

COMMUNITY DEVELOPMENT AND JUSTICE STANDING COMMITTEE

INQUIRY INTO FIRE AND EMERGENCY SERVICES LEGISLATION

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
WEDNESDAY, 16 NOVEMBER 2005**

SESSION ONE

Members

**Mr A.P. O’Gorman (Chairman)
Mr M.J. Cowper (Deputy Chairman)
Mr S.R. Hill
Ms K. Hodson-Thomas
Mrs J. Hughes**

Co-opted Member

Mr P.D. Omodei

Hearing commenced at 9.33 am**McNAMARA, MR KEIRAN JAMES****Executive Director, Department of Conservation and Land Management,
Cnr Hackett and Australia II Drives,
Crawley, 6009, examined:****WALKER, MR ALAN WILLIAM****Director, Regional Services, Department of Conservation and Land Management,
Cnr Hackett and Australia II Drives,
Crawley, 6009, examined:**

The CHAIRMAN: This committee is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament.

Have you completed the "Details of Witness" forms?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes attached?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

The Witnesses: Yes.

The CHAIRMAN: You have given the committee a submission. Do you wish to propose any amendments to the submission?

Mr McNamara: No.

The CHAIRMAN: Is it your wish that the submission be incorporated as part of the transcript of evidence?

Mr McNamara: Yes.

The CHAIRMAN: Before we ask any questions do you wish to make any statements in addition to the submission?

Mr McNamara: The only remarks I would make are to say that we had the earlier opportunity to brief the committee on 14 September. Our submission builds on what we said to the committee on that day. I do not believe that I need to give the same or similar remarks about the broader roles and functions of the department as I did last time. They are touched on in the submission. One specific point I would draw attention to in the submission is that we have made a very clear statement on page 3 of the submission that we believe it would be appropriate - for the reasons we outlined in the submission - for the fire management provisions of the Conservation and Land Management Act to be amended in the terms we have outlined in the submission. I think we touched on that in the informal briefing. We have made a very clear statement in this submission to your committee.

Ms K. HODSON-THOMAS: I will ask the first question. From your submission I wonder whether we could seek some clarification on a couple of statements about CALM's emergency services legislative responsibility. In paragraph 2 on page 1 you state that fire management and the provision of other emergency services in Western Australia is an integral part of the department's

land management functions prescribed in the Conservation and Land Management Act 1984. However, further down on page 3, paragraph 4 states that fire management is not specified in the CALM Act as a function of the department, which you have just already stated. These statements appear somewhat incongruous. Could you expand on that and explain that to the committee?

Mr McNamara: CALM's fundamental roles are to manage the land that we are responsible for under the CALM Act - the state's national parks, state forest and various other classes of land amounting to about 10 per cent of the state. We also have, by government policy, a role to deal with pre-wildfire suppression preparedness on more than 80 million hectares of unallocated crown land and unmanaged reserves. We also have a primary role in biodiversity conservation throughout the state regardless of land tenure. Our function is derived from the CALM Act but the CALM Act does not explicitly state that fire management per se is a function of the department; rather, fire management is an inherent responsibility in being responsible for the management of land. We always have regarded and do regard fire management as an integral part of the land management function that we have. There is a clear expectation on all landowners and land managers that they will manage fire on their lands. That is where our responsibility derives from.

Mrs J. HUGHES: In the light of fire management or firefighting, do you see those as the same thing?

Mr McNamara: No, fire management is a much broader range of functions and activities.

Mrs J. HUGHES: Do you think that encompasses firefighting?

Mr McNamara: Wildfire response and firefighting are part of fire management but fire management is broader than just a firefighting response.

Mrs J. HUGHES: As far as the emergency services are concerned, your submission talks about the fire-managing provisions of other emergency services. Other than firefighting as an emergency service, do you see your role in any other area?

Mr McNamara: Yes, we do have roles. We are a highly regionalised organisation with staff throughout the state; in particular, staff are present in national parks and other areas that were visited in the last financial year by almost 11 million visitors. One of the clear responsibilities that we have is a duty of care to visitors to national parks and other lands that we manage. In emergencies such as accidents, injuries, search and rescue and so on, the lead responsibility generally falls to police and emergency services personnel. However, it is very often the case that our field staff are the first to be notified or the first on the scene and to take the initial action to deal with emergency situations until such time as the police or SES are mobilised and on the scene. We then fit in with those structures. Simply by virtue of being a land manager and having a duty of care to the safety of people who visit the lands that we manage, we are a significant player in emergency response.

The CHAIRMAN: One of the issues that has become clear to this committee is that we have multiple agencies managing fire, particularly across the state. That seems to be not so much a problem, but it is a bit of an issue when we have multiple agencies dealing with fire. Over the past 12 months the Auditor General and the Coroner have raised concerns relating to current emergency services arrangements, in particular, the arrangements during multiagency operations. As I said, we have received a number of submissions addressing that. I appreciate your recommendation to allow FESA to take control of a fire from local government, which is in support of the recommendations made by the Auditor General and the coroner. Even if your recommendation about local government is supported by the inquiry, we are still left with a situation in which two agencies - CALM and FESA - are potentially in control of multiagency fires when a fire is moving across different tenures of land. Can you give us your opinion on whether your recommendation actually addresses that problem adequately?

Mr McNamara: There is a lot that can be said in response to that question. We have collaborative arrangements for wildfire response that largely are based - in terms of CALM and FESA - on who has the appropriate capacity on the lands on which the fires occur or are threatening. I would contend that the cooperative arrangements that are in place do work well and have proved more than adequate, as exemplified by major fires last summer such as the Perth hills fire and the Yanchep fire. We require, as a land management agency, the active use of fire through prescribed burning to protect life and property as well as environmental values. We have an expertise and a capacity built around that role and our role as a land manager with responsibilities for wildfire suppression. We believe that the collaborative arrangements that are in place under Westplan-Wildfire - the plan that is in place and signed off by us and FESA - are effective. They are efficient in delivering government services and work well. I think the essence of the findings of the Auditor General and other comments that have been made relate more to uneven capacity across the more than 140 local government authorities rather than to concerns about the arrangements between CALM and FESA. Alan may wish to add to that answer.

Mr Walker: I think in the department's submission there is a distinction between fires that are burning on private property and lands other than those managed by CALM. Our recommendation is that legislative change is needed to allow FESA to take control of the wildfire incidents that are burning on private property or lands other than CALM-managed lands that pose a significant threat to life and property. We would still support the retention of the current provisions of the Bush Fires Act that allow an authorised CALM officer to take control of a fire that is burning on or threatening CALM-managed land. There would still be a distinction. Potentially, there would be some occasional instances where there might be some grey about where the fire is burning and what it is threatening. In the past there have been few, if any, instances when that uncertainty has resulted in any delay or ineffective incident control operations being mounted. It is really confirming, I guess, the current distinction between fires burning on or threatening CALM-managed land, for which CALM currently has the power under the Bush Fires Act to take control of those fires, and other fires. Currently, FESA does not have the power to take control of fires that are burning on private property or threatening life and property.

Mr P.D. OMODEI: I understand the situation with the wildfire plan. What happens in the situation in which CALM has the ability to take control of fires on lands adjacent to CALM-controlled properties? What happens in the case of a large fire when the tenure of land changes? Under the current system does CALM continue to control the fire or does the control change from one agency to another? In the case of the fire in the hills last year, for which CALM was the management authority in charge, if a fire had occurred elsewhere in the state on CALM-owned property and you had to draw resources away, would it change? Would the management of the fire change?

Mr McNamara: I will give a couple of examples to illustrate the answer. I will invite Alan to add comment. One example I give is that of the Bridgetown fire of Christmas a few years ago. The fire started on "executive director freehold" land on a plantation under a power line, as I think is well known. It burned into private land and damaged and destroyed areas of farmland and threatened the town of Bridgetown quite seriously.

[9.47 am]

We responded to that fire, which started on land that we were responsible for, and the shire expressly advised that it was happy and keen for us to retain the lead role as it became a fire threatening farmland and the town because of our capacity and expertise. The Perth hills fire once again began on CALM-managed land or state forest and we responded and assumed the lead control role. It did burn into orchards and private country to some extent, but I had direct discussions with the chief executive officer of FESA during that period, Bob Mitchell, and CALM's retention of the role as lead manager was certainly supported by Mr Mitchell in my discussions with him. If

circumstances had changed such that there were significant problems elsewhere in the state, we would have reassessed that situation. We did handle some potentially serious fires in the Bunbury and Collie areas during the course of the Perth hills fire, but one of the most impressive components of the whole fire management system across all the agencies was what I regard as like having a giant chessboard in front of you. That is used to manipulate resources and make sure that all bases were covered, including areas that were not currently experiencing fires. We had sufficient capacity in combination with brigades and so on in the Bunbury and Collie area to respond without having to change the arrangements in the Perth hills fire.

Mr Walker: I have a couple of additions to that point. One of the most powerful and effective components of the incident management system that is adopted by all fire response agencies in Western Australia is that we can subdivide the combat arrangements into sectors and divisions and we can group sectors so that the most appropriate response agency is operating in the area with which it is familiar and where its resources are most effective. When the Perth hills fire moved into private property, a division of the fire, as it was called, was formed and FESA and local government took the lead responsibility for that part of the fire and CALM retained the lead responsibility for the sectors and divisions of the fire that were burning in forest land. That has happened with numerous previous fires, but it works very effectively and I do not know of any instances when there were contentious issues or disputes that arose about that level of responsibility.

Just taking Mr Omodei's question a little further, and thinking about whether circumstances would be different if the resourcing capacity of the agencies were different in different places, the answer to that is definitely yes. An example, again drawing from the last fire season, was the fire that burnt in the Kulin and Dumbleyung area. It was a very large fire, which required a large level of resourcing, but in that area CALM's resourcing capacity was minor by comparison with the shires, brigades and FESA's capacity. The fire burnt onto CALM-managed land and under the Bush Fires Act we could have elected to take control in that circumstance, but we chose not to. The shire retained control. CALM took a senior role in the incident management team - a planning officer role - and we contributed in that way and contributed as we could with the resources we had available, but the lead role was held by local government in that circumstance.

Mr P.D. OMODEI: So commonsense prevailed.

The CHAIRMAN: I ask a question about the hills bushfire. Both FESA and CALM were involved in that fire as the lead agencies. Was there a point at which both agencies decided to bring their incident management teams together in one area and direct the fire jointly, or did CALM run its CALM aspects of the fire and FESA ran the fires that threatened urban areas? Does that happen?

Mr Walker: I was not involved on days 1 or 2 of that fire, but I was involved intimately in the remaining days of that fire. During the entire course of the final stages of the fire, CALM staff occupied the key positions in the incident control team. However, the division of the fire that was looking after the sectors that were burning in and near private property were being managed by FESA and there was very clear liaison. CALM had a liaison officer working with the FESA incident control team and, likewise, FESA had a liaison officer working directly with us. I guess the term that is used in a military sense now is embedding someone into the management system. So a CALM person was embedded with FESA and a FESA person with CALM. Any difficulties or issues that needed to be sorted out could be done quickly and effectively. I guess that has been the methodology that has been employed when there has been a shared responsibility. In the reviews of past large fires, where those situations have not worked effectively, that sort of mechanism has been identified as being needed and that is what was applied.

There was also a very high level of senior involvement on a daily basis. All the government agencies, and some non-government agencies, that had responsibilities for the Perth hills fire met and the high-level issues were fully discussed and actions implemented to overcome any problems that had been identified. That was being done on a daily basis.

Mr McNamara: It needs to be remembered that the Perth hills bushfire was the most serious fire we have had since the beginning of the 1960s. At the end of the day, it was handled without anything but minor damage to properties and no loss of life, which was an outstanding result.

Mr P.D. OMODEI: Very lucky, I reckon.

Mr McNamara: There is always a degree of luck, but it was also extremely well managed. We mobilised nearly 700 staff, and other organisations also mobilised vast numbers of people and resources. The state controller was an officer of CALM and, as Alan said, the whole incident management system rolled out and all the agencies assumed their proper roles. The State Emergency Management Committee was convened by the CEO of FESA at my request early in that fire and kept an overview of the operation throughout. Those reciprocal placements in the incident teams of both agencies worked very well. The forward point at Pickering Brook was essentially run by FESA, because that was where it had the lead role and the expertise and so on. The forward control point out amongst the forests and in the middle of the forests was run by CALM, because that was where our resources were oriented and where our expertise mostly lay.

The CHAIRMAN: Section 45 of the Bush Fires Act provides for CALM officers to take control of the bushfire when it is burning on or near CALM land when a CALM officer is present. Can you explain why this discretionary provision is included? When a CALM officer is present, would you agree that it is necessary to have that discretion, and would you agree that the legislation should compel a CALM officer to be present?

Mr McNamara: It refers to forest land and crown lands. Crown lands occur widely throughout the state, of course. We believe it is essential that the legislation continue to provide for that sort of capacity, but it certainly should not compel CALM to take control. It should be a discretionary matter, as Mr Walker has already outlined; it is a discretion that we sometimes choose to exercise, and where circumstances are such that we should not exercise it, we do not. It is very much a horses for courses exercise of that power or that function. As for compelling a CALM officer to be present, I am not sure how we could structure legislation to compel an officer to be present on crown land in the middle of the Gibson Desert, for example, when a wildfire is burning. We need to bear in mind the practicalities of the situation, but we have a strong view that the discretionary power, as provided for in the Bush Fires Act currently, or an equivalent power or function needs to be retained.

Mr P.D. OMODEI: I have a number of questions. At the moment CALM draws its power to control fire out of the Fire Brigades Act?

Mr McNamara: The Bush Fires Act.

Mr P.D. OMODEI: Yes. Does it also draw its power from the emergency agreement? It seems to me that CALM does a lot of burning. Obviously in a wildfire situation you have section 46 of the Bush Fires Act and whatever, and you then have the powers under the incident management arrangements to work with other agencies to control fires, but the agency itself does not have a set power under the CALM act to burn forest land. Is it intended that you recommend that the act be changed? Obviously we are going to wipe out all those other acts - the Bush Fires Act, the Fire Brigades Act and the others - and replace them with a new act. Could you enlighten us where CALM draws its powers from when there is a wildfire and in cases when there is not a wildfire?

Mr McNamara: I did allude to some of this in my opening remarks, before the member arrived, but I am happy to expand on it. We draw direct powers from the Bush Fires Act, as has just been referred to. As I briefly commented to the committee at the outset, the CALM Act does not explicitly give CALM a function in respect of fire per se, but we do have the function of land management and we do have the function of biodiversity conservation. The act also does not, for example, specify that we should do weed or feral animal control. It is inherent in the land management function and the biodiversity conservation function that we manage those processes

which occur on the land and in the natural environment and which affect biodiversity - our flora and fauna - and it is that general land management function and biodiversity conservation function from which we draw our prescribed burning authority.

[10.00 am]

Mr P.D. OMODEI: So, management plans?

Mr McNamara: Management plans are drawn under the Conservation and Land Management Act, and, after a public process, these are properly authorised under the CALM Act and approved. Those management plans, where they have been prepared, govern the management of the lands that we look after. Those management plans certainly prescribe our approach to, and practice of, fire management, including prescribed burning under the head of those general functions that I outlined.

Mr P.D. OMODEI: Is there a specific section in the CALM Act that allows you to carry out controlled burns or hazard reduction, given that a lot of new national parks do not have management plans, although they have fire overlays under their old tenure?

Mr McNamara: Section 33 or thereabouts of the act prescribes the functions of CALM. There is not an explicit function enabling the fire management activities as such; however, there are certainly relevant provisions later on in terms of the powers and roles of the forest and CALM officers, but there is not an explicit statement of function to which we are referring. That is why we have stated on page 3 of our submission to this committee that we believe it is time - and we have taken this view for a little while now - that the CALM Act should be amended to specify fire management as a function of the department in fulfilment of its land management and biodiversity conservation functions.

Mrs J. HUGHES: The Bush Fires Act states that when a CALM officer is present at the fire, he may take supreme control. In view of the fact that it says "in or near CALM crown lands" does not that create ambiguity between agencies regarding who takes control at any particular time?

Mr McNamara: Obviously, it may create that sort of ambiguity. We rely on the Westplan-Wildfire arrangements that we sign off - indeed, I signed off on them for the current season in the last week or thereabouts. We rely on the incident management system being common among the Fire and Emergency Services Authority of Western Australia and CALM, and across local governments as well. As we have outlined, the exercise of the power has always been one that is cognisant of circumstances of the respective capacities of the different organisations present. It is appropriate that with a fire that may start in the corner of private lands, and that burns into a major national park, there is a threat to the area when the fire will come out of the national park. It is appropriate that we have the capacity to take the lead in such a circumstance. We did not take the lead in the Tenterden fire, which started on the road reserve, burnt through private land and into the Stirling Range National Park. We perhaps could have taken control under that lawful authority, but it was not appropriate for us to do so in the circumstances, given our resources and the capacities and the presence of different organisations, and we did not do so. There are many powers in legislation that are discretionary and should be exercised according to circumstances and according to policies, agreements, plans and so on that are put in place in advance. That is where we are, and that is where we believe we need to remain.

Mrs J. HUGHES: Have you found in the past that there has been no contention in that decision making?

Mr Walker: I am in a fairly good position to comment on that; that is, I act in the role of departmental duty officer during the course of the fire season. In that capacity, I have oversight over all the wildfire suppression arrangements that take place in which CALM is involved. I do not recall one instance in which there has been a dispute over who should take the lead role that was not resolved quickly and to the satisfaction of all parties concerned. Also, instances have arisen in which that has changed during the course of the fire. There may be instances in which CALM

commences as lead agency and takes on certain roles, but as the fire progresses, roles change and either local government or FESA may take up those roles. In fact, the lead may be handed over to FESA or to local government. That has happened on a number of occasions. In the presence of goodwill between agencies, I have had no experience of any situation other than that I outlined. Those situations are usually satisfactorily resolved.

The CHAIRMAN: I seek clarification on the statement you made on page 2, paragraph 3, of your submission. You state that CALM uses a number of risk management strategies in discharging its fire management responsibilities. The strategies include the maintenance of a highly trained and well-resourced fire suppression capability in the south west. If CALM officers have the legislative responsibility to take supreme control of fire burning on or nearby land managed by CALM, why are CALM's fire suppression capabilities restricted to the south west?

Mr McNamara: We are not saying that our capability is restricted to the south west. We are saying that we are relatively well resourced in the south west compared to the rest of the state.

Clearly, if you look at the disposition of CALM staff, we have, for example, 290 people in the conservation employee category in the three south west regions, which gives us the numbers we need in our wildfire response model. The government injected \$2.75 million extra into CALM for 40 extra employees to make up that number after the Perth hills bushfire. Purely by virtue of the intensity of visitation, fire responsibilities and the amount of land that we look after, we are relatively better staffed in the south west. It is not a statement that we do not have highly trained and capable people elsewhere; we do not have the same numerical capacity. That is why we have differential responses in terms of whether we assume discretionary power given to us by the Bush Fires Act.

Mr P.D. OMODEI: I presume the reason for that is that there is a lot more unallocated crown land. Is it true to say that there is less private property in the south west than in other places?

Mr McNamara: Certainly the proportion of the overall land in the forest that we directly manage as against other government agencies and private landowners is very high. Our percentage of ownership or management of land is very high compared to most other areas of the state.

Mr P.D. OMODEI: On a slightly different tack, obviously we are in this position because of the review of the Fire and Emergency Services Authority of Western Australia and the proposal by government to implement a new fire management act of Parliament. One proposal is to set up a new government department. It is obvious that CALM has greater strength in some parts of the state than others. We need to resolve a couple of issues. Firstly, FESA wants to bind the Crown and CALM. Your submission does not agree with that. Will you give some reasons why you do not believe that crown land should be bound? It is relevant that the coroner's and the Auditor General's reports on the Tenterden, Bridgetown and other fires picked up perceived anomalies in the fire hierarchy and structure. The other point is that FESA made a strong point to this committee that it also manages a lot of fires. Is there an argument for one fire agency in Western Australia?

Mr McNamara: Once again, there are several components to the question. In terms of binding the Crown, I will illustrate the point in a way that exposes criticism as well. For example, if we were to be bound in weed control, we would be forced to do a lot more than we currently do right through the unallocated crown land, unmanaged reserves, national parks, nature reserves and forests. It would be very desirable from an environmental point of view and from the point of view of our neighbours, who are farmers and pastoralists, but it would be inordinately expensive for government. It would create a budget problem for government to provide the resources. On the fire side, if we were to be bound by the Crown, each landowner might be obliged to have firebreaks and the like. If we were bound as the Crown, equally there would be a situation in which we would also be bound to have such firebreaks in some 40 000 kilometres or so of land. A legal situation would be created for CALM and its executive director in that CALM would be bound to do those sorts of

things. Whether it is ever feasible for governments of any persuasion to fully fund the meeting of these responsibilities is a moot point.

Mr P.D. OMODEI: If you had a fire management plan that suited that requirement rather than a firebreak scenario, surely it would not have the same implications budget-wise, nor would you have to clear firebreaks that would be anathema to certain sections of the community.

Mr McNamara: It is one of those things where the devil is in the detail, and in what respect and to what degree the Crown is bound, or, if it is a management plan, what are the approval arrangements for that management plan. Who has the final say? Those are the sorts of details that would need to be fully understood so that the right judgment can be reached on an issue such as binding of the Crown.

Mr P.D. OMODEI: In the end, this committee will make recommendations in its report. In reality, CALM and FESA have to sort these things out from a whole-of-government perspective. Will you have a polarised situation in which CALM says, "No, we don't want to be bound by the Crown," and FESA says, "Yes, we do"? In the end, government would decide.

Mr McNamara: The government will decide. I would need to see and study the detail of the legislative proposals and the effect of the binding to reach a judgment on that matter. The nature of my concerns is as I have outlined.

Mr Walker: The thrust is one towards risk management and applying resources where the risks are greater and where the mitigating action can be most effective. To have something that strictly binds the Crown, and in this case binds CALM to undertake certain things that may not be as effective or valuable as other actions, in terms of mitigating risk, could lead to an inefficiency that probably the government cannot afford.

Mr P.D. OMODEI: Given the coroner's and Auditor General's reports, is there an argument for one fire agency?

Mr McNamara: The essence of most of what the Coroner and Auditor General have talked about over the past several years in looking at significant incidents and more generic issues, in the case of the Auditor General, has been around issues of largely incident response and the incident management system and the uneven capacity of local government in those areas has been highlighted through those processes. My recollection from reading the coroner's and Auditor General's reports is that the concerns are not so much about the response arrangements that are in place between the two primary agencies, FESA and CALM.

[10.15 am]

I fully support there being one agency called fire and emergency services or something similar that has the roles like they have at the moment. I reiterate the strong view that it is absolutely inherent in and integral to land management to actively manage fire and to accept responsibilities as a landholder or a land manager to protect the community, life and property and environmental values from wildfire. I do not take the view that we can somehow take out the fire activities and roles for the land that CALM manages and give those to another agency that would then have to come in and operate on that land.

The CHAIRMAN: I would like to go back to CALM's fire suppression capabilities in the south west. How many fire brigades are owned and resourced by CALM? Are local government or FESA brigades used to assist with CALM fire operations; and if so, to what extent?

Mr McNamara: I gave the number of conservation employees that we have in the south west. We also have other staff in other categories in the south west, so our numbers are significant. I do not have them at hand. We also have a significant heavy fleet. We have light fleet such as vehicles for fire, and we also have aircraft. Alan may be able to give some of those figures, but we could

certainly supply those figures to the committee should they be required. Sorry, but I have lost the last part of your question.

The CHAIRMAN: To what extent are local government or FESA brigades used?

Mr McNamara: Clearly, FESA and local brigades are heavily involved in wildfire response. In prescribed burning, we involve local brigades to a degree. Prescribed burning is something that we do over extended periods, including weekends. Brigades are made up of people who are volunteers and who have other jobs to do, farms to run and the like. They are not generally available over the extended times that we are doing prescribed burning. Prescribed burning is predominantly a CALM activity, but we do invite and involve the brigades to a degree.

In terms of wildfire response in the south west forests, it is very important to recognise that the capacity that the CALM staff have to fight wildfires is derived from long periods of training, much of which they derive from their involvement in prescribed burning over many years. It takes quite some years for people to become sufficiently experienced to handle wildfires in forests. For example, during the Perth hills fire, Mundaring was under threat and facing possible evacuation during the middle of the night. The people who were put in front of the head fire in the forest in the middle of the night were entirely CALM staff because of that training and experience. It is not appropriate, unless volunteers have had equivalent experience, for them to be placed in those circumstances. The Linton coronial inquiry in Victoria several years ago made that very, very clear.

The CHAIRMAN: You mentioned training. The Auditor General, in his performance examination of response to major bushfires, noted that CALM needed to target exit plans to ensure its capacity in the south west is not weakened. That was primarily related to the age demographic of CALM's firefighting capacity, CALM's reliance on Forest Products Commission staff, the length of time taken for training at senior level, incident controllers and fatigue. Have you taken any action to address this?

Mr McNamara: We place a great deal of emphasis on training and planning in the way that the Auditor General has recommended, certainly at the level of what are colloquially known as the gangs, the conservation employees. We have improved the staffing markedly by virtue of the government's extra funding of \$2.75 million earlier this year. We have an attitude whereby the vast majority of our field staff, no matter what their normal duties in nature conservation or marine conservation, are also part of training and preparedness for wildfire response.

Our graduate recruit program brings in about 25 people per annum, and they are virtually all exposed to fire training and a career path that prepares them in the way that the Auditor General has referred to. It is an ongoing challenge for government agencies, under cost pressures, to retain staffing levels in a way that meets not only this need but also all the others. It is something that requires constant attention on our part. We have some concerns about the next cohort of people who will be very competent fire incident controllers. We have a very, very competent group of people now. We are putting some accelerated effort into developing the next cohort through those roles.

Mr Walker: I have a couple of additional comments in response to the Chairman's previous question about the number of CALM brigades. We call them crews. The crew structure can vary from being two to three people to five or six people, but it is probably better thought of in terms of the number of trucks that can be staffed in a fire. CALM has 120 trucks that can be mobilised. In relation to your earlier question about the differential between the south west and other regions of the state, the numbers I mentioned related to the south west. We have some capacity in our mid-west, south coast, wheatbelt, goldfields and Pilbara regions, but it is at a lower level. One of the reasons for that is whilst we have as many, if not more, wildfires that occur outside the south west, a good many of those do not actually threaten life, property or assets. There is a methodology in determining whether we make a direct attack on the fire or not mount a direct attack but monitor the fire's progress. In many cases fires go out through rain or through hitting previously burnt-out

areas. The necessity to have high levels of response and combat capacity is a lot less in those regions.

We also have the capacity to move people from the south west into the areas that have a lower level of resourcing. A good example of that happened last week when we had fires in the Karijini National Park in the Pilbara region. We sent up a couple of crews to relieve the local people and provide assistance to protect assets around the camping grounds in the Karijini National Park. That is an example of where we can move people at short notice and redirect some of those higher-level resources in the south west.

Mr Chairman, you also made another point about assistance by fire brigades to CALM's firefighting effort. Mr McNamara answered that fairly fully. There is also the question of who carries the responsibility for duty of care to the brigade members who are assisting CALM in a fire. That has been clarified recently. It is clear that the duty of care responsibility lies with FESA or local government for their people when they are used as a resource assisting CALM on a CALM-managed fire, but we have to take into account their level of training, expertise and experience in being able to deploy them to certain sectors of the fire.

Mr P.D. OMODEI: That is bush fire brigades.

Mr Walker: Yes, that is bush fire brigades.

Ms K. HODSON-THOMAS: I wanted to touch on the training issue. You talk about the injection of \$2.7 million and the new cohort of people who need to come through. I think you said you have just employed 40 extra FTEs, and they obviously come with a broad range of skills. You talk about your concerns of having a skill base that can address the issues of fire suppression. Are all those 40 full-time employees allocated in the south west with specific tasks right across the board? Can you clarify who they are, what skills they bring and those sorts of things?

Mr McNamara: We are talking about the conservation employee category, otherwise known as the gangs or the AWU employees. The injection of funding for an additional 40, which was announced in February, if I remember correctly, or shortly afterwards, has taken that strength to 290. The extra 40 are all in the three CALM south west forest regions, so they are from Wanneroo and Mundaring down to Walpole. They are scattered across those work centres. They all have multiple roles. Their skills are essentially field skills in a general sense but not a professionally qualified tertiary sense. They all perform multiple roles in those districts across the department's different activities, be it nature conservation, parks and visitor services in park facilities and so on, or forest management and fire management. The fundamental reason we have them is so that we have our response model fully staffed in wildfire suppression circumstances. The Perth hills fire brought to light examples of staff who worked 38 hours on their first shift, had eight hours off and worked 28 hours on their second shift. That was an exceptional fire, but that is not something that we should make our staff do in any circumstance. That has been recognised.

The primary requirement is that those 40 staff fulfil the wildfire response model that we have, but they are available for a range of other functions that do not detract from that primary purpose. That is why we have been using that extra capacity to send teams of staff on short-term deployments to other parts of the state to perform other functions. However, they can always be got back very, very quickly if they are needed for wildfire response.

Mr Walker: In terms of the skills of the people who have been recruited recently, the vast majority of them were former seasonal employees who have now been offered permanent appointment. They may have worked for CALM as seasonal firefighters for four, five or six seasons and have now applied for and been successful in gaining permanent employment. We will continue to have seasonal employees to supplement the full-time employees. That is a very efficient way to utilise the funds available, given the seasonality of fire protection work. It is also a good means of

developing people's skills and for us to be able to assess them for permanent employment when those opportunities arise.

The recruiting of an additional 40 people has given us the capacity for our rosters for fire service to allow sufficient time off so that that fatigue issue that was raised by the Auditor General can be addressed. For the fire season that is just commencing, all of CALM's conservation employees and salaried employees right across the agency who undertake incident control roles have provision to be off roster one week in four. Unless there was a dire emergency in which people might be called back, they would have a break at least one week in four during the season.

Mr M.J. COWPER: You said that you undergo induction sessions. Where do you do those? Do you do them in the field or do you have a training facility?

Mr McNamara: We have a mix of field and office or hired locations. We have a training facility at Dwellingup but we do not have a training facility in the order of police academies or other major facilities. The departmental annual report, if I remember correctly, contains quite good statistics about the roll-out of the number and variety of training courses. Mr Walker is better placed to answer that question.

Mr M.J. COWPER: Before you answer that question, I allude to the history of firefighting, particularly on CALM-managed land, by the old forestry office. Employees certainly acquired skills that were gained over a number of years through activities such as harvesting of forest etc and managing the land. Hence, that is where we are at today.

Speech Continues...

[10.30 am]

Certain skills come from managing fires, particularly wildfires on managed land. Then we throw into the scope the diversity of Western Australia. You have talked about the wildfires in the Kimberley, which I have seen. The fronts can be several hundred kilometres long. When it comes to a training aspect, obviously it would be interesting to see, firstly, how you devolve the knowledge learnt to an incumbent. The other aspect of it is whether when you work closely with brigades from FESA there can be any cross-pollination of methodology or skills that could also benefit those brigades, and vice versa.

Mr Walker: To answer the last point first, nearly all the courses that are run by CALM are offered to other fire response agencies, both within Western Australia and interstate. We have quite a high level of participation of not only Forest Products Commission staff, who are an integral part of the CALM system, but also FESA, local government and volunteers in CALM's training courses. Likewise, CALM staff participate in courses that are run by other fire response agencies. The numbers do vary, but for the most part in the past four to five years CALM would have run more than 100 formal training courses each year. That would be either residential courses or, in some cases, one-day courses. On top of that, we do the on-the-job training, which is, I think, what you are alluding to, whereby the skill development is basically acquired through on-the-job work. However, we now relate that to a very well-documented competencies-based system to determine firefighter accreditation, and that is linked into a national competencies standard, whereby we have clearly defined skills, experience and knowledge needed to acquire those competencies, which then allows someone to be an accredited firefighter for CALM's work. Those competencies can now also be transferred, so someone who has worked for CALM might then be able to go and work interstate or for another agency, having that competency. In gaining those competencies, it could be quite different, depending on the district or the location in which that person is working. He might acquire skills that are relevant to that area and still meet the required competency, but they would not be immediately transferable to a different set of circumstances; for example, moving from forest country into spinifex country or heathland country.

Mr M.J. COWPER: If for argument's sake there was an all-encompassing department or organisation that included your organisation, do you see that there is any threat of perhaps losing some of the corporate knowledge, as it were, in the wash, or are you fairly confident that you would be able to maintain the level of skill and knowledge if there were to be some sort of amalgamation of groups?

Mr McNamara: That would depend entirely on the nature, the detail and the composition of any such amalgamation. However, we regard it, as I have said several times, as absolutely integral to land management to have that sort of knowledge and capacity. When our people go in to fight a wildfire, they go into country that they, by and large, know intimately. They have operated in it for a range of purposes. Among any crew, there are people who have done that for years and years and years. They know the tracks, they know the roads, they know the conditions and they know what is over the hill. That knowledge that comes from being the land manager and on the land doing land management regularly, I think, serves the state extraordinarily well in their preparedness, with the right training and so on, to then be in wildfire response. It would be very difficult if people came onto that land who were not familiar with the land and who had to take the wildfire response responsibility.

The CHAIRMAN: I come back to your submission, and I have a couple of short questions. One of your recommendations is that CALM officers be indemnified from civil and criminal legal claims associated with the planned use of fire and fire suppression. Would it be appropriate to indemnify anyone, not just CALM officers, from criminal liability? Can you give us an example of the type of criminal activity that CALM is suggesting its officers should be protected against?

Mr McNamara: I do not know that it is for me to answer the question about extending it to just anybody. I am speaking on behalf of CALM, and we have direct land management responsibilities and direct responsibilities to protect life and property. We have a system whereby our staff are authorised to do what they do, if you like, under my authority. I think what we are saying is that when people carry out their duties responsibly and with reasonable care, but something untoward happens such as an escape from a prescribed burn that causes some damage, they certainly should not be personally responsible if they have behaved with normal, reasonable care.

Mr Walker: I think that is really the main point that we were seeking to ensure is included in the legislation. Criminal activity might simply refer to perhaps the lighting of a fire in an area that might not be an area managed by CALM, or something like that that could perhaps be alleged to be a criminal activity. However, it would relate to, as Mr McNamara has said, persons conducting operations that they believed to be reasonable and appropriate being protected.

Mr P.D. OMODEI: In other words, when somebody is negligent, you are saying that provided they acted with all due care and in good faith, they should be protected from any criminal charge. I think it goes on to the other agency - that is, FESA - and any delegated authority. I think the officers certainly should be defended against any civil liability. It will be very interesting to see how the draftsman drafts the legislation, particularly given that you are saying that CALM staff should be protected from civil and criminal liability.

Mr McNamara: You used the word "negligent" in your remarks. I am not a legal draftsman and I am certainly not a lawyer either. However, as we said, what we are saying is that when people are doing their duty as government officers, and doing it in a fair and reasonable way, and something untoward happens, such as an escape, they should not be personally liable or prosecuted for that happening. There is a degree of concern among some staff - it does not preclude us from doing our job - about exactly where they do stand. I believe government officials who are doing the government's work need to know where they stand.

The CHAIRMAN: That primarily deals with the civil side of it, but what about the criminal side of it? I am a bit confused as to -

Mr McNamara: Are you talking about the last dot point on page 3?

Mr P.D. OMODEI: Yes, it is page 3, the second-last dot point.

Mr McNamara: I cannot embellish that any more than what I have already said. I am not expert in criminal and civil law, but I guess we are making the general point about that protection for officials who are acting in good faith.

Mr Walker: Just to give an example, arson is a crime. It might be alleged that the action of a CALM officer undertaking the lighting of a planned fire in a place that he believed to be appropriate and reasonable might be perceived by someone else as being so inappropriate that it might even be deemed to be arson. That is one example that might come into play.

The CHAIRMAN: I am very conscious of the time. We have only a couple of minutes left. I will push on to some of the other recommendations you made. CALM recommended that provision be made for the establishment and maintenance of industrial bush fire brigades for the protection of expanding private plantations and industrial precincts. Can you tell us what the current arrangements are for industry and emergency services? Is there a requirement for industry - for example, mining, plantations or ports - to provide emergency services to combat any hazards the industry itself might be responsible for creating, particularly with plantations in your case?

Mr McNamara: I do not have an expert or knowledgeable answer on that. We are pointing to an issue that is probably more of an issue for FESA to address and comment upon. However, clearly there is a concern in parts of the state about the degree of plantation development and whether those plantation owners and managers are contributing adequately to bushfire response capacity and whether they are providing adequate protection through prescribed burning, firebreaks and so on. We are really pointing, in part, to that need.

Mr Walker: Yes.

Mr S.R. HILL: Following on from that, who takes responsibility for the WA Planning Commission landholdings?

Mr McNamara: The WA Planning Commission does, because responsibility rests with landowners and land managers, except where -

Mr S.R. HILL: Does the Planning Commission still have rangers and firefighting capacity, or has that been handed to CALM?

Mr McNamara: I know, for example, that it does at Whiteman Park, which is an area it manages. However, I was going to add that the WAPC, certainly in and around Perth, particularly in relation to regional parks, acquires land progressively, and when sufficient parcels of that land have been amalgamated, it will transfer the vesting to the statutory body under our act and our management. It signs agreements with us in advance to deliver the on-ground management. Therefore, the answer to the question, I think, is that the WAPC has responsibility for WAPC land in cases of fire, except when it has formally entered into an agreement with another service provider, as it has done with us in a number of regional parks.

Mr P.D. OMODEI: And unallocated crown land?

Mr McNamara: Unallocated crown land and unmanaged reserves are, by definition, not vested in any body. Administrative control remains with the Department for Planning and Infrastructure, under the Land Administration Act. The government, by a policy decision that took effect in July 2003, gave us the responsibility, because of our regional capacity and our expertise, for pre-wildfire suppression and fire preparedness and feral animal and weed control on those lands. They were the 80 to 85 million hectares of land that I mentioned earlier today.

Mr P.D. OMODEI: Did you get enough money to manage it properly?

Mr McNamara: Government agencies would always love some more money to do their job properly. We face some challenges in adequately managing 85 million hectares, which is an area bigger than New South Wales.

Mr P.D. OMODEI: That is a very good answer.

The CHAIRMAN: A very diplomatic answer. CALM recommended allowing application of funds from the emergency services levy to fire prevention on unallocated crown land and unmanaged reserves. The ESL is a replacement funding system, as opposed to an additional funding system, for defined areas of emergency services. How do you suggest that the levy should be expanded to cover costs not covered previously by the levy? Are you suggesting that the rate of the levy should be increased to cover these additional services?

Mr McNamara: All we said in our submission is that that is a matter warranting consideration. I think it goes to the heart of the question of the member for Warren-Blackwood just a moment ago. What we are pointing to is that the levy clearly provides considerable assistance to local governments in the exercise of their responsibilities for fire, and that is great. However, there are some shires in remote and regional WA with very, very large areas of unallocated crown land and unmanaged reserves - that is, in the north of the state and in the interior of the state, but not only those areas - where there is not really the capacity to provide adequate protection on that unallocated crown land and on those unmanaged reserves. I think we are really just running up the issue that the resourcing of responsibilities in those areas needs greater attention. Having pointed to it as a matter warranting consideration, it is probably more a government budget issue than a levy issue as such, but it is an issue.

The CHAIRMAN: We have run over time, and we have other witnesses waiting outside, so I will draw the line there. I thank you for your contribution to the inquiry. A transcript of the hearing will be forwarded to you for correction of typographical errors or errors of transcript or fact. New material cannot be introduced, in the sense that the evidence cannot be altered. Should you wish to provide additional information or elaborate on a particular point, you should make a supplementary submission for the committee's consideration. If the transcript is not returned within 10 days of receipt we will deem it to be correct.

Hearing concluded at 10.46 am
