from which even homes built to the highest standards cannot be safely defended. An “extreme” fire is one that is unpredictable and fast moving, and only well prepared, well constructed and actively defended houses are likely to provide suitable shelter. A “severe” fire is one that is uncontrollable and fast moving; well prepared and actively defended homes may provide suitable shelter. “Very high” means that fires will be difficult to control; well prepared and actively defended homes are likely to provide shelter. “High” means fires that can be controlled; well prepared and actively defended homes may provide shelter. At the bottom of the scale, “low to moderate” means that fires can be easily controlled.

This is extremely non-contentious, and it is desirable in this situation—especially now when there is a bit of movement between states during severe incidents—that we all employ common usage and communicate in the same language. Generally it is a very good thing for people to know exactly what they are dealing with. I suspect that a communication strategy will convey the meaning of these new terms to the general public once these amendments have been passed. We certainly think that that is a good idea.

I now refer to the suggested amendment that is perhaps the most contentious, but it is an amendment that I am very glad to see. It relates to the capacity for the Fire and Emergency Services Authority to take control during major fire incidents. I asked some questions during the briefing about how many incidents a year were anticipated to fall under that category. I was told that there are about 6 600 fires a year, most of which are managed through day-to-day arrangements, but that depending on the severity of each fire season, there could be up to six major fires a year. That is obviously a speculative account, but it is the sort of quantum we are looking at. Only one per cent of the fires that are dealt with each year would fall under the category of “major incident” and would require intervention. This is probably the most live issue we have to deal with in Western Australia. It was identified in the Auditor General’s report and the report by the Community Development and Justice Standing Committee. I must say that the CDJ report is excellent, and I commend it to all members. The State Emergency Management Committee also raised the issue of management and control in the report it released this year. This is a very live issue.

One of the ways in which inter-agency responses are managed is through the State Bushfire Emergency Management Plan or WESTPLAN — BUSHFIRE. I have the current one, which I understand is being revised. It is 40 pages long and a number of agencies are involved in its preparation. For the edification of the house, I will read the introduction, because I think it is important to understand how the various agencies link up with one another when responding to bushfires.

The introduction states —

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Bushfire is an unmanaged, unauthorised and uncontained fire burning in bushlands, grasslands or rangelands. This plan enables the management of bushfire by allowing the application of resources in a cooperative manner to maximize the suppression effort and ensure the effective and efficient protection of life, property and the environment.

The most effective way of achieving this is through Multi-Agency Incident Management. As organisations with an involvement in the management of bushfire, the Fire and Emergency Services Authority of Western Australia (FESA), Local Governments and the Department of Conservation and Land Management (CALM) —

Which, of course, is now the Department of Environment and Conservation —

are committed to Multi-Agency Incident Management as outlined in the SEMC Policy Statement No. 7 – WA Emergency Management Arrangements.

What I wanted to raise in that introduction was the demarcation of who is responsible for which fires. Westplan continues —

The WESTPLAN — BUSHFIRE does not apply to:

- structural fires within Gazetted Fire Districts.
- fires within ports and on ships located in areas under the jurisdiction of designated port authorities.
- land, aerodromes and structures in areas that are under the jurisdiction of Air Services Australia, or Australian Defence Forces ...

Responsibility for fire protection and fire suppression in Western Australia ... is as follows:

- FESA is responsible for the risk management of all fires within Gazetted Fire Districts throughout the State.
- Local Governments are responsible for the establishment and management of Bush Fire Brigades and the holistic risk management relating to all fires for areas outside the Gazetted Fire District, with the exception of CALM managed lands. Bush Fire brigades will also respond to fires burning on Unallocated Crown Land (UCL) outside of Gazetted Fire Districts.
- CALM —

That is now DEC —

is responsible for risk management on CALM-managed lands, including State forests, Timber Reserves, National Parks, Conservation Parks, Nature Reserves, Unallocated Crown Lands and Unmanaged Reserves, except where they exist within Gazetted Fire Districts, townsites and the Metropolitan area. CALM is not responsible for fire suppression on Unallocated Crown Land and Unmanaged Reserves.

I am sorry to have read all that, but it is very important to illustrate that there is a very complex demarcation of roles. However, fires do not read Westplan and do not stick to boundaries. There will be occasions when fires cross boundaries and there will be some blurring of the lines. These provisions are not to do with these demarked areas, but more to do with a fire that is so large, so complex and so threatening that effectively there needs to be management outside these normally allocated responsibilities.

One lesson we have definitely learnt from the Victorian Bushfires Royal Commission is that there needs to be better communication and better coordination between agencies in multi-agency incidents such as the Victorian bushfires and one that occurred in Boorabbin that I will talk about shortly. This amendment to the legislation will allow that to happen by leaving the experts at FESA to take the running.

Mr R.F. Johnson: Assume control.

Ms M.M. QUIRK: Yes, assume control, as the minister points out.

I want to briefly talk about a fire that occurred in the eastern goldfields in Boorabbin National Park in December 2007. That fire was managed by the Department of Environment and Conservation. I understand that a coronial inquest into that fire will be held next month.

I was going to ask the minister a question but he has just left the chamber.

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I predict that this issue will be squarely raised in that coronial inquest and will be subject to the coroner's findings. Although I have not had access to much information on that fire, even from my peripheral and superficial examination it is clear that the control and management of that fire could have been done better. The fire ultimately led to the loss of three lives because—I do not want to pre-empt the coroner—it is alleged that a road was opened too early; unfortunately, three men lost their lives.

I am disappointed that the Premier's bushfire review has not yet been tabled in this house, which would have informed us as to the issues of which we should be mindful when looking at this legislation. Were we to have the Premier's bushfire review, we might be able to inform ourselves a bit better as to whether this legislation should cover any other areas as well. In the context of taking control and the management of major incidents, as a consequence of the Boorabbin fire, consultants—GHD—prepared a report, which included 55 recommendations. It was a debrief and a report on the chronology of the fire and the events that followed it. Obviously, it raised issues concerning the management of that particular fire. I understand that a number of the recommendations relate to how FESA operates within this multi-agency environment and how it can do things better or differently.

I will put a question to the minister and maybe he can respond by way of interjection or certainly in his reply to the second reading debate. Is the minister satisfied that the criticisms made of FESA have been addressed in the context of these amendments or whether, having read those recommendations, there needs to be any additional provisions to ensure, as I said, seamless management where we have these multi-agency incidents?

Mr R.F. Johnson: Are you talking about the Boorabbin fire?

Ms M.M. QUIRK: Yes, and the GHD consultants report that was commissioned by government.

Mr R.F. Johnson: I do not believe that I have seen that report, because it is not appropriate for me to see it. I think I am right in saying that it was a Department of Environment and Conservation —

Ms M.M. QUIRK: It was commissioned by the Department of Environment and Conservation, but I understand it includes a number of recommendations pertaining to how FESA conducts its affairs. To the extent that that impacts on the minister's agency, I was wondering whether he had informed himself of those recommendations.

Mr R.F. Johnson: I have had some of the contents of that report put to me. I am sure that I have not seen it. I said previously that it is probably not appropriate for me to see it at this stage because that report will play a major part in the coronial inquiry that the member knows will be held next month. It is not appropriate for me to comment on that report. I know where the member is coming from and she and I probably have the same view.

Ms M.M. QUIRK: The minister has been worded up very well, and I will not press that. Again, it goes to the issue of timeliness. I understand that the coronial inquest will run for two or three weeks. The Director General of the Department of Environment and Conservation has already told me in the course of estimates in this place that they are not waiting for the outcome of that inquest. They are using that report as a learning tool to see how it can improve its practices. I am concerned that if the minister is not looking at it until after the coroner's report is brought down, which will be sometime after October and which will be perilously close to fire season, what will be the situation if it includes recommendations that he needs to comply with prior to the commencement of the fire season?

Mr R.F. Johnson: The final report may not come down for months after the coroner does his inquiry, as the member is aware.

Ms M.M. QUIRK: I understand that the GHD report is already available in the minister's agency.

Mr R.F. Johnson: FESA has been given a copy of that. Obviously, because it will be an important part of the coronial inquiry, I cannot publish it. I believe a lot of interesting information will come out of that. At the end of the day, the reason that we need to get this bill through as quickly as possible is that so many things have to be put in place before the final outcome of the coronial inquiry is made public.

Ms M.M. QUIRK: That is the very thing I am saying. What measures is the minister taking to act on those recommendations or findings in relation to how FESA conducts its affairs? In other words, the minister should not be waiting for the ink to dry on the coroner's report; he should be acting on any recommendations now.

Mr R.F. Johnson: I do not put legislation together; FESA's legal people do that. I think you will find that they obviously now have a copy of that report and I am sure they would have taken into account any recommendations of any important information that has come out of that report. I feel very confident that FESA has looked at the report and the overall situation of the tragedy, because they were around that day. The other reason that I did not bring it in earlier, when I probably could have, was because, at the end of the day, it was

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important to see the interim outcome report from the royal commission. It would be stupid of me to bring in half-cooked legislation. It was a very important —

Ms M.M. QUIRK: If the minister had told my colleagues that a bit earlier, he probably could have saved himself some time. I am conscious that the minister wants to get the bill through. The other thing I want to say about this multi-agency management of major incidents is that I think it is pretty evident to anyone who has even a cursory examination of this area that there are some real cultural issues. Although people report to me that on the ground the Department of Environment and Conservation, volunteers, career firefighters and Fire and Emergency Services Authority personnel work pretty well together, perhaps at some other levels there are some cultural impediments to working as cooperatively as they might.

Mr R.F. Johnson: You might say that but I could not possibly comment!

Ms M.M. QUIRK: No; he could not possibly comment on that. That is right. I am saying that we need to be mindful when we bring in this legislation that it will not solve all the difficulties. A concerted effort needs to be made to removing the cultural impediments to closer cooperation. Nowhere is there a better example of the dangers than in Victoria if we do not get that right, where there are clearly some cultural issues between the Country Fire Authority and other authorities involved in fighting fires.

Something that was put a lot more succinctly than I have just done is in the executive summary of the third report of the Community Development and Justice Standing Committee on this matter, where it states —

The Committee accepts that several major inquiries have indicated a need for one agency to assume control in a multi-agency incident given the inherent risks posed by the authority for bushfires being dispersed across multiple agencies when bushfires demand a coordinated response or when fires cross organisational boundaries.

That is a sentiment with which I concur 100 per cent. That report also quotes from a submission to the committee, which I think would capture the imagination of the public, from a gentleman by the name of Robert Fenn from the City of Albany, who said the following —

Whether it be a red truck, a white truck or a blue truck that arrives to put the fire out is irrelevant. Let us put the fire out, but, more importantly, let us have an appropriate management regime in place so that we can manage the hazard and the fire...

That sums up what the government is trying to do with that provision.

Finally, I want to talk a little bit about evacuation because there has been a lot of, I think, incorrect press in recent weeks about what is the import of this particular bill. As I understand it, it will not confer on police officers any powers they do not already have. As I understand it, minister, they were previously conferred under the Emergency Management Act and they will be confirmed as an authorised officer by whoever is managing the fire. Is that correct?

Mr R.F. Johnson: You are absolutely right.

Ms M.M. QUIRK: This is not the end of the world as we know it. The bushfire liaison officer who has the role of tasking people to do things may, if the police officer is the nearest individual or the most competent person to undertake that task, be charged with asking individuals to evacuate. I think that is something I needed clarification on because I have read it so many times in the newspaper and heard it so many times on the radio that I was beginning to doubt my understanding of the legislation.

Mr R.F. Johnson: You got it right.

Ms M.M. QUIRK: That does raise an issue that I want to conclude on; namely, when a volunteer is tasked— other than a bushfire brigade volunteer who is controlled by local government; a FESA volunteer if we like— with knocking on a door and saying to someone that he needs to evacuate. As I understand it, an issue that has been alive for some time concerns the way in which those volunteers, when they knock on a door, identify themselves and say to the occupant that the volunteer has the authority to ask the occupant to evacuate or obey whatever direction the volunteer in his authorised capacity is giving the occupant. I understand that there seems to be a question about issuing some form of official identification for that to occur. My view is that it is not beyond the wit or the competency of the Fire and Emergency Services Authority to do that, and to do it in a timely manner. I hope that the minister can give an undertaking on a time frame. He seems very keen to get this legislation through by the start of the fire season. It would be fantastic, in the context of this debate, if the minister could give an undertaking that everyone who has to carry out that role will have the necessary authorisation, or some sort of ID badge, so that they can knock on people's doors, and there is not a debate about

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whether they have the authority to request the occupiers to do what it is that they have been authorised to tell them to do.

Mr R.F. Johnson: I do have the answer for you.

Ms M.M. QUIRK: Good. As I said, minister, I do not know that we will spend much time in consideration in detail. I think the member for Gosnells will elucidate the amendment that he wants to move. I would be grateful if the minister could, in his response to the second reading debate, reply to the questions that I have asked.

The opposition supports this bill. I am certainly very concerned that we have not yet seen the government's WA bushfire readiness report. It certainly would have informed this debate and, I believe, would have informed all members about the kinds of issues that are very live. I am hopeful that that report will be ready prior to this bill being debated in the upper house. Again, that is something that I would like the minister to give me a bit more of an update on. Certainly, the opposition gives its support to the bill. I congratulate the minister for grudgingly coming around to our way of thinking that these amendments need to be passed before the fire season. As I said, we have undertaken to give our support to the bill.

MR F.A. ALBAN (Swan Hills) [3.52 pm]: I am pleased to support the Bush Fires Amendment Bill 2009, and I will be quite brief because the opposition is going to support this bill. I accept that this bill is about coordination and collaboration in the effective fire management of our state. At present, three bodies are involved—the Fire and Emergency Services Authority, the Department of Environment and Conservation and the volunteer fire brigades. They all play a very important role and have expertise in their own ways. However, I am reading a book at the moment called *Culloden*. I am afraid this reminds me of the clans in Scotland just before the battle of Culloden. I think all members know what happened when there was no management and no expertise.

This legislation is very, very important to me, and certainly to the electorate of Swan Hills. Further to that, I have had experience of fires that I can perhaps pass on to members. I believe it was a Wednesday in 1983 in Victoria, on the western plains just south of Ballarat. I had bought a new farm, and I was very proud of it. It was not a hobby farm, by the way; it was a 2 000-acre farm. I had just gone onto the farm and fully stocked it with sheep. I had a very young family with me—two young boys and a wife—and the farm was in the direct path of the fire. Yes, it was a long way away, but the farm was in its direct path. I saw the wind, I saw the dust, I saw the smoke, and I felt the panic. Fire has no respect for people or for property, and it has no timing. Yes, members, this bill is urgent. This is probably the worst season I have ever seen, with all the extra rain that we have had. We must be prepared.

In my electorate of Swan Hills, it is a concern. I acknowledge that the Minister for Emergency Services went to the electorate to talk to us, and I think he has accepted the risk that we have. It is not the worst place in the west for fire, but it is certainly difficult for us. In the hills where we are located, more and more development is taking place, creating potential further risk. Therefore, I am very happy to support this legislation. Recently, at Bells Rapids, which is in Brigadoon—a very popular tourism precinct—there have been lots of fires. It is an area where vandals and people who do not seem to have respect for other people's property want to start fires. Swan Hills is particularly vulnerable.

To give members an idea of how serious this issue is, not that long ago there was a fire in Stoneville. That precinct of Stoneville had been intended to be established as a residential area, but, luckily, it had not yet proceeded. The fire brigade could not control that fire until beyond the boundaries of where that residential area would have been. Can members imagine what would have happened if 300 or 400 houses had been built in that area? Some people in the hills have had to spend a fortune on fire protection, and I acknowledge the importance of the legislation, particularly in light of the upcoming fire season.

I agree with the provision for central management of the three different bodies. As was mentioned earlier, one of the key amendments is the ability for the emergency services minister to be able to declare a total fire ban in specific areas of the state for certain periods. I am amazed that Western Australia is the only state or territory in Australia in which the fire agency has no legislative provisions to declare a total fire ban. The Fire and Emergency Services Authority of Western Australia will only be empowered to take control during major incidents, so even though the three bodies are separate and have different expertise, they will work together in the most extreme cases. I fully support this legislation on behalf of myself, but I particularly support it on behalf of my electorate of Swan Hills.

DR J.M. WOOLLARD (Alfred Cove) [3.56 pm]: I earlier asked the minister why the Bush Fires Amendment Bill 2009 had been declared urgent, and I hoped he would respond. I do not think I queried whether I was offered a briefing from the minister; my question was why the minister wanted to declare the bill urgent. When he

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declared this an urgent bill, he should have told the house that the delay in bringing this bill on was because he was waiting for the findings of the Victorian bushfire royal commission to ensure that all its recommendations had been captured in this bill, and that this bill provides new arrangements for central fire control for FESA, and about its community safety benefits, but he did not say that. In his second reading speech he stated —

In some regions of the state, local arrangements have seen DEC and FESA staff operating at a local level under non-legislative arrangements when local governments have handed over control of a fire because they have not been suitably equipped to manage it. This new bill will change this situation and introduce clear guidelines and coordinated arrangements that will enhance fire management and control of major fires and ensure legislative protection for volunteer firefighters and DEC personnel.

He did not make clear to the house something that I think will make the legislation go through the upper house more quickly; namely, that some of the regions hope that this legislation will be enacted as early as October because of their concern about bushfires. I believe people in areas such as Geraldton do not want to wait until December for this legislation to go through.

I have read the second reading speech. This legislation will improve community safety. It will ensure a coordinated approach to community safety, and hopefully it will ensure that wherever a bushfire is, it will be brought under control quicker in order to minimise damage.

In supporting this bill, I recommend that if the minister intends in the future to announce a bill to be urgent, he should explain to the house why that is the case. That was my question during the motion on declaring urgency. I do not think I questioned whether I had been offered a briefing that I had not been able to take up; I asked the minister to put on record why this bill was urgent.

Mr R.F. Johnson: It was in the second reading speech.

Dr J.M. WOOLLARD: It does not state the month. It says that it is urgent, but some regions would like to see this measure introduced by October, rather than wait until the bushfire season in December.

Mr R.F. Johnson: I would like to see that as well. This will be in operation the moment it goes through both houses, I can assure you. We won't delay it until 1 December. That is simply the date that is recognised as being the start of the bushfire season. I want this in place tomorrow, so that we can deal with those fires.

Dr J.M. WOOLLARD: When the minister declared this bill urgent, he should have said that we need this legislation passed soon, because the regions want this legislation to be effective in a few weeks, not in a few months.

MR J.C. KOBELKE (Balcatta) [4.01 pm]: As has already been indicated, the opposition supports the Bush Fires Amendment Bill 2009. It builds on the work of the Community Development and Justice Standing Committee report tabled in 2006. I am yet to have the opportunity to see just how many of the recommendations of the report are contained in this legislation. Perhaps the minister can do that when he responds to the second reading debate, or it can be done during consideration in detail, but we are trying to keep that stage as short as possible. I would like to know which of the recommendations of the report that required legislative change are still not incorporated into this amending bill. There was a fairly wide range of recommendations.

Mr R.F. Johnson: I am sure that I will have that information soon.

Mr J.C. KOBELKE: Sure.

There were four key elements in the minister's second reading speech: the introduction of total fire bans—the last speaker was a bit incorrect on that, but I will come back to that; new arrangements for the control of major fires; changes to the definition of “property” to include crown land and bush; and the inclusion of a new fire danger rating system. I will comment a little on each of those elements.

The last speaker suggested that Western Australia was the only state not to have total fire bans, but that is not correct. The provisions that we currently have are rather unwieldy. This bill replaces division 4 in part III of the Bush Fires Act 1954, which is headed “Bush fire emergency period”. Those provisions have been used. In fact, when I was minister those were the provisions we applied to the Dwellingup fire, which was a very serious fire about two and a half years ago. It reached a stage at which we were considering major evacuations of towns in the vicinity. I know the member for Murray-Wellington was involved, because that is very much his electorate, and he is involved with the volunteer fire brigade. There was potential for this fire to do damage to Dwellingup, as happened nearly 50 years ago. It was a huge effort, so we put that ban in place. The difficulty is that the current Bush Fires Act dates from 1954, and does not provide for the flexibility we would like. Putting in place

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the ban and procedures for exemptions can cause problems in a wide area. The provision is there but has a lot of problems because of its inflexibility. The amendments contained in clause 7 of the bill will replace division 4 of part III of the act with a new division 4 headed “Total fire ban”, which clearly has a much more modern approach and will provide flexibility to handle emergencies much more easily. That is a good thing, and the Fire and Emergency Services Authority has been waiting for it for some time, because the provisions in the act as it stands do not deliver what the authority needs to introduce fire bans and tackle bush fires effectively. Therefore, the total fire ban that will be instituted in this legislation is certainly a good idea. I am sure the bill has used the right language but the minister might be able to explain it either in summing up or during consideration in detail. To a lay person it does not read all that well because confusion potentially arises over the terms that are defined in proposed section 21, which clause 7 would insert. Proposed section 21 states, in part —

area of the State includes the whole of the State;

The word “includes” obviously means any part within or the whole lot, but it gives a specific definition to an area of the state. Proposed section 22A(3) states —

The declaration of a total fire ban is to specify —

- (a) the period during which; and
- (b) the area of the State in respect of which,

the total fire ban is to have effect, and the total fire ban has effect accordingly.

It can be taken on normal common understanding of the language that “area of the state” means the area in which we want to apply the ban, but to me that gets a bit complicated because “area of the state” includes the whole of the state. I think the lawyers will say that there is no conflict because “includes the whole area of the state” means the whole or any subpart of it. However, for ordinary common reading it is a bit confusing.

Mr R.F. Johnson: I am sure the member understands it perfectly.

Mr J.C. KOBELKE: No, I do not. The minister should keep in mind that although the minister has expertise in the Fire and Emergency Services Authority at the central level, fighting bushfires is very much a community effort. We rely on volunteers and not many of those volunteers have law degrees. They will want to know what the law is and how it is to be applied and they will not be able to read it themselves. Therefore, it is a little issue in that what might be a common reading of it might cause a bit of confusion. However, the minister can confirm for us that legally there is no problem, which I suggest is the case; it is just a matter of common reading. I raise that matter not because I want to go through a lot of little issues like that; it is just an indication of my concerns about the undue haste in which the government is proceeding with this legislation. I accept that it needs to be an urgent bill; however, if the government dealt with it next week, it would still be an urgent bill.

Mr R.F. Johnson: In six weeks I could declare it an urgent bill, but that does not address the problem.

Mr J.C. KOBELKE: Minister, do not be dismissive. What the minister just said is a nonsense. Too often the minister gets up and mouths nonsense.

The bill only needs to be declared urgent if it is to be dealt with in less than three weeks, so talking about six weeks is totally irrelevant. The normal procedure under standing orders is that we are required to introduce the second reading of the bill, and then, three weeks from that day, we can proceed to consideration of the second reading. When a bill is declared urgent, it shortcuts that three-week period; therefore, the minister talking about doing it in six weeks’ time is just a nonsense in light of the point I am making. The point I am trying to make is that we support it being an urgent bill; the difficulty is that the government has not made the case why it had to be an urgent bill today and not next Tuesday, Wednesday or Thursday, which it would have been through. I am sure that the member for Girrawheen and people on this side of the house would have given the government an absolute undertaking that we would have it through the house without undue delay. The issue is that things such as that little point of ensuring that there is clarification with potentially a minor amendment so that it is easier for people to understand could be discussed if we just had a few more days to talk to the people upon whom this bill will have a direct impact. We could talk to the people we rely on, particularly in areas with a lot of native bush and farming areas, who form parts of the various volunteer units that are integral to combating fires throughout summer. I simply use that as a small example to relate the problems we have with this being not only an urgent bill but also a bill that the government is saying has to be passed with great haste—not just urgency. The minister has yet to give any real reason for that great haste.

The reason I need the minister’s attention is that in an interjection at 4.00 pm—I noted it down, but I can check the *Hansard* later—he said that he wanted this bill in operation as soon as it goes through both houses. That is my note of what the minister said.

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Mr R.F. Johnson: Correct. Obviously after proclamation.

Mr J.C. KOBELKE: The proclamation issue gets caught up with what will hold up full implementation. If the minister is suggesting it will be in operation as soon as it goes through both houses—that is, in a matter of days because the Governor has to sign off on it and that sort of stuff—what procedural matters are needed to be considered to ensure that it is fully operational before the fire season is here? We will not have a fire season in October. The minister has well over a month before we have critical fire issues. Fire can come before that, but this is to do with major fires, at which point there would be a total fire ban. I will require the minister to give some detail if we are to have an understanding of what is going on here and the various steps to be taken. By interjection earlier, and when the minister was given five minutes to explain why the bill was urgent—I do not believe he answered that matter in any way—I asked what were the specific steps of implementation after receiving the royal assent. Each bill is different. Some bills require books of regulations to be put together and therefore it can take quite a time. Some bills require changes to administrative systems, computer systems, and they cannot be implemented for some time. However, in this case, there will clearly be a need for training to educate some of the key stakeholders, and there may not be any need for delay. If those things have been worked on, the minister might be correct in saying that it can go through both houses and within a couple of weeks be fully operational. I want the minister to outline the specific things that will have to be done following the passage of this bill through both houses so that we can have these provisions fully implemented. The key issue I have been speaking to is the new provision of total fire bans to replace the bushfire emergency period in the 1954 Bush Fires Act.

The next key part of the amending bill is the new arrangements for control of major fires. This was a direct recommendation out of the Community Development and Justice Standing Committee report. It has been a contentious issue between FESA and DEC—going back before that to CALM—with both wanting to control their own patch. It is not an easy one to resolve, because both FESA and DEC have expertise and equipment, both are trained up, and both do a great job most of the time. However, from time to time we find that there are deficiencies. One of the deficiencies has been the coordination between the various agencies of government. It is not just FESA and DEC; there are also volunteer groups, police, local government authorities and a range of other organisations. Coordination is absolutely critical if our efforts are to be effective in fighting major fires. The new arrangement here is going to provide for control of major fires to be taken over by FESA.

This bill will overcome the obstacle that the member for Mandurah and I were grappling with when we were the respective ministers. There was a clear commitment that we were going to do it but we wanted to respect the rights of both parties. The member for Hillarys has come in as minister and has cut through that and he has a solution. I congratulate him on that; he has actually brought forward a proposal! Members need to understand that there has been an acceptance and buy-in by the major parties that the provisions in this bill will respect the various responsibilities of the two agencies. And when we get a takeover by FESA—or another agency, as this bill allows for—there will be an acceptance of that and it will flow smoothly. If these people are not working together, we will have a problem. On the whole they do work together, but there is still a bit of protecting one's own patch, and the minister has to work through that. I thank the minister for having achieved a resolution to that. We now have an arrangement. I will not go through all of it, but it starts on page 3 of the bill, where we propose to amend the Bush Fires Act by inserting new section 13(4) and (5). Proposed new section 13(4) reads —

If a bush fire is burning in the district of a local government on land other than conservation land, the Authority may, in writing, authorise a bush fire liaison officer or another person to take control of all operations in relation to that fire ...

It then goes through some provisions. That is when it is a fire in a district of a local government and not on conservation land. Then proposed section 13(5) reads —

If a bush fire is burning on conservation land, the Authority may, in writing, authorise a bush fire liaison officer or another person to take control of all operations in relation to that fire ...

It is the same provision but it is taking account of the different divisions in landholdings. It then states that a bushfire liaison officer can be put in control and it allows for other people to be authorised to act in that stead, covering both conservation land and land in the district of a local government. A later proposed section also recognises that it may be an area in which the Department of Environment and Conservation is the major player, which is caught by the Conservation and Land Management Act, because I think the act still applies. Proposed section 45A reads —

(1) If —

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- (a) an officer or member of a bush fire brigade or a bush fire officer ... has supreme control and charge of all operations in relation to a bush fire under section 44; and
- (b) an authorised CALM Act officer is present at the fire,
the bush fire officer may request the authorised CALM Act officer to take control of all operations in relation to the fire.

Again, that is recognising that it can go back the other way and that it may be more appropriate, in given circumstances, that the person who is to be in supreme control of tackling a fire will be a DEC officer or someone designated under the CALM act.

The other point I would make from reading out those small provisions is that I think people might get some understanding of the complexity of the statutory and administrative arrangements that are in place. People are designated with certain powers under different acts. Those acts limit the types of things that they can do or the powers that they have. Officers can basically be doing the same thing but be controlled by different acts. It comes back to the issue of coordination and working together.

One of the things that were to be looked at was a total rewrite. We clearly accept that there is some urgency with the bill and that what the minister is doing is taking on board some of the key issues but not addressing a major rewrite of legislation in this area. I am fairly sure it was one of the recommendations that came out of the Community Development and Justice Standing Committee report, but that takes more time and the minister cannot wait for it. However, I read out those small examples to give some indication of the administrative complexities that can be involved when handling people from different organisations, different land title and systems or ownership, and different statutory authorities.

[Member's time extended.]

Mr J.C. KOBELKE: The arrangements for the control of major fires are most important. I am very pleased that the minister has been able to bring this matter to the house through this amendment.

The third major area changes the definition of "property" to include crown land and bush. This is a very simple part of the bill, which will become a new section 32 of the Bush Fires Act 1954. It simply inserts into that section —

property means personal or real property, including Crown land, and includes the bush and fauna.

It is very important that we get the wording right. It is a very short insertion. I am not a lawyer, but it looks good to me. However, I would have liked the opportunity to get confirmation from other people that it will actually suit the purpose. The major cause of fire, particularly around metropolitan Perth and in the hills, is people lighting fires. It is of huge concern. The Fire and Emergency Services Authority and the WA Police arson unit have been extremely successful in achieving a successful arrest rate and having people charged and action taken through the courts to prevent those people causing a huge threat to life and property, and not just a threat because homes have actually been lost as a result of people lighting fires. It is certainly something that angers me, and I am sure it angers most people in our community, when we have a major emergency and we know that someone has lit the fire and been responsible for it. A couple of years ago it was a great shock when a person who was charged got off some of the charges—not all. Some charges were proved and penalties were imposed. However, this person had been responsible for lighting fires in the Perth hills.

Mr R.F. Johnson: We have already heard about that from the member for Girrawheen.

Mr J.C. KOBELKE: Not everything. Some of it might be the same.

Mr R.F. Johnson: All of this lot is.

Mr J.C. KOBELKE: I need to explain. I cannot just say one thing out of context and say to members that they should look back at what was said by the other member a few minutes before.

There was great shock that this person could get off. The reason the person got off was that the definition of "property", which was required for the charge to stick, did not cover bushland. The Fire and Emergency Services Authority brought me advice about that. There was potential to challenge that et cetera, but the quickest way, of course, was to bring an amendment; and that is what we have here.

I make the point that we need to discuss this and make sure we have it right. Only a few months ago the Attorney General said that we do not need this amendment. We have already had a debate today that the Attorney General got it very, very wrong. The Attorney General is the government's key law officer. He went public, on the record, to say that we did not need this amendment to have "bush" caught as "property" and that we need to go

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back and perhaps challenge these decisions through a higher court. Clearly the minister has convinced the Attorney General. I do not know what means he used to change his view. He is a man of great persuasion.

Mr R.F. Johnson: I am very persuasive, other than with you lot!

Mr J.C. KOBELKE: I was doing all right until the minister said all those very nice things about me and that really hurt my reputation!

Mr C.J. Barnett: I would have taken a point of order if I had been here!

Mr J.C. KOBELKE: I thought I would do that myself, but I was a bit too embarrassed to do that!

We were certainly astounded when this person who was charged got off because the requirement to prove that he was either doing damage or lighting a fire that could potentially damage property was not met due to the fact that it was bush that was burning, even though there are huge values in bush, environmentally and for the people in those areas. We really need to make sure that the offence will stick, and that is the proposed amendment we have to section 11.

The minister has not given any indication as to why the Attorney General has totally changed his view. The Attorney General indicated that we did not need to make this change. I think the safest course is to amend it rather than to leave the matter in some doubt. I do not think just having the view of the Attorney General is necessarily going to cut much mustard when these cases come to court.

The last part is the inclusion of a new fire danger rating system. We now want to insert new rating terms of “severe” and “catastrophic”. The minister was perhaps alluding to that when he said that he was waiting for the 2009 Victorian Bushfires Royal Commission interim report following the horrendous fires early this year. We now have to face up to the situation that climate change is affecting bushland and we have a drying climate. While the effects of climate change might be only a degree or two, it affects the amount of moisture that is in plants and in the soil. If climate change also means that we have potential for strong winds to occur more regularly, the control and the extinguishment of fires comes up to an even higher level. Putting in place these new ratings of “severe” and “catastrophic” is very important to deal with that. Of course, that then feeds into the whole administrative structure that goes with it.

I am not going to debate it on this bill, but one of the debates that we have to have is the policy of whether a person goes early, or stays and defends their property. Following the Tenterden fires, FESA made videos and rolled out a big education program to enable people to understand what that meant. It was to enable people to assess their level of preparedness to combat fire and then to make the decision about whether they should stay and fight, or whether they should leave. People make that assessment based on the precautionary measures that they have been able to put in place. That includes their access to pumps and water, and the backup power that they will need to apply that water to their house or the property they are seeking to protect if the powerlines go down. That also includes their knowledge of the fire behaviour in their area and whether they will be able to cope with that fire given their level of preparedness. If the fire is moving very quickly due to the wind conditions and it becomes a wildfire that they will have no chance of controlling, the preparations that they will need to put in place will be very different, and they may get to a cut-off point at which their preparations will be totally inadequate. By bringing in new terms such as “catastrophic”, people will be able to factor that into their fire preparedness and know whether they will be able to stay and defend their property. A fuller discussion on how we should handle that policy is probably a matter for another day. We could do it under this bill, but we are trying to make sure that we get the bill through today, so I do not want to get onto issues that we do not need to handle at this time. The issue here is that people need to wake up to the fact that we now have an increased level of fire risk, and these new designations will be a part of enabling them to do that.

That brings me to the issue of why this bill is so urgent and needs to go through the Parliament today instead of next week. Can the minister indicate when cabinet gave approval to draft this bill?

Mr R.F. Johnson: I got approval to draft this bill in November of last year, if my memory serves me correctly.

Mr J.C. KOBELKE: So why did it take the best part of 12 months to draft the bill and get it into this place? Was it because of some drafting problems or issues?

Mr R.F. Johnson: Come on! Don't exaggerate, my friend! It's not 12 months. You know that as well as I do. There were a lot of things that had to be done in the meantime. Cabinet approved, basically, the recommendations from the committee. That was toward the end of November. We then had the Christmas period, the holiday season and all the rest of it.

Ms M.M. Quirk: I was working! You obviously had a holiday!

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The SPEAKER: Order!

Mr R.F. Johnson: No, I didn't have a holiday. I haven't had a holiday in about two years, my friend. Okay. Maybe that's why I'm getting a bit grumpy with you. I probably need a holiday!

Mr J.C. KOBELKE: I will thank the minister for providing the answer—by interjection, please.

Mr R.F. Johnson: Yes. Obviously FESA had a lot of work to do. There was a lot of consultation that had to take place. The member was talking about consultation. A lot of consultation took place between FESA, DEC and local authorities—all those people who have an interest in this matter.

Mr J.C. KOBELKE: But that was completed more than 12 months ago, that work on the report.

Mr R.F. Johnson: No. They have consulted since then. I actually instructed them to hold a bushfire summit, particularly in view of what has happened in Victoria. Also, we needed to see the recommendations in the interim report from the royal commission in Victoria, because there may be some very important things that we can learn from that tragedy and that we need to incorporate in this legislation. All those factors took place. So please don't criticise me for taking about nine months from go to whoa, to today, when you had two years! You didn't do anything in that space of time. You had two years, my friend, so I don't know how you've got the gall to stand there and criticise me.

Mr J.C. KOBELKE: I am happy to take the minister's interjection, but I have only three minutes left, and I think the minister is rambling a bit. The issue is—I can vouch for this—we did take too long. But, as I have told the minister, the main reason we took so long is that FESA consulted very, very widely —

Mr R.F. Johnson: What—two years!

Mr J.C. KOBELKE: FESA took about a year to do it.

Mr R.F. Johnson: What happened to the other year?

Mr J.C. KOBELKE: The issue is that we did all the consultation. There was a cabinet minute to approve the draft. It was not exactly what is in this bill, but these things were contained within that. So, FESA should have been ready, when the minister took the bill to it last November, to get it drafted fairly quickly. That is unless the minister did not give this legislation a drafting priority over other legislation. The Minister for Emergency Services is one of the ministers who has actually managed to get some legislation into this place. So, perhaps this bill was not a priority and other legislation took priority over it.

Mr R.F. Johnson: Of course it was a priority, but most ministers think that their legislation is a priority. There was a lot a priority legislation that we had to deal with because of the early election called by the Labor Party. Every minister had a lot of work to do; we have been doing that, and we have now caught up.

Mr J.C. KOBELKE: When did it come back to cabinet for approval to print? Was it during the past week or so?

Mr R.F. Johnson: Yes.

Mr J.C. KOBELKE: Okay; it went to the minister's party room just this week?

Mr R.F. Johnson: Yes, this week; on Tuesday. The same time as it went to your party room.

Mr J.C. KOBELKE: Which is unusual. Those were put in place to help expedite it, and we accept that.

I would like the minister to provide an answer, if he can, to the question: what are the key implementation issues, following passage, for the provisions of this bill? There is no time for the minister to answer now, but I would very much like him to put an answer on the record when he sums up the second reading debate.

Mr R.F. Johnson: We are going into consideration in detail because you have an amendment that you want to move, so I will answer that question then.

MR C.J. TALLENTIRE (Gosnells) [4.31 pm]: I rise to add my support to the Bush Fires Amendment Bill 2009. As someone who has been a member of a volunteer bush fire brigade, I am well aware of the fears, dangers and general panic that can ensue when a bushfire is happening. If we consider that we are perhaps entering a phase during which the frequency and severity of bushfires will increase, it makes us appreciate the need for this legislation to be put in place for the next fire season.

There are some aspects of this legislation that reflect the necessity for more detailed consideration. There are some potential drafting flaws in some areas of the legislation, which highlights what some other members have

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said: that we should have been given greater opportunity to comment on aspects of what is being proposed in this amending bill.

Hopefully I can draw the minister's attention to one particular area, which is an amendment that appears on the notice paper under my name. It pertains to the definition of "property". I seek the minister's attention, because it will actually speed up the operations of the house if I do not have to re-explain this matter when we go into consideration in detail. If the minister would be good enough to listen to me now, it would perhaps save time later on. However, if the minister wants to continue talking to his colleague rather than listen to me, I will have to repeat what I am saying when I have the minister's attention later. I ask the minister's attention while I go into the definition of "property", because it is a serious amendment and it —

Mr R.F. Johnson: Why don't you do that when we're in consideration in detail?

Mr C.J. TALLENTIRE: I am saying that if I do it now, it could facilitate the work of the house and we could get through things more quickly.

Mr R.F. Johnson: That would be a refreshing change, I must say. I'll listen to you.

Mr C.J. TALLENTIRE: I thank the minister.

As things stand, we have already had the Spooner case in which the definition of "property" was too narrow; it was confined to a meaning that required a threat to property or life. We want to broaden the definition. There is a clear intention to do that in the amending bill by including definitions for "bush" and "fauna". The problem is that I do not think the definitions for bush and fauna are clear enough. I am suggesting—the minister will have seen my amendment on the notice paper—that we also insert the term "natural ecosystems" so that we can have a term that is all-capturing when defining different ecosystems that could be threatened by fire through some sort of criminal act.

There are a couple of related points. First of all, the definition of "bush"—what is bush? Many of us have some sort of idea of what bush is, but I would be very concerned if there were to be a court case in which lawyers sought to define an area as not being "bush". I can also envisage cases involving areas close to the minister's electorate. In Carabooda there are peat swamps that frequently catch fire. I am not sure whether those areas are intentionally lit, but they certainly burn. I do not believe that members imagine in any way that the term "bush" would capture "peat swamps", to use just one example. It is very important therefore that we broaden the definition of "property" to include "natural ecosystems"; then we will be covered and safe. That is one measure that I want to get into the legislation.

There are many other areas of this bill that make me realise that we need to reinvigorate our Bush Fires Act. Other members have outlined other changes that need to be made in the future, such as the need to incorporate the latest in fire science into the legislation. The Department of Environment and Conservation has many people engaged in very good scientific studies on fire as part of our ecology. An understanding of that needs to be incorporated into this legislation.

There is an area, too, that I am particularly concerned about, and that relates to communications in general and the opportunity for the general public to know about bushfires in the fire season. I had an experience last summer when a family member phoned to say that a fire could be seen on the horizon of the member for Swan Hills' electorate. The family first of all consulted websites. They were not in a situation in which net access was down, but there was nothing on the FESA website about the spotted plume of smoke; a plume that could have grown into something much bigger very quickly. The family member then contacted the City of Swan, which said that it had not received any report of the plume of smoke. There is therefore clearly an issue there in that we must have a better reporting mechanism and some sort of opportunity for people to phone in 24/7 when they see a plume of smoke and get an answer on whether it has already been reported; whether it is something that has not been reported at all and somebody is going out to investigate it; or whether there is already a fast-attack crew from the local volunteer bush fire brigade dealing with it. There is really an urgent need for that because the current systems are just not good enough.

Mr R.F. Johnson: We have introduced State Alert. Are you aware of that? Do you know what State Alert is?

Mr C.J. TALLENTIRE: State Alert on the FESA website?

Mr R.F. Johnson: No; you obviously don't know what State Alert is, but we are leading the nation in informing people and we can inform the whole state.

Mr C.J. TALLENTIRE: When did that come in, minister?

Mr R.F. Johnson: It's in operation now.

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Mr C.J. TALLENTIRE: That is my point: the systems we had in place last summer were not effective in my experience.

Mr R.F. Johnson: They weren't in place last summer.

Mr C.J. TALLENTIRE: The minister just said they were in place. For how long have they been in place?

Mr R.F. Johnson: They have been in place now for about a month or a couple of months. We had a trial two months ago. You obviously don't read the newspapers; it was big news. It's called State Alert. We now have the technology—we are leading the nation—through landlines, fax machines and mobile phones, if your billing address is in a particular area, to send you a message literally within a minute or two. You can pinpoint a small block or you can do the whole state if you want to, so that's the best way to communicate to people that there is some sort of danger.

Mr C.J. TALLENTIRE: I thank the minister for that. I did hear about that, but it does not actually deal with the set of circumstances that I was trying to relate; that is, when somebody spots a plume of smoke—in rural areas that is something that happens—who do they then phone to report that and have it checked out?

Mr R.F. Johnson: I would think they would dial 000, if they think that there is a fire somewhere. If I saw a fire raging in an area, I mean, just because you see —

Mr C.J. TALLENTIRE: No, a plume of smoke that people might not be sure about. It could be 20 kilometres away but they want to know if it is something that has been reported. The minister might recall that last summer there was quite a deal of discussion about—I think it was a senior FESA officer who was talking about it—the unnecessary use of the 000 number. Does the minister recall that?

Mr R.F. Johnson: I think I do. What I am saying is that if people see a fire, then they would be well advised to dial 000, but if they see a plume of smoke in the distance somehow, I am sorry, but I think you are jumping at shadows.

Mr C.J. TALLENTIRE: No, minister, I am sorry, the minister must stop there, because in my experience of living in rural Western Australia, seeing a plume of smoke on the horizon is a very serious matter. It is something that can very quickly flare up into a bushfire that is beyond the control of the fast-attack vehicles that otherwise could possibly get that fire under control very quickly. We must have a serious approach even when it comes to dealing with people's suspicions of the hint of a bushfire. The sighting of a plume of smoke on the horizon is exactly the time that we should be getting out there to take action. The very confusing message that went out last summer to people that they must not abuse the 000 number was very dangerous. If that message remains as confused as it was last summer, we could well have situations in which people will not report a fire and will not know who to report to and, as a result, we could see those plumes of smoke quickly turn into very big bushfires. It falls upon this house to make sure that we have a good reporting system. I hope we will be able to deal with that before this bushfire season is upon us.

If the minister is willing to take on board those two points from my contribution, I would be most grateful. I look forward to hearing how the definition of "property", if that is the right way to go about it, has been broadened to ensure that it will be a criminal offence for anyone to ignite natural ecosystems. That is an essential part of the amendments.

I note that the person whose actions were responsible for this amending bill was found guilty in January 2008. The minister asked the member for Balcatta earlier about the time lines that people have been working towards. It would date back to January 2008, because that is when it became apparent that we had to make these amendments to the definition of "property". It is something that has to be dealt with very soon. I hope we have provisions in place that cover all the risks that can arise in a fire season. I will certainly be very supportive of any measure we can take. I hope that we will have provisions in place to deal with the concerns of all Western Australians, especially those who live in rural areas and those who are vigilant and spot plumes of smoke on the horizon.

MS R. SAFFIOTI (West Swan) [4.42 pm]: I support the Bush Fires Amendment Bill 2009. I have a strong interest in this area for two reasons. First, my electorate of West Swan encompasses Whiteman Park and semirural areas. In addition, the electorate faces the issue of further urban development in these areas, which will probably create more tension around the issue of fire management. We have the issue of suburbs abutting, for example, Whiteman Park. The issue of fire management and control, especially in the outer metropolitan area, is very important.

Another reason for my interest in bushfire management is that I grew up in Karragullen, which is very close to Araluen and a lot of forests. I will relay a couple of experiences I have had with bushfires. About 25 years ago I

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helped to fight a bushfire that was threatening our house. We left our packaging shed and were crossing the road to go home for lunch when we saw the flames coming towards our house. The firefighting equipment at that time was primitive. A lot of orchardists filled their sprayers—those they used to spray their fruit trees—with water and we managed to save the house. My parents and sister still live in Karragullen and in 2005 their properties were under threat from a very big fire. I am sure members will remember the bushfires at that time. It was a significant fire that burnt for about 12 days. We got firsthand experience of the management of a fire at that time. Representatives from the Fire and Emergency Services Authority or the police knocked on my sister's door and gave my family the option to either stay or go. My sister took the kids out of Karragullen and my parents and brother-in-law stayed to help fight the fire. Luckily it never reached their properties and both houses were preserved. There was no loss of life in that bushfire.

Those examples bring home to me that while this amendment bill is important and introduces a number of initiatives, the whole issue of fire management and trying to prevent significant bushfires and loss of life is more than this bill covers, and it raises a lot of other issues. I think prescribed burning has been a contentious issue in the Western Australia community. I refer again to the Karragullen bushfires. I was reading one of the contributions made by the Department of Environment and Conservation, which I think was a submission to the Victorian Bushfires Royal Commission, and it states —

... the fuel reduction program carried out by DEC in the preceding years enabled the suppression forces to safely contain the fire before it burnt into the Hills suburbs of Roleystone and Gosnells.

A very important factor is prescribed burning and its impact in helping prevent bushfires. As I understand it, a report was done to analyse what would have been the impact if that prescribed burning had not taken place. It was estimated that the fire would have burnt westwards over the Darling escarpment into the suburbs of Roleystone, Armadale and Gosnells in less than 24 hours after ignition, causing significant damage and possibly loss of life. That is a very significant point made in the submission to the Victorian Bushfires Royal Commission by, I think, Kieran McNamara, the head of DEC. I think the issue of prescribed burning under the management of DEC is very important.

The issue of funding for DEC is another important issue. As I recall, during each budget round we were always confronted in government with issues of ensuring that there was enough funding for DEC to conduct its business and undertake prescribed burning and those sorts of activities. I am a little worried about the funding of DEC under this government. We have seen some cuts, and the Waste Avoidance and Resource Recovery Amendment Bill was introduced to try to cover some of those cuts. However, we need a properly managed and funded DEC to ensure the continuation of prescribed burning and other fire prevention activities that are necessary to prevent the significant loss of life and damage that occurred in the Victorian bushfires. We need to ensure that that does not happen over here. That is one of the key lessons we are learning from the current inquiry into the Victorian bushfires and its preliminary outcomes.

Another point I want to make is about something that, again, is important in the overall aspect of how we manage bushfires. I am talking specifically about the outer suburbs. My seat of West Swan includes significant bushland. As I said, I grew up in Karragullen next to significant forests and have experience of helping to fight fires with my family, who still live there. The issue of aerial firefighting capability is another key aspect on which I think the former Labor government did a very good job. Our aerial firefighting capability was not up to scratch. Over the eight years of Labor government we saw a progressive increase in the aerial firefighting capability. In, I think, 2002 we saw the introduction of Helitacs into WA. Although we had some fixed-wing aircraft, they are good for low, flat land but not for the hills. Some of the biggest threats from fires in the outer suburbs come from the Darling Range. Our aerial firefighting capability is very significant. As I said, in 2002, we saw the introduction of the first Helitacs. I remember on the day they first arrived how amazing it was to see their flexibility and the way they manoeuvred and accessed water from people's swimming pools and dams. As I said, that is particularly the case in the outer suburbs. I recall during the Karragullen fires my nephew telling me about the Helitac using the dam next door to his house to draw water to help prevent homes from burning. Since then another two similar helicopters have been introduced, and a new Fire King helicopter was purchased in 2007. Currently, our aerial capability extends to the Fire King, four Helitacs, an intelligence helicopter and eight fixed-wing water bombers based throughout the south west. I believe that the presence of that aerial firefighting capability has been one of the most significant advances in our ability to fight fires over the past decade. As I said, I think that in particular when we are talking about the outer suburbs and the urban front, that is one of the key improvements that has helped to save people's lives and people's houses. Again, it was pointed out in the submission from the Department of Environment and Conservation to the inquiry into the Victorian bushfires that the improvement in the aerial capability of our system has helped prevent some of the more significant destruction that we have seen in other states.

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As I said, we support this bill. I have not been able to go through it in as much detail as I would have liked and consult with local councils, given the timing. Basically, as the member for Girrawheen stated, we support the four initiatives—that is, the introduction of total fire bans, the new arrangements for controlling major fires, the changes to the definition of “property”, and the inclusion of a new fire danger rating system. However, as I said, we can never be complacent about this issue. This bill in itself is an improvement to the existing situation, but many other aspects need to be managed. I worry about the Department of Environment and Conservation’s budget. We have seen cuts, and the waste bill has been brought in to help fill in those cuts or fill in those gaps. We need a properly funded DEC and a properly funded FESA, and we need to maintain and continually increase the effort in fire prevention and also in our capabilities, in particular with our equipment and also with our aerial capabilities.

MS L.L. BAKER (Maylands) [4.51 pm]: I understand that we are trying to get the Bush Fires Amendment Bill 2009 through as a matter of urgency, so I will keep my comments succinct. I want to discuss this issue, as I have personally been through three fire evacuations in the past 10 years, and none of them has been pleasant. I want to add to the member for Gosnells’ concerns and assure members that when people live in the hills or in the country, or anywhere that is fire risk prone, even a glimmer of smoke anywhere on the horizon causes them to feel sick. They really feel quite panicked and ill until they find someone who can tell them whether that fire is five kilometres away, 10 kilometres away or 50 kilometres away, how fast the wind is travelling, the direction in which it is going and whether they are in danger. They live on the edge of their seats until they get confirmation.

I can tell the house, having experienced this every summer, that when people ring FESA, they do their level best to give information about what is available. However, I can also assure this house that when I ring FESA, it takes a fair amount of time before FESA even knows that there is a fire. Generally speaking, my pathway to find out where the fire is and how close it is to ring my brother, who is a member of the police force. He then goes through the police channels of communication to try to find out where the fire is, whether anything has been reported, whether it is a green burn or whether it is indeed a wildfire. I can see the member for Swan Hills nodding his head. I hope it is in agreement with the comments that I am making.

I have been through three of these incidents. The most recent one has been mentioned—that is, the Stoneville fire. I was in the middle of the Stoneville fires evacuating a friend’s horses. We had three double horse floats on the road, and I was in the middle of the convoy of three. We came to a blockage—the police had closed the roads. One of the problems with communications in bushfires is that when people are evacuating big animals, families or whatever from one part of the world to another, they need to know the emergency routes that are open. In a convoy of three floats with six horses, we got about four kilometres along what we thought was a safe route and got stopped and told to turn around. On narrow roads in the middle of the bush, it is quite difficult to turn around three double horse floats, and I am a pretty good driver, particularly of horse floats. We did manage to get the horse floats turned around and we got out of there without any damage. It is an extreme concern; during a bushfire, communication is paramount. The minister talked about leadership, and I hope that these amendments go some way to providing some leadership; bushfire liaison officers are critical.

The second of the bushfire evacuations that I have not talked about yet was when Mundaring Weir last went up and we were on emergency and evacuation warning for about eight hours. We packed up all of our furniture, and friends came and took everything out of house and all the animals off the property, except for one very confused pet duck that was loaded in and out of her emergency container about nine times over that period. People in that situation are waiting on every phone call and every communication. When we woke up at about six o’clock in the morning after being on emergency evacuation alert all night, it was to a truckload of volunteer firefighters who screamed down our driveway in their vehicle. They were clearly extremely stressed and very, very concerned. They threw open the doors of the car and screamed at us that we needed to get out because they could not stop the fire and had no hope of fighting it from where we were. They got back into the car and then left. There was confusion, panic and misinformation; these things are rife during bushfires. There was no need for us to have evacuated the property; we stayed put. We have a fully functional firefighting system, we have a fire plan and we have everything we need, but leadership is paramount in these situations. I hope that this bill will go some way towards providing leadership, improvements in communication such as early warning systems, and clarity on emergency routes so that people do not get burnt to death in their cars or stuck on paths that are not accessible.

The member for West Swan mentioned the need for improved resourcing of the Department of Environment and Conservation and the Fire and Emergency Services Authority of Western Australia; I would like to mention volunteer firefighters. They do an amazing job; however, I think we need to put a whole lot more care and resources into the volunteer fire brigade. We need to ensure that volunteer firefighters are properly selected in the first place, so that the right people are recruited. I think we need to resource their training adequately. I do

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not think there are enough resources being put into it. I know that some additional resources were put in when the Labor government was in power, but I think we need to continue that and escalate it.

Finally, I wanted to talk about the pilot register that was run about four or five years ago whereby people could register their dam for emergency water pick up by “Elvis”, the firefighting helicopter. I think that pilot has ceased. I registered my dam, but I have heard nothing from anyone since to let me know if my dam is still on a register, if a register exists, and whether or not it would be used in case of emergency. It seems to me that needs to be looked into urgently. I am sure there must be someone who has the remnants of the pilot register of dams.

I will make a final comment about the need for proper training of appropriate volunteers. I am based in the area of the Helena catchment, and on 26 January—a fairly regular event called Australia Day—a sky show takes place and we have about 15 carloads of people who drive down through the bush completely illegally, off road, into the middle of the state forest and set up their barbecues. A couple of years ago I did my best vigilante act and followed one of them in my four-wheel-drive vehicle as they started to leave the road, because I could see the barbecue in the back of the ute. I can tell members that a person who lives two kilometres from the state forest does not want to see a barbecue on the back of a ute in the middle of the bush on 26 January. I followed them, full of gusto and courage, and finally got them to stop. It was two young fellows in their twenties who were absolutely affronted by the fact that they were being tracked by me, and demanded to know what I was doing, whereupon members can imagine I demanded to know what they were doing. They said, “It’s all right, we’re volunteer fire brigade members.” I am sorry, but if volunteer fire brigade members think it is okay to take an open barbecue into the middle of the bush on 26 January, and are quite happy to light it up with no water supply, which is completely illegal, we need to spend more resources on making sure that we have the right people with the right training for our volunteer fire brigades. I hope this bill does its job with extreme urgency, because I for one feel that my property and my life could benefit from it.

MR W.J. JOHNSTON (Cannington) [5.01 pm]: I join with the Labor Party in supporting the Bush Fires Amendment Bill 2009. I will not labour anything for too long. Although I live in a metropolitan electorate, and I grew up in the metropolitan area, I come from a family that is from the bush. I have much knowledge of fires through the experiences of my family, including of the recent bushfires in country Victoria, where my brother lives. I will go straight to some questions that the Minister for Emergency Services should take note of. I would appreciate it if he does this either in his reply to the second reading debate or during consideration in detail. Clause 6 of the bill introduces a new section 14B(2)(b), which states —

direct the evacuation and removal of persons or animals from the affected area or any part of that affected area;

This is one of the powers given to authorised persons to direct people to take action during a bushfire emergency. Yesterday, during question time, the minister said that the provisions of the act related to young people, the aged or the infirm. I am not quoting exactly, but words similar to those were used. The provision here does not seem to place any limits on the authority of the authorised officers. I seek clarification. Yesterday the minister referred to media reports that he suggested were exaggerating the provisions of the bill. It may well be that the provisions of the bill, while extending these new powers to additional people, do not extend additional powers except to new people, if the minister understands what I am getting at. In the past a narrower class of people was authorised to direct evacuations, and now it is a broader class. It appears that the words in the act extend to all persons and not to any particular class of person. I would appreciate the minister clarifying that this is a generalised power to direct evacuations, which appears to be the intent of proposed section 14B(2).

Clause 7 of the bill introduces a new division 4 in part III of the act. Included in that provision is proposed new section 22B, which is a prohibition on lighting fires during total fire bans, and proposed section 22C, which provides an opportunity for an exemption to the orders made under proposed section 22B. That seems to be a very sensible provision, so that the minister has the power to provide an exemption to a person on the advice of the chief executive officer in the circumstances described. Proposed section 22C(5) provides for penalties in cases in which a person who has been granted an exemption does not observe the provisions of the exemption. That is a perfectly understandable provision. A generalised provision provides for an exemption, with exceptions in limited circumstances, and then a penalty if the person who is granted the exemption fails to adhere to its terms. My question is: has the minister received advice about whether granting an exemption will give protection in the event of a fire lit by a person who complies with the terms of that exemption but nonetheless the fire spreads and causes damage? Proposed section 22B provides for a total fire ban and proposed section 22C rightly provides for exceptional circumstances in which the minister can grant an exemption. Proposed section 22C(5) provides a penalty if a person does not comply with the rules set in that exemption, which is all perfectly sensible. However, what happens in the circumstance in which a person complies with the rules of the exemption

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but nonetheless, for some reason unexpected to everyone, the fire spreads and causes property damage? Is the minister's advice that in granting the exemption, protection is provided to the second party against a third party in any potential liability situation? Does the minister have advice about whether the minister or the chief executive officer would have any opportunity to claim damages in those circumstances? If the minister has granted an exemption and something tragically goes wrong, does that leave third parties open to sue the state, the minister on behalf of the Crown, or the chief executive officer in his or her capacity when something has gone wrong? They are technical questions and I am happy to raise them again during consideration in detail, but to expedite the bill I give the minister the opportunity to respond to those questions in his second reading response. Rather than unnecessarily delaying consideration in detail, the minister could simply come back and let me know the answers to those questions. That will allow us to have a better understanding of the government's intention in this legislation.

Anybody living in Australia would not question how frightening and tragic bushfires are. My own family experienced this in the recent Victorian bushfires; although my brother's property was fortunately not burnt, he lives right in the area where the fires took place. My family in Canberra were again fortunate not to be directly affected by the bushfires of seven years ago, but I have talked to my sisters and brother about that day in Canberra when the sky went black and the fire went through the city where, like so many of the hills suburbs in Perth, the bush comes right in to the city. People love that type of lifestyle but there are often tragic consequences.

The member for Riverton spoke in this place earlier this year on the question of controlled burns. I think that it is good to note that the former government was always very keen to ensure that there were adequate controlled burns in this state. I remember talking to the former Minister for the Environment, Judy Edwards, about the fact that on every occasion that the environment and conservation department requested a burn when she was the minister she always approved those burns because the Labor government was always very keen to ensure that fire protection was paramount in our operations.

I am glad that the minister has brought this bill forward because it contains improvements to the regulations that apply to these matters in this state. Like other members on this side of the house, I make the point that this is not the last word on these matters and we expect that over the years further issues will need to come before the house. I commend the bill to the house.

MR M.P. MURRAY (Collie-Preston) [5.09 pm]: I also rise to support the Bush Fires Amendment Bill 2009, and to indicate some reservations I have about deficiencies in the area of communications. I refer to last year's fires in the Bridgetown-Balingup area that were spread over a couple of weeks and which highlighted problems with communications. I understood there was a recent trial of text messages being sent out on mobile phones, which are useless if an area does not have mobile phone coverage. During bushfires mobile phone coverage impacts on many groups, from local bush fire brigades to farmers, as well as Fire and Emergency Services Authority groups. Unfortunately, the system did not allow people to communicate clearly and properly, unless they climbed to the top of hills or backtracked down roads, leaving the fire unattended. Roadblocks had been set up on the South West Highway, and although the person at the roadblock had a two-way radio he was not able to communicate with whoever was in control and so was giving out the wrong information to motorists, which is dangerous and could have been disastrous.

I would like to see some of the new technology that is available being used. I have been up to the local Department of Environment and Conservation office, where officers are sitting in their office with a remote control surveying an area 40 kays away—Dwellingup I think. DEC did not need to have a plane in the air or someone up a fire tower with binoculars looking around. This was the latest technology and the remote camera image was very clear. A private company was trying to sell that technology, and it is something that we have to look at. A series of those towers positioned throughout the south west would give total coverage around those areas that are most prone to bushfires, and at a reasonable price. It is quite expensive to have a plane up in the air on our hottest days—or on any day. And if there were people up towers, they could be trapped by a fire simply doing their job. I hope that the minister has a close look at that. I have received much correspondence from the Balingup and Bridgetown areas on that, and also from the Donnybrook and Balingup shires asking for help. I understand that a couple of groups that are able to put those towers up are sitting back waiting for government funding. Those towers could be multiuse towers and could include those cameras as well as up to date and modern communications.

The bill has not defined the penalties for anyone damaging these communication areas. This equipment will be located in the state forests and, unfortunately, people will come along and get carried away and do some damage to the towers—even the manned towers. We have the possibility of a disaster occurring if there are no penalties to deter people from that. Deterrence is one thing, and actions are another.

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At the time of the fires in the Bridgetown area, it was very concerning when people could not get a message from one area to another about such things as wind changes. Anyone who has been around a fire knows how quickly the wind can change, with spot fires occurring in front of the main fire. It is not unusual for a spot fire to jump up to three kilometres in front of a fire. If people are not able to broadcast the direction of the fire and to arrange for containment lines further down, across or wherever, that will leave us open to the possibility of a tragic situation in the future.

That is just one of the areas that I have concerns about. The other area, which has been mentioned already, is funding. I think that X amount of funding—I am talking about adequate funding—should be quarantined from cuts such as the three per cent cut or from any other budget cuts, because we could have a national disaster into the future. The evidence is there.

People become less vigilant over time. My electorate has many five, 10 and 15-acre blocks that are weekenders and that do not get the requisite bushfire preventive treatments they should. Even though the shires have inspection regimes and use aerial spotters to monitor the fire breaks, it still happens that sheds do not get cleaned and there is a build-up of rubbish on those blocks. When a fire goes through such an area, the problem is exacerbated because sheds catch fire and people often try to save property and put themselves in dangerous positions. They may worry about the one horse on a 10-acre block, which they probably should, but they are probably very slow getting there because of communications.

On the subject of communications, one of the problems with the fire in the Bridgetown area was that only one transmitter was working. People turned to the radio to try to find out where the fire was and whether they should evacuate. Unfortunately, there was nothing on air. The ABC radio station in Collie generally broadcasts those bulletins, but people had to listen to ABC Albany. If the fire is not in the broadcaster's patch, bulletins are not transmitted in 15 or 20-minute spells, so people end up listening to news bulletins, which are an hour apart. That is very concerning.

Mr T.K. Waldron: Didn't Radio West get involved in that fire?

Mr M.P. MURRAY: Not as much. Commercial radio stations tend to get involved a bit but not as much as the ABC. They do a great job with cyclones and those sorts of things by broadcasting on the hour and then as a situation becomes a red alert, broadcasting every half an hour or quarter of an hour. If one bit of the whole communications structure does not work, there can be a big problem with the outbreak of fire and the risk to lives. Of course, the Bunbury radio station can be received in the coastal area but not beyond the hills.

Another point is the interaction between groups. A house fire occurred in Collie a couple of years ago. The local fire brigade turned up and did not want to proceed because it was told that it must have backup. The backup had to come from Brunswick, yet a bushfire fast attack unit was available within 10 or 15 minutes. The two brigades would not work together. As a result, we sat there and watched the house burn down because by the time the Brunswick unit arrived for backup it was too late. We must address those issues in this bill so that there are some overriding connections between groups. One thing we must not do is change the colour of their ties, because there was a huge argument during the time of the previous government when it wanted to change the colour of their ties. I am making the minister aware of some little issues that he should make sure he is briefed on, because people will be upset and say that they have had a colour for a long time. The same applies to the colour of vehicles and whether they should be red or white. The incentive for having a white vehicle is that they come out of the shop white, but if people want to, they can have them painted red at a cost of \$3 000. Tradition is also the strength of those groups. They have been around the fires and many of the volunteers have been there for 40 and 50 years. Unfortunately, the recruitment of young people is dropping off to some degree, yet we are seeing larger areas of land broken down into 15, 10 and five-acre blocks that need local fast attack units to be available. We must create incentives. One of the incentives that were brought to my attention recently was that volunteers might be paid the emergency services levy or the equivalent amount could be taken off their bill so that they did not have to pay it because they were volunteering for fire brigades. It is like a pat on the head and a pat on the back. It goes a long way to show people that they are valued. The moneys that were taken back could encourage others, but it also gives great recognition to the people who have worked there for many, many years. As I say, that is a very, very minimal amount of money and is something that should be looked at to try to encourage others. It is not a great deal of money but the incentive is there to say, "Yes, I'm worth something. The government has recognised me"—disregard which government—"I get a discount on my levy." They are just minor things, but when people get in that bush fire shed they become big things. The interaction between the groups is something that has to be broken down. I am glad to see this bill. I certainly support the bill.

I suppose I am jumping around a little, but I will go back to the cameras. The cameras and that sort of technology should be brought in at the earliest possible convenience. We cannot afford to say, "We have had to

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cut our budget.” What are the costs if a fire goes through? It is immeasurable, not just in a dollar sense, but if a house goes down. Fire devastates people forever and ever. I have seen that in my own area where the school was burnt down. I did not realise the impact a fire in a school could have on a community. It was huge. I saw mums crying because all their kids’ work for the year was gone. Father’s Day presents were burnt and those sorts of things. It had a really big impact.

Mr R.F. Johnson: I have actually seen that firsthand, I assure the member.

Mr M.P. MURRAY: People walked around in shock for a couple of days. You tell someone something and the same thing is asked again 10 minutes later. That was in a school; the impact on people if it was their house must be 10 to 15 times higher than that. Some TV news footage that we saw of the fires over east really brought that home. We cannot afford that to go on. We have to keep working together with all the groups.

Another matter is that, under the act, there should be some compulsion to make TV stations and radio stations broadcast announcements. As has been mentioned by the member for Wagin: which station does what? If a commercial station does not want to broadcast, I do not think there is any compulsion to make it. The fire might be quite some distance away and the station might have a special on for something else. A TV station may say, “We don’t want to run that because it will take up our air time.” I think the act should recognise that. The Fire and Emergency Services Authority should be able to go along and say that it needs those broadcasts, not just as a community service, and it should have a right to tell the stations to broadcast them every half hour. It is very, very important that we do that. Although we can say in some cases that the announcements are made every hour, I think the gaps are far too broad, particularly for a fire that is travelling at 40 kilometres an hour across the countryside. There should be something in the bill that makes those broadcasts compulsory.

Mr R.F. Johnson: I have an interjection on that very important aspect the member is talking about. I agree with the member, but I do not know whether the member is aware of the full intensity and capabilities of the new state alert system. A message can be sent out every five minutes, if it has to, to anybody with a landline, a fax machine or a mobile phone whose billing account is in that area. Wherever the member lives, for instance, if he registers with FESA—because that is where it comes from—his landline number, fax number or mobile phone number, the member will directly get a message on all those lines telling him what the situation is now. If there is a danger, in a quarter of an hour he will get another message.

Mr M.P. MURRAY: Although I accept what the minister is saying, we know that when there is a fire and they drop the dozer off, someone will say, “Righto, we’re going to put a containment line through there”, and away goes the cable. It does happen.

Mr R.F. Johnson: There is the mobile phone.

Mr M.P. MURRAY: We do not have mobile phone coverage; that is what I am trying to say. In the Balingup area, we do not have coverage. That was the problem at the roadblocks last year—the wrong information was being given out because the poor guy, in good faith, was standing there saying, “This is what I’ve been told. Don’t go that way, don’t go this way, but go that way.” However, the fire had changed, and he was giving out the wrong information. That is what I am saying.

We must have a foolproof system so that people can be warned. Early warnings are the best, because they are the safest. We all know about the fires that occurred over east, where people went down a road that they thought would be a safe exit, and trees had fallen down and they could not get through, and they were burnt. The same thing could easily happen in our south west. Fires sometimes become like tornados, and the winds that are generated by those fires push the trees over and cause problems. However, if there are good communications about leaving early, some of those problems may be averted. I am glad to say that a lot of the problems have been recognised. I am really pleased about that. However, we need to work a little harder, because there are gaps in the system. Those gaps are not only communication, but also road routes. I recently went to the hills to look at the situation there. I was horrified, to be honest. People in the hills should not think that if ever a fire goes through their area, they will be able try to run from that fire. They will not be able to get out because of all the cul-de-sacs. Another problem is that trees have grown right over the top of many of the houses. What rules can we put in place to say that trees have to be pruned back, other than those that are put in place by the local shire? I am not sure. That is another gap in the system. Some work needs to be done whereby people go around and look at homes and say to the owners that they have a fire hazard around their home and need to prune back. People who have Western Power lines on their property are required to prune any trees that are growing under those powerlines so that they do not cause a hazard. Some obligation should be placed upon homeowners to keep their homes fire safe and fire ready. There is a still a bit of work to be done with this bill. Hopefully those issues will be picked up on the way through.

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MR M.P. WHITELEY (Bassendean) [5.26 pm]: I will be making a very brief contribution to this debate on the Bush Fires Amendment Bill. I am a little surprised that this bill was declared an urgent bill by the Minister for Emergency Services. That is probably indicative of the inability of the minister, who is also the Leader of the House, to coordinate the business of the Parliament.

Mr R.F. Johnson: Come on! This is an opportunity to make a serious contribution to this very important bill. You should be ashamed of yourself, my friend!

Mr M.P. WHITELEY: If the minister would just let me go for a while, we can finish and get out of here. I do think this is evidence of the fact that the minister is unable to coordinate the business of the Parliament. Further evidence of this can be found in the fact that the members of the Legislative Council have been stood down for the day. In the debate on the motion that this be declared an urgent bill, the minister said that he gave the member for Girrawheen the draft bill on Monday afternoon. That certainly gave us little opportunity as an opposition to consult where necessary. Frankly, I might have used the opportunity, had time permitted, to consult with the local governments in my electorate, particularly the Cities of Swan and Bayswater and the Town of Bassendean. I often consult with these local governments. I have a particularly close working relationship with the Town of Bassendean and the Mayor of the Town of Bassendean, Tina Klein, on a wide variety of issues. She has served the Town of Bassendean for 23 years. I have to say that her only motivation is the welfare of the people of Bassendean. Of course, the lack of preparation by the minister has prevented members of the opposition from having any opportunity for consultation. This legislation may not be quite as relevant to me now as it would have been had I remained the member for Roleystone, but, nonetheless, there are people in Bassendean who will be keenly interested in this legislation. I refer in particular to the full-time fireys at Bassendean fire station, and also the volunteer fire brigade that operates out of Bassendean.

I had a much closer interest in this issue when I was the member for Roleystone. As the member for Roleystone, I was lobbied constantly on the issue of preventive burning. There were two particularly passionate groups that advocated quite different positions. One group advocated that we should do less burning off, because they were concerned about air quality. Frankly, I think that in some cases they were motivated by some misguided notions about protecting the bush. On the other side of the equation were those who I think had a more practical experience of living in the bush and advocated that we should do more, not less, burning off, because we need to safeguard against the potential that an out-of-control bushfire would run through the hills communities that I represented at the time. I encourage the government to resist pressure from those who argue that fire is somehow not part of the natural bush cycle. There are concerns about air quality, and I appreciate the fact that air quality may, for example, act as a trigger for asthma. However, I think the consequences of not burning off are potentially far more devastating.

I took an interest in this matter, and used my imprest account to visit Gary Nairn, who was the federal member for Queanbeyan, I think, at the time; it was in any case an electorate near Canberra. He was either a Liberal Party or National Party member; I cannot remember which. He chaired a federal government inquiry on behalf of the Howard government into bushfires after the terrible Canberra bushfires. He actually had praise for the Western Australian approach to controlled burning and said that we probably had the balance better than most other states. Nonetheless, that is something on which we need to be vigilant. I will make a few more small comments and sit down.

Although the opposition has not had enough time to digest this bill as well as it would have liked, the key amendments—including provision for total fire bans, new arrangements for the control of major fires, changes to the definition of “property” to include crown land and bush and the inclusion of a new fire danger rating system—appear to be sound innovations. I therefore indicate that I think this is worthy legislation. Nonetheless, I would have appreciated the opportunity to have more time to consider and consult on this legislation.

MR R.F. JOHNSON (Hillarys — Minister for Emergency Services) [5.32 pm]: — in reply: I first of all thank all members who have made a contribution to the second reading debate on this bill. I accept that they have a genuine and sincere belief that we should do whatever we can to save lives and property from bushfires throughout Western Australia. I accept that that is true of every member in this chamber. We will go into consideration in detail, so I do not intend to respond twice to every contribution that has been made, because I do not want to waste the time of the house. However, I will address a couple of issues that have been raised. One issue was raised by the member for Girrawheen, who is the opposition spokesperson for emergency services. She addressed the answers to many of the issues that she raised, because she got the answers in the briefing. However, an area that she did not cover was the issue of identification cards. I will cover that now. Photographic identification cards are being produced for Fire and Emergency Services Authority volunteers. That group includes the Volunteer Fire and Rescue Service, the Volunteer Fire Service, Volunteer Marine Rescue Services, the State Emergency Service, Volunteer Emergency Service units; and emergency service cadet instructors. A

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distribution system for the ID cards is currently being finalised, and it is expected that they will be sent out very shortly.

Ms M.M. Quirk: What's "very shortly", minister?

Mr R.F. JOHNSON: Very shortly. How long is a piece of string? I will let the member know, for sure.

Ms M.M. Quirk: For example, the Attorney General can say that he has instructed his department to get something back to him by 29 September. I just wondered if you had had any sort of discussion or have some sort of time frame.

Mr R.F. JOHNSON: The information that I have been given is "very shortly", but when we go into consideration in detail, I will have FESA people at the table and I will answer that particular question. The member wants the definition of "shortly", and that is fair enough; I will get it for her.

At this stage, Bush Fire Brigade volunteers will not get identity cards, because they come under the domain of local government. They do not come under the direct domain of FESA. However, FESA will work with local government to progress that situation so that we can, at the end of the day, sort out that particular area.

Ms M.M. Quirk: Would it be your aspiration to have most volunteers covered by this fire season?

Mr R.F. JOHNSON: Yes, it certainly is.

Another matter that was mentioned, in particular by the member for Gosnells, was the amendment standing in his name on the notice paper. The information I have, with which I concur, is that the amendment is completely unnecessary. I believe the member for Gosnells wants to know what "bush" means, or is he concerned that "bush" can be construed as anything or it may not construe certain items of flora?

Mr C.J. Tallentire: Yes, or something that is burnt might not be defined as being bush.

Mr R.F. JOHNSON: Let me give the member for Gosnells the answer now. It may save him some time by not having to move his amendment, which means we can get through the consideration in detail stage much easier. The Bush Fires Act 1954, part 1 headed "Preliminary", clause 7 gives the interpretation of "bush". I will read the relevant part —

bush includes trees, bushes, plants, stubble, scrub, and undergrowth of all kinds whatsoever whether alive or dead and whether standing or not standing and also a part of a tree, bush, plant, or undergrowth, and whether severed therefrom or not so severed ...

That is the definition of "bush". I suggest that covers everything the member for Gosnells can think of. If the member for Gosnells can think of a plant that it does not cover, he is a better man than I am, Gunga Din!

Mr C.J. Tallentire: That does not include peat swamps, just to give one example.

Mr R.F. JOHNSON: I suggest it does, because they would be covered under "plants, stubble, scrub, and undergrowth of all kinds whatsoever".

Mr C.J. Tallentire: A peat swamp is like a soil.

Mr R.F. JOHNSON: Would the member for Gosnells like to have "peat soil" in the legislation?

Mr C.J. Tallentire: Yes, to broaden that definition. That is just one example that I have been able to come up with in the short time we have had to deal with this bill. That is why I am saying it is much safer to talk about natural ecosystems.

Mr R.F. JOHNSON: The advice is that it is completely unnecessary; and quite obviously, with that advice, I will not be accepting the amendment.

Mr C.J. Tallentire: Has the minister's advisers been able to speak to the Department of Environment and Conservation on this?

Mr R.F. JOHNSON: I cannot answer that question at this moment. I will be able to answer that question when we are at the table of the house. I am sure the member for Gosnells will still want to move his amendment, but I foreshadowed that I will not be accepting the amendment and I wanted to give the member the reasons I would not be accepting it. I accept that he will move the amendment in good faith and that he has a particular reason, which is obviously to do with peat swamps.

Mr C.J. Tallentire: That is just one example.

Ms M.M. Quirk: Minister, I can't understand what the issue or the problem is. Part of the reason the member for Gosnells will move the amendment is to clarify some current ambiguities in the legislation. The amendment

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is an attempt by him—as the minister said, a sincere attempt—to close another possible loophole. What’s the problem about it being there?

Mr R.F. JOHNSON: It is because the advice I have been given, which I actually believe, is that “bush” will cover all those things. The member for Gosnells is concerned that in one specific instance the definition of “bush” may not cover that and there could be ramifications. I do not accept that is the case. Australians know bush is bush and that it can be all sorts of stuff out there. We are talking about bushfires predominantly. I just wanted to give the member for Gosnells the reason why I will not be accepting the amendment, but he can move it if he wants to take it that far and then we will vote on it. However, I would have thought that the fact that all members have said they support this legislation means that they would support it wholeheartedly. I do not want to waste the time of the house by responding to any other question that members want answered. I know that even if I answer the member for Cannington’s question now, I will get the same question when we go into consideration in detail.

Mr W.J. Johnston: No. I promise the minister that if he answers my two questions now, I will not contribute to consideration in detail.

Mr R.F. JOHNSON: Based on that, I will take the member for Cannington at his word. Was his first question about people being forced off their property?

Mr W.J. Johnston: Yes; yesterday the minister said that it related to children, the infirm and the aged.

Mr R.F. JOHNSON: No; let me explain. What I said yesterday, and what I will say again today, is that there is a clause in the bill that gives authority to evacuate property. There is no intention whatsoever for FESA or any of the people they authorise to evacuate areas to actually take anybody kicking and screaming from their property. However, in circumstances in which there are children, people who are disabled, elderly and infirm, this clause will take effect. I think it should do. In the case of irresponsible parents with young children, if the parents want to stay to defend their house, that is fine. That is a decision that they should be able to make and will be able to make. However, they cannot keep their children with them because we have a collective responsibility for the safety of children, even if they are other people’s children.

Mr W.J. Johnston: I want to clarify that. Is the minister telling me that this provision does not apply to able-bodied adults?

Mr R.F. JOHNSON: The provision is in this bill should it be needed. I have been assured by FESA that they will in no way forcibly remove an adult from their property if the adult simply says, “I’m not going. I’m going to stay here.” They would try to persuade them in every way they can to leave if they thought they were in danger, but they would not drag them kicking and screaming from their property. I am saying that in the Parliament today. It is on the record. I hope that satisfies the member.

Mr W.J. Johnston: It probably does, but I will clarify it. Is the minister saying the provision does not apply or will not be used? They are two different answers.

Mr R.F. JOHNSON: I am saying that it can apply certainly, but it will not be used. It will not be used for fit adults who can make up their own mind. What was the second one?

Mr W.J. Johnston: What advice do you have on the exemptions?

Mr R.F. JOHNSON: I have not been advised specifically on the question the member put forward, but if a person is granted an exemption and there is no intent to cause a fire, to start a fire, I do not believe that they would be subjected to penalties as such, because they would have been granted an exemption. They would not be at fault. I can assure the member that if anybody was granted an exemption, it would be for specific cases in which FESA would believe that that person would not be a risk to the rest of the community. The ability for exemptions must be in the bill. As Minister for Emergency Services, I can declare under this bill a total fire ban, across the state if necessary, not that that would happen. That is what the bill provides for. I can prescribe a total ban in the south west area covering certain areas. If it was felt necessary, there would be no exemptions, but it must be in the bill for specific cases.

Mr W.J. Johnston: Of course you need an exemption regime. I understand that. It is sensible and it is good that it is there. My question is about civil liability. Is there any possibility that civil liability can be handed on to you as minister? Does the minister understand what I am saying?

Mr R.F. JOHNSON: No, it cannot, and obviously I am pleased about that.

Mr W.J. Johnston: I would also be, on behalf of the taxpayers of this state.

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Mr R.F. JOHNSON: Exactly. I will not say anymore because the opposition wants to go into consideration in detail. We will spend whatever time we need to answer the opposition's queries. Let us hope that we can have some fruitful discussions. I thank members for their contribution to this debate.

Question put and passed.

Bill read a second time.

Leave not granted to proceed forthwith to third reading.

Consideration in Detail

Clause 1 put and passed.

Clause 2: Commencement —

Mr J.C. KOBELKE: This is an appropriate time for me to put on the record the questions I asked during the second reading stage. Clause 2(b) reads —

the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

I will not repeat the main issues here, but I would appreciate it if the minister can say what preparations must be put in place so that each of those main issues can be implemented. While I am not expecting him to give exact dates for the proclamation of different sections, will it be days, weeks or months before certain sections can be proclaimed?

Mr R.F. JOHNSON: We hope to have everything in place by the end of October. I understand that the question was: what will happen now to enable those changes to be put in place? There will be a review of operational procedures; public education campaigns about the changes throughout the state; a review of the regulations; and revision of the Westplan bushfire plan. These changes will require local governments, the Department of Environment and Conservation, and WA Police to undertake training, which will take place within that time. Incident management teams need to be defined and that will happen once the bill is passed. Some of these things have been started in anticipation of the bill being passed.

Mr J.C. KOBELKE: I am looking for the things that create critical time lines. Clearly, as the minister said, a review of operational procedures can be underway already. A public education campaign cannot start until the bill goes through, but it can be prepared and ready to run, although it may need to be finetuned if anything comes to light during the passage of the legislation. The drafting of regulations can sometimes commence but, clearly, they cannot be put in place until the legislation is through. Quite often it is not possible to get priority for regulation drafting until the legislation is through.

There are two questions: what are some of the critical issues that are stoppers to the proclamation of specific parts or all of the bill? How much work must go into making new regulations following passage of the bill; is it a big job or is just a bit of finetuning required?

Mr R.F. JOHNSON: I am advised that it is not a particularly big job. One of the critical areas the member asked about is Westplan, which will be drafted in the next couple of weeks and will certainly be ready by the bushfire season.

Mr J.C. Kobelke: When you say "the bushfire season", what is the target date for the start of the bushfire season?

Mr R.F. JOHNSON: For Westplan, it is 1 November. The other time usually recognised is 1 December, I think, as the member will know. I am sure he knows most of these answers anyway.

Ms M.M. QUIRK: As I said in my contribution to the second reading debate, Westplan is something that is negotiated between a number of agencies, so is the minister anticipating in that time the drafting of regulations and consultation with the other participants or signatories?

Mr R.F. Johnson: The drafting has already started, and the consultation has also started, particularly between FESA and DEC and other interested parties. Everything is in momentum at the moment in relation to that, and that is why we are confident that we will have everything in place.

Ms M.M. QUIRK: So it will be ready to go and in place on or before 1 November.

Mr R.F. Johnson: Yes.

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Ms M.M. QUIRK: The minister raised two other issues. One was the education campaign. That was one of the milestones that had to be completed. When will that commence and what form will it take?

Mr R.F. Johnson: Obviously, they have already started on that education campaign work. It will be an adjustment to the existing one that we have. We are very confident that the campaign will be ready to roll as soon as the legislation becomes law.

Ms M.M. QUIRK: In previous years, I know that ministers have had a launch or made a bit of a fuss about it. The free publicity has a multiplier effect on the paid publicity, if one likes. When is that planned, minister, and when can I have a day off?

Mr R.F. Johnson: I have never thought about it, to be truthful. In all honesty—you may not believe this—I am not seeking publicity or a photo shoot with this sort of thing. I am more than happy —

Ms M.M. QUIRK: I am not suggesting that, minister. It is just that it is good free publicity, and the minister should get the free-to-air media onside; that is all.

Mr R.F. Johnson: I would prefer to see our firefighters in their uniforms making any major announcement on that. If I am asked to do something, I will, but you know what the TV companies are like. They much prefer to see the men in their blue uniforms and their blue shirts than a polmie in his old suit. I can assure you that it is not something that I will be in any way trying to manipulate to get —

Ms M.M. QUIRK: I am not making any inferences, minister.

Mr R.F. Johnson: No, I know. I am just giving you an assurance that that is not the case. I am more interested in getting all of this in place. Even if we don't have a launch, I am more interested in getting the publicity out to the people who count and who need to know these things about the education campaign and getting the thing rolling.

Ms M.M. QUIRK: That is excellent. In getting the message out to where it needs to go, is the minister anticipating a number of formats? It will not be just one format that that information goes out in.

Mr R.F. Johnson: No. I am pretty sure that it will be in different formats. There will be television and radio campaigns, and the internet. It will be the usual way in which these sorts of things are done.

Ms M.M. QUIRK: Okay. I thank the minister for that. Finally, the minister mentioned that there would be training for FESA personnel and police. I wondered whether anything was contemplated for volunteers.

Mr R.F. Johnson: I know that I mentioned those particular heads and those departments. However, there certainly will be a roadshow for the volunteers by the end of October. We need to get the message out to our volunteers. We appreciate, as I am sure you do, the tremendous work that our volunteers do, and we will give them every assistance that we can.

Ms M.M. QUIRK: I thank the minister.

Clause put and passed.

Clauses 3 and 4 put and passed.

Clause 5: Section 13 amended —

Mr J.C. KOBELKE: I am seeking to find out whether what the minister said in his speech relating to clause 5, as I see it, is policy or is caught up with the legislation in a way that I cannot see clearly. In clause 5, we have the new proposed subsections to be inserted into section 13. Proposed subsection (4) states —

If a bush fire is burning in the district of a local government ...

The next proposed subsection refers to a bushfire that is on conservation land, so the clause covers both of those —

... the Authority may, in writing, authorise a bush fire liaison officer or another person to take control of all operations in relation to that fire —

The first one, (a), is “at the request of local government”, so that means they can hand it over, and (b) states —

if, because of the nature or extent of the bush fire, the Authority considers that it is appropriate to do so.

It seems that the authority—that is, the Fire and Emergency Services Authority of Western Australia—can do it when it considers that the nature and extent of the bushfire is appropriate for it to do so.

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Mr R.F. Johnson: Yes.

Mr J.C. KOBELKE: Whereas the second reading speech states —

The decision for FESA to take control of a major fire will occur when the fire situation in one or more areas of the state is of such magnitude that resources are stretched and community warnings and information are required.

The second reading speech suggests that there are some threshold issues before FESA will step in and actually apply the legislation. I make the question clear: the second reading speech makes it reasonably clear that there will be certain situations of magnitude and of stretched resources that would initiate the use of this subclause, whereas the subclause itself leaves it much more wide open. Am I to take it that the actual legislation that will be put in place will leave it wide open and the authority could do this at any time, but that there will be a policy in place to set the guidelines, which is what is in the second reading speech?

Mr R.F. JOHNSON: The Bush Fires Regulations may actually specify when those occasions would occur. At the end of the day, the main thrust of the section to give FESA the ability to take control of a fire would probably be used in extreme circumstances—that is, where there is a clear danger to life and property in particular and when FESA felt that it needed to take control because the fire was simply getting way out of hand and the firefighters on ground, doing the best job they possibly could, were under a lot of stress. If there were different bushfires in different locations, FESA would have that authority to assume control, which I think the member has agreed would be the same.

Mr J.C. KOBELKE: I am not disagreeing with what the minister is saying at all, but that does not answer the kernel of the question I asked. No-one would doubt the use of that provision when there is a severe fire or when there are so many fires that resources are stretched and it is used to ensure we have the best application of those resources and the best possible level of communication and coordination. The issue it comes down to is: what are the procedures under which the authority will use these new provisions, and by what method are they established? I am not asking the minister to lay out for me now exactly what they will be, but they have to be laid out somewhere.

Mr R.F. JOHNSON: They will be laid out in the regulations and in the Westplan.

Mr J.C. Kobelke: Are they already developed, or is that work to be done?

Mr R.F. JOHNSON: Yes, but there will be thresholds. A document is being worked out with the Department of Environment and Conservation to better define those thresholds, because we are trying to ensure that there is good cooperative arrangements, particularly between FESA and DEC as they are the two major fire-fighting organisations. We want to see them work together well, and those thresholds will be in place very shortly and will become a part of the Westplan.

Mr J.C. KOBELKE: I thank the minister for that answer. The minister has mentioned the issue I was getting at, which is that a cooperative arrangement is needed.

Mr R.F. Johnson: Absolutely.

Mr J.C. KOBELKE: If there are not clearly established principles by which this will apply —

Ms M.M. QUIRK: The member for Balcatta's time has expired. I am interested in hearing him finalise this issue.

Mr R.F. Johnson: So am I.

Mr J.C. KOBELKE: I will be brief; I do not want to delay things. The point I was trying to get to is that because the minister wants that cooperation, there has to be an understanding beyond FESA about when these provisions that are now before us will be applied.

Mr R.F. Johnson: Of course.

Mr J.C. KOBELKE: Is the minister saying that that will be worked out, and both DEC and FESA will be around the table, trying to get a common understanding of and agreement on what they should be?

Mr R.F. Johnson: Absolutely, yes.

Mr J.C. KOBELKE: Will that be in your Westplan, potentially in regulations, or both?

Mr R.F. Johnson: That is largely done already. In the round table discussions working through these areas, the Fire and Emergency Services Authority and the Department of Environment and Conservation have been doing a very good job in understanding what is needed and coming to agreement on how things should progress when it

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is necessary to designate that a fire is of such magnitude that FESA would need to assume control. They are working together.

Mr J.C. KOBELKE: Just to finish that off, when does the minister expect that that body of work, which will obviously end up as an operational document of some form or a plan, will be completed?

Mr R.F. Johnson: Westplan-Bushfire is being drafted and is about two weeks away, which is not long. Obviously both DEC and FESA are around the table working on this area. It is our intention that everything will be in place by the end of October.

Mr J.C. KOBELKE: Does the minister see that as an absolute requirement before he proclaims clause 5 of the bill?

Mr R.F. Johnson: It may not be a requirement, but it is something that I would certainly wish to see before we proclaim it.

Mr J.C. KOBELKE: In terms of the minister's policy leadership of the issue, is he personally saying that he wants it completed before this clause is proclaimed, or not necessarily?

Mr R.F. Johnson: I cannot control other agencies, but FESA is perfectly aware of what I want to happen and how soon I want it to happen.

Mr J.C. KOBELKE: I am just asking about that one point: whether it is an issue for the minister that that plan should be completed prior to proclaiming this section or whether it is not necessarily a critical issue.

Mr R.F. Johnson: It may or it may not be a critical issue, but I think it would certainly be preferable to have all that done prior to proclamation.

Ms M.M. QUIRK: Westplan-Bushfire, and the other things that are in place, such as the regulations and protocols the minister is talking about, are basically the blueprint for this legislation in its new form. That will be the guide under which firefighters, wherever they come from, will operate. How will the Western Australian bushfire readiness review feed into discussions on Westplan? Will that feed into it, and how will people inform themselves about those issues in their discussions about Westplan, the format of the regulations and so on?

Mr R.F. JOHNSON: The report that the member is referring to, which is under the joint names of the Premier, the Minister for Environment and me, will be ready for tabling in this Parliament within the next couple of weeks. The Premier intends to do that. The report may even be ready by next week. Some of that report will be slightly historic, because it will show a lot of the outcomes and recommendations that have in fact gone into this legislation. This legislation will cover some of the document the member is talking about that the Premier is basically driving. I am sure that there will be one or two other areas, but it is up to the Premier to table that document when it is ready. I believe it will be ready within a week.

Ms M.M. Quirk: Before the start of fire season in any event.

Mr R.F. JOHNSON: I think it will be ready certainly in the next —

Ms M.M. Quirk: Is the minister confident that there will not be any inconsistencies or issues identified that have not been dealt with elsewhere?

Mr R.F. JOHNSON: No, I do not believe there will be any inconsistencies, but I think that certainly this was essential because this is the legislation that will go in place to try to assist all our firefighters in doing their very valuable job. The other document will be broader than this one. However, this is the legislative program that we are putting in place.

Clause put and passed.

Clause 6: Sections 14A, 14B and 14C inserted —

Ms M.M. QUIRK: I raised an issue in my second reading contribution in relation to the powers of authorised persons, particularly volunteers, to issue directions. I think the minister was going to provide me with further information concerning the issue and the format of authority badges to volunteers. The minister will appreciate that the various arms of the emergency services like to be identified separately. Has the minister discussed with the various arms of volunteers how they are badged, or will we have the usual controversy about them all being badged as Fire and Emergency Services Authority? What is the time frame for issuing the badges?

Mr R.F. JOHNSON: There is no intention to change the uniforms in any way.

Ms M.M. Quirk: Just the badges.

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Mr R.F. JOHNSON: Is the member talking about the identification badges?

Ms M.M. Quirk: Yes.

Mr R.F. JOHNSON: I thought I gave the member that information.

Ms M.M. Quirk: I think the minister said he was going to provide some additional information on the time frame.

Mr R.F. JOHNSON: The time frame, I beg your pardon. Yes, that is the only part of the member's question that I could not answer because the member wanted to know the definition of "shortly".

Ms M.M. Quirk: Yes.

Mr R.F. JOHNSON: Most of the south west will be done before the bushfire season. People in those areas that are definitely affected by bushfires will have those identification badges by the time bushfire season —

Ms M.M. Quirk: By 1 December?

Mr R.F. JOHNSON: That is correct. Some of the other areas may take a little longer. As I understand it, we want to concentrate on our most vulnerable bushfire areas—for instance, the south west and probably the hills, or the escarpment. The south west and the hills are the two areas that are most prone to bushfires. We accept that and I know the member accepts that as well. We want to make sure that they are already in place by that date, but doing that may mean that some more outlying areas may take a little longer.

Ms M.M. Quirk: Does the minister have an example of what the badges will look like?

Mr R.F. JOHNSON: They will look like the badge I am holding—a very impressive badge. Is the member happy with that?

Ms M.M. Quirk: Does that badge have any anticounterfeiting measures on it or is there any issue about that? That is the other probity issue.

Mr R.F. JOHNSON: These badges are issued to our senior officers, so I would hope that —

Ms M.M. Quirk: That badge is to get access in and out of a building; I am talking about people identifying themselves to an occupier and saying, "Please leave the premises."

Mr R.F. JOHNSON: The badge has a photograph of the person on it. It does not give them access to any building.

Ms M.M. Quirk: Is it the same as the FESA badges that exist at the moment?

Mr R.F. JOHNSON: Correct.

Ms M.M. Quirk: Will volunteer fire rescue people have FESA badges?

Mr R.F. JOHNSON: With the appropriate brigade title.

Ms M.M. Quirk: Excellent; all right.

Mr R.F. JOHNSON: They will all have their unique —

Ms M.M. Quirk: Will they have their photograph on them?

Mr R.F. JOHNSON: Yes.

Ms M.M. Quirk: Can the minister tell me what the hold-up has been until now?

Mr R.F. JOHNSON: I am told that we probably ran out of photographers; there has been the difficulty of actually getting round to taking everybody's photograph. That has all been done, and the IDs will be in place by the bushfire season.

Ms M.M. Quirk: I want to know for the future—because obviously there is a bit of turnover with volunteers—whether it is possible to have some agreement with the Department of Transport so that licence photos can be used on these identification badges and so prevent these logistical problems in the future.

Mr R.F. JOHNSON: I will take that on board, and certainly FESA will take the member's comments on board. It is different when individual photographs need to be taken for new volunteers from when we have to photograph 30 000 volunteers, which is a much bigger job. That is why it has taken a bit of time. I am sure that will be completed before the bushfire season—at least in the danger areas—then as individuals become volunteers they will have their photo taken and this will be an easy operation.

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Ms M.M. Quirk: Finally, the minister mentioned that passes will be completed for volunteers in areas of high risk. Can the advisers indicate a ballpark figure of the number of passes that will be issued?

Mr R.F. JOHNSON: At a guess, 1 000.

Ms M.M. Quirk: Previously the minister's response was that there were something like 30 000 volunteers.

Mr R.F. JOHNSON: That is the total figure and includes State Emergency Service volunteers, sea search and rescue volunteers, country bush fire brigade volunteers and all our volunteers.

Mr J.C. KOBELKE: The ability to implement this pass to identify officers will be a lot easier because of the work that was done over the past few years. I am sure the minister is well aware of the diverse range of volunteer groups and that until a few years ago we did not have a centralised, up-to-date list of those volunteers. That has been put in place, so it is easy to build on that. One of the issues that arose a year or two ago related to a small sector within the volunteer group who were not happy with the badges they were being asked to use and wear. This was sometimes because of the particular ownership or because they did not like the insignia. These might seem like trivial issues, but for volunteers who are proud of their unit and traditions, they can be points that cause emotion at a local level. I wonder if the consultation has been such that all those issues are totally put to bed and there is acceptance of this new identification system across all the volunteer areas.

Mr R.F. Johnson: All the volunteers will retain their uniforms as they are.

Mr J.C. KOBELKE: I am talking only about the badge, as there have been badging issues in the past.

Mr R.F. Johnson: There have been, but all those issues have been resolved and all our volunteers are a lot happier today than they were sometime ago.

Clause put and passed.

Clause 7: Part III Division 4 replaced —

Mr J.C. KOBELKE: This clause replaces the bushfire emergency period with a new phrase "total fire ban". The key issue is that a new set of provisions will be needed to create this total fire ban instead of the bushfire emergency period. How much work is involved in developing the regulations and changed procedures that go with it and how far advanced are we towards having those new regulations, manuals, et cetera?

Mr R.F. JOHNSON: We are well advanced on that, with the assistance of the Bureau of Meteorology, and we are using its experience from other states.

Mr J.C. Kobelke: I take it that the minister is referring to the policy. I am also asking about regulatory work and procedural changes that have to follow. Has that been done as well?

Mr R.F. JOHNSON: It is well on the way to being finished. As I said earlier, all that will be in place and the regulations will be issued, I believe, before proclamation.

Clause put and passed.

Clauses 8 to 10 put and passed.

Clause 11: Section 32 amended —

Mr C.J. TALLENTIRE: As I foreshadowed during the second reading debate, I have some concerns about the definition of "property". I take note of the minister's comments on the definition of "bush", as presented in the Bush Fires Act. However, I think there are some deficiencies in that definition. In just the short time that this bill has been before the house I have been able to pick up one area that I do not believe would be covered, and that relates to peat areas. The minister might be aware of areas north of Perth, not far from his electorate, in the Carabooda area, where there have been very serious problems with peat areas burning for incredibly long periods—years in fact. A media release from the Fire and Emergency Services Authority dated October 2006 referred to a peat fire that began in August 2006, and in October they were still trying to put it out and calling upon massive resources. There is no question that huge resources are needed to try to tackle these things.

Mr R.F. Johnson: Could I say in relation to your amendment that I do not think it is appropriate to accept it today, because I think there needs to be a bit more exploration by FESA. Your description is a bit nebulous.

Mr C.J. TALLENTIRE: I do not believe it is.

Mr R.F. Johnson: FESA does. I do not want, by refusing the amendment today, to detract from the fact that it may be useful. If you want to leave your amendment, I promise you that I will give you an assurance that, if you

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do not move it, we will look into it. If you want to get one of your colleagues in the upper house to move it on your behalf, it may have more success.

Mr C.J. TALLENTIRE: Has FESA consulted the Department of Environment and Conservation on this, because it seems there is some inadequacy in this definition of “bush and fauna”?

Mr R.F. Johnson: They have not consulted on the natural ecosystem, but I think we saw your amendment only yesterday or today.

Mr C.J. TALLENTIRE: I did put it on the notice paper as soon as I could.

Mr R.F. Johnson: I am not criticising, but I am saying that because it has been declared an urgent bill and we are trying to get it through, FESA has not had a proper opportunity to discuss it with DEC, which I think is the concern that you have. However, I will say to you in good faith that if you leave the amendment today so that we can get through this business very quickly, I will give you an assurance that FESA will go away and discuss this with the appropriate people. If there is nothing in your amendment that will detract from the bill in any way, or it is deemed not to be unnecessary, I will be happy to give instructions to my colleague in the upper house to accept the amendment there.

Mr C.J. TALLENTIRE: I thank the minister for that. I have just one final query. Was FESA able to consult with DEC on this definition of “bush and fauna”, not my amendment and the words “natural ecosystems”, but was DEC consulted about this definition of “property”?

Mr R.F. Johnson: Yes, it was, and that is the information I have been given. The definition of “bush” has been in the act since 1954. I think the definition is huge and covers almost everything I could think of.

Mr C.J. TALLENTIRE: Neither the minister nor I are specialists. I hope that the appropriate scientific people were consulted but I have my doubts about it because in just 48 hours I was able to pick out this concern.

Mr R.F. Johnson: The Department of Environment and Conservation has seen this legislation. It has been consulted all the way through and it has worked with FESA. If DEC had any concerns, it would have brought them to the attention of FESA and cabinet. Former ministers would know how that works. DEC did not do that, so I cannot believe that it had any concerns. I give the member an assurance that we will look to see whether there is a necessity to include this in the legislation. If there is even the slightest chance that it would be better if it were in the legislation, I assure the member that we would put it in the legislation.

Mr J.C. Kobelke: Will the minister also give an undertaking to come back to the house and inform the member if it will potentially be changed?

Mr R.F. Johnson: I would be very happy to do that.

Ms M.M. QUIRK: Further to that, the minister read the definition of “bush”, which includes trees, bushes, plants, stubble, scrub and undergrowth of all kinds whatsoever, whether alive or dead or whether standing or not standing and also the part of a tree, bush, plant or undergrowth and whether severed there from or not so severed, but does not include sawdust and other waste, timber resulting from the saw milling of timber in a saw mill while the sawdust and other waste timber remains upon the premises of a saw mill in which the saw mill is carried on. I do not like to bandy around Latin, but *iustum generis*. It seems to me that peat would not be covered. It is not of a like category to the other things that are listed in the definition of “bush”. In any event, I think we will still move the amendment but not divide on it. This is adding and not derogating from what the minister is seeking to add to the provision. It is a live issue and the member for Gosnells has done the minister a service by pointing out the live issue of peat fires. The member’s amendment would be a valuable contribution. We do not want to have to make additional amendments to the legislation in three years because we chose to not legislate for something that we know is happening now and can do something about. I accept that the minister must seek more consultation.

Mr R.F. Johnson: The member for Gosnells is talking about peat but the amendment says “natural ecosystems”. That can cover a range of things, many of which are already in the legislation. If the member wanted the legislation to cover just peat, he should use the word “peat”.

Ms M.M. QUIRK: We are saying that peat is probably not covered at all.

Mr R.F. Johnson: If it is not, I am happy to include it. I would prefer to not agree to this amendment today without FESA discussing it with DEC and to advise me whether or not it should be included. If it should—I have no wish to be awkward about this—I would be happy to accept the amendment. I would prefer it if it were moved in the upper house so that we can get it right.

Mr Rob Johnson; Mr Mark McGowan; Dr Janet Woollard; Mr John Kobelke; Speaker; Mr Paul Papalia; Ms Margaret Quirk; Mr Frank Alban; Mr Chris Tallentire; Ms Rita Saffioti; Ms Lisa Baker; Mr Bill Johnston; Mr Mick Murray; Mr Martin Whitely

Ms M.M. QUIRK: We will move it and then we will we will accept the minister's proposition. It might need to proceed in the upper house as well.

Mr C.J. TALLENTIRE: I move —

Page 12, after line 11 — To insert —

- (3) In section 32 after “damage a person or property” insert:
or natural ecosystems

Amendment put and negatived.

Clause put and passed.

Clauses 12 to 20 put and passed.

Title put and passed.

Leave granted to proceed forthwith to third reading.

Third Reading

MR R.F. JOHNSON (Hillarys — Minister for Emergency Services) [6.25 pm]: I move —

That the bill be now read a third time.

MS M.M. QUIRK (Girrawheen) [6.25 pm]: I will not delay the house any more, other than to thank the minister's advisers for their very helpful briefing last week. I hope the next time we have Fire and Emergency Services Authority legislation, the minister will allow my colleagues longer to consider it so that such live issues as to whether “peat” constitutes an ecosystem can be properly considered.

Question put and passed.

Bill read a third time and transmitted to the Council.