

**COMMUNITY DEVELOPMENT AND JUSTICE
STANDING COMMITTEE**

**INQUIRY INTO THE STATE'S PREPAREDNESS
FOR THIS YEAR'S FIRE SEASON**

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 14 NOVEMBER 2012**

SESSION ONE

Members

Mr A.P. O’Gorman (Chairman)
Mr R.F. Johnson (Deputy Chairman)
Ms M.M. Quirk
Mr I.M. Britza
Mr T.G. Stephens

Hearing commenced at 9.30am**GRAHAM, MR LARRY****Private citizen, examined:****BIGGS, MR LAURIE AUBREY****Toodyay Fire Enquiry Group, examined:****DUFFY, MR FRANK****Secretary, Kelmscott Bushfire Action Group, examined:****LEWIS, MS ROBYN****Bushfire victim, examined:**

The CHAIRMAN: This Committee hearing is a proceeding of Parliament and warrants the same respect as 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 contempt of Parliament. Have you completed the “Details of Witness” form?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read the information for witnesses briefing sheet regarding giving evidence before a parliamentary committee?

The Witnesses: Yes.

The CHAIRMAN: Please state your full name, address and the capacity in which you appear before the committee this morning.

Ms Lewis: My name is Robyn Elizabeth Lewis. My capacity here today is in representation of my elderly parents, whose home was completely destroyed in the Kelmscott bushfires on 6 February 2011.

Mr Duffy: My name is Frank Duffy. I lost my house in the fire. Sometime after the fire, we set up a group called the Kelmscott Bushfire Action Group to assist each other with recovery after the fires. I have come here as secretary of that group and represent the community of Kelmscott.

Mr Graham: My name is Larry Graham. I am here as a private citizen—not as a “journalist”, media person, commentator —

Ms M.M. QUIRK: Or a lobbyist even.

Mr Graham: Or a lobbyist even. I am here as a private citizen, because people in Toodyay came to me and asked whether I would give them a hand after the Toodyay fire. I will make a submission.

Mr Biggs: My name is Laurie Biggs. I lost my home—in fact, I lost everything in the Toodyay 2009 fire. I am here on behalf of not only myself but also the Toodyay Fire Action Group.

The CHAIRMAN: I thank you all for coming in. I know that it may be harrowing to tell us your stories and relive them. We apologise for that, but it is important to get this information on record so that we can get a just and proper outcome. Before I ask you to make an opening statement, I ask the cameramen to leave.

Before we get into questions proper, does anyone want to make an opening statement or address the Committee?

Mr Graham: Yes, I would like to if I could—thanks, Tony. Firstly, congratulations to the Committee for having this inquiry. For the people in Toodyay it has been a long and hard road. I will not dwell on that—you know my view because I write about it and I have done it previously. This is what parliamentary committees can do and should do and I believe you have done a fantastic thing for us. We hope you get time to report before Parliament closes. I will address a couple of issues and then Laurie will make a statement.

On 24 October, Western Power—I apologise; I have the dreaded lurgy, so I am not just sitting here eating lollies like a shire councillor—gave its evidence to the Committee. That evidence, I inform you, was misleading, inaccurate and quite mischievous. It demonstrates clearly that Western Power has learned nothing from the previous fires, particularly the 2007 and 2009 Toodyay fires. That is a big statement to make and you have to be able to back it up. Let me start by saying this. I will go through some of what Mr Italiano and Western Power said point by point. When Mr Italiano was formally speaking on behalf of Western Power in answer to a direct question from Margaret Quirk he said—

The simple fact is it has not been conclusively established what was the cause of the Toodyay fire in 2009.

He is wrong—and he knows he is wrong. David, I have some papers I would like to pass up if I could. I have copied the last page of the bushfire investigation report dated 30 August 2010. It states —

Ms M.M. QUIRK: Is this the so-called Archer report, is it?

Mr Graham: No, this is the EnergySafety report of 30 August. It states clearly where I have highlighted that —

...the investigators could only identify one potential heat source within the area of origin; the T303 spur line.

It further states—

FESA has concluded: All potential causes other than electricity have been eliminated.

It then goes on to say how the electrical system caused the fire. But in its finding further down it states that it is clear that the cause of the fire is “ACCIDENTAL - Electrical”. It is a simple fact that the only source of electricity in that area is Western Power’s infrastructure, which caused the fire. No reasonable person reading that report could come to any conclusion other than it was Western Power’s infrastructure that caused the fire. There is discussion as to whether the pole fell over first or later, whether it was this or that pole. But I can tell you in every one of the reports—I will go to some of them in detail—it is crystal clear that line T303 caused the fire. There is argument and discussion about how it caused it, but there is no discussion about what caused it.

It is quite misleading for Western Power to come in here before a parliamentary committee and allege that what caused the fire is open to dispute. Mr Italiano claimed that one of the two EnergySafety reports concluded that Western Power assets were not at fault. I have copied these, but you can get the reports obviously if you do not already have them. I refer to page 20 of the electrical incident report conducted by EnergySafety on 15 February 2010. Members can read through the conclusions at their leisure. There is no conclusion in that report. I will say that again: there is no conclusion in that report that states that Western Power assets were not at fault. It just does not appear anywhere in the EnergySafety report. It is a fabrication and an invention. There is no conclusion. I refer to EnergySafety WA’s final report. You will be aware that it made two reports. This is the final report offered up on 10 August 2010. Again, it makes it crystal clear that line T303 caused the fire. Again, there is no conclusion in that report anywhere that Western Power’s assets were not at fault; in fact, this report just about states the exact opposite. This is the report that Mr Italiano said steered clear from making a firm finding. I have passed up copies of paragraph 9 of that report, which is the conclusion. It reads —

From the available evidence, EnergySafety is of the opinion that Pole T303-43 fell southward to the ground, bringing the active conductor into contact with the ground on each side of Pole T303-43, causing arc flashes which ignited barley stubble. The most prominent arc marks found were at a point approximately 14 metres east of Pole T303-43. This was within the area of fire origin identified by FESA and WAPOL fire investigators.

I concede that the reports are contradictory about how the fire started, which is simply because they were written at different times and because they were in receipt of different levels of evidence and different levels of information. But they are all crystal clear that it was powerline T303 that caused the fire. The evidence given by Western Power to this committee is misleading. There is no conclusion in any report that Western Power's assets did not cause that fire—with one exception. I refer to an undated Western Power report that was prepared for submission to EnergySafety by Gavin Forrest, manager of standards, policy and data quality. It was approved by a Mr Mark de Laeter. Please note that name, because I will return to it later. He is the general manager of customer services in Western Power. That report also incidentally rules out all other possible causes—so it was not lightning, it was not arson and it was not a farmer in his paddock. The Western Power report rules out everything else, but then goes on to state —

The source of the ignition of the fire is unknown. However, after examining the possible causes of electrical discharge on the section of the line surrounding poles T303-42 and T303-43, it is most unlikely that an electrical discharge from this section of line (if there was any, which is unlikely) could have been caused by agents or factors within the control of Western Power on the 29 December 2009.

There you have it. The only report that clears Western Power was written by Western Power. In the Western Power submission Mr Italiano said—I should finish that part of this submission in this context just in case you have missed it—there is no doubt that line T303 caused the fire and every report with the exception of the Western Power report makes it quite plain that there was no other cause. The police arson squad, Fire and Emergency Services Authority, EnergySafety and Western Power themselves have ruled out every other possible cause. So unless aliens popped into the field and lit it, the only thing that could have started the fire was Western Power—everything points to Western Power. I will go on with how the other ways in which Western Power's submission has misled the committee. Mr Italiano said —

At this stage, it is not Western Power's role nor is it in our nature to seek to avoid responsibility where it is established that Western Power is responsible, and in fact there is an extensive track record of Western Power accepting responsibility quickly and moving swiftly to make compensation payments.

I include an email on which I have blocked out people's names and addresses. Subsequent to the 2007 bushfire in Toodyay, which involved a death, Western Power's solicitor approached a chap by the name of Aron Gingis from Australian Management Consolidated Propriety Limited. Western Power wrote to him and asked him to investigate the 2007 fire. I draw your attention to the part that I have asterisked and underlined. The legal counsel states—

I require your report exclusively to advise Western Power and to defend it in anticipated legal proceedings arising out of the incident.

I ask you to balance that letter from Western Power post a fire that caused a death with the statement by Western Power that “it is not Western Power's role nor is it our nature to seek to avoid responsibility”. The two are mutually exclusive concepts. If you have a nature and culture of accepting responsibility, you do not bring people from out of the state to write favourable reports that can be used in your defence. That is not an organisation that is seeking to accept responsibility—that is what private companies do. That is not the standard of behaviour that we should expect from public government-owned corporations that have a much wider civic responsibility. The two points I have made show that it is a seriously big issue for the committee. I

will not sit here and tell the committee what to do, but Western Power's senior officials came in here, the same as we have, and were briefed by staff in the same way that we were briefed by staff. They all said they agreed and understood and knew that misleading a parliamentary committee was not appropriate. Well, they have misled you and it is not appropriate. The committee has to deal with that. How it deals with that is, of course, its business, but you have to deal with it.

The most damning contradiction of the Western Power claim that it did not contribute to the 2009 Toodyay fire was the official admission that Western Power's infrastructure was responsible, and that admission was made by Premier Barnett when he established the \$10 million fund—I may come back to that later—on 12 October 2010. I refer to *Hansard* at page 7411, which reads —

One of the reasons we are making this payment is the link that was made between the fire and Western Power infrastructure in the second report of EnergySafety, which the government has accepted. That is why this payment is being made.

You will recall that that is the very report that before this committee Mr Italiano said steered clear from making a firm finding. Both the Premier and Mr Italiano cannot be correct when they are talking about the same report. The Premier accepted that Western Power caused the fire, but Western Power said there was no evidence to support that it was responsible. There is another small trite point that needs making. Western Power is not a private corporation with shareholders acting in the interest of its private shareholders; it is a government instrumentality that is totally owned by the government.

The Premier said in State Parliament that the Government accepts that report. A fair question for this Committee, Parliament and the Minister for Energy is: if the Government accepts that report, why does not Western Power? Has no Minister for Energy thought it reasonable to pick up the phone and ring a department or an agency under his control and say, "The Government has met in Cabinet and accepts that you were responsible—why are you still saying you are not?" What is going on? It is a curious and crazy position if the Government has formally accepted responsibility but the agency responsible has said, "No, it wasn't us". If that were one of your children, you would be dealing with them.

I make one further minor point. I refer to Mr Italiano's comments about the \$10 million compensation fund not being fully drawn down. That statement is firstly, mischievous, and, secondly, misleading. I suggest it was a deliberate and successful media diversion. Western Power knew access to that fund had been restricted and it knew it because it was involved in setting it up. It knew that access to that fund closed on 31 March 2011—18 months ago. If Mr Italiano did not know—I do not know he could not know that—because he is new to the organisation, certainly other people sitting around the table with him knew that was the case. By not advising the committee that the fund had closed, Western Power has again left out a key component in its submission. It is something that the committee could have and should have been told. I suggest that it was put in there so that the media would run off down that road—which they did.

I mentioned earlier that after the 2007 fire, Western Power asked Mr Aron Gingis of Australian Management Consolidated to write a report. He did that. His preliminary report was received by Western Power. I am advised that long phone calls and conversations took place between him and senior Western Power officials. I suggest to this committee that it needs to call in Mr Gingis to hear his evidence, because without that key piece of information, I doubt you will be able to understand just how devastating the failure was at Toodyay. In an email to the Toodyay Fire Action Group on 8 November—I have a copy for members; again, I have blanked out people's names—Mr Gingis wrote—

I had a meeting with and gave professional advise to Mr Mark de Laeter ...

Do members recognise that name? That is the name—I assume it is the same person; it is an unusual name—of the chap who signed off and authorised the Western Power report that

exonerated Western Power from the 2009 Toodyay fire. In 2007, however, he met with Mr Aron Gingis. Mr Gingis said—

I had a meeting with and gave professional advise to Mr Mark de Laeter, General Manager Networks of Western Power when I identified the cause of the wildfire accident and suggested technical modifications to the Western Power network in order to prevent the reoccurrence of wildfire accidents around Western Power power lines.

The copy of my preliminary report have been submitted to Western Power executive including Mr Mark de Laeter on 22 February 2007. I am not aware that Mr de Laeter took any notice of my recommendations and advice, and I believe the same technical fault in the network design and operations had caused a major wildfire accident in Toodyay in 2009.

As I said, I assume, but I do not know, that the Mark de Laeter referred to is the same Mark de Laeter who signed off on the only report—I do not know because I have not checked, but I think it is a safe assumption—that clears Western Power from the 2009 fire. I suggest to you as a parliamentary committee that that needs closer examination. If an officer of a company is in possession of information that says one thing and but then writes another thing in a report that forms the basis of official findings, it means we have serious matters to deal with.

If Mr Gingis is correct—I have no reason to assume he was not, and, if he is competent, and I have no reason to assume he is not; in fact, because Western Power hired him as an expert in 2007, it is safe to assume he is competent—Western Power has ignored advice on the state of its network in this exact area and the 2009 fire is a direct result of that. That alone requires significantly more examination. I suspect that is beyond the ambit of this Committee. I make this point about negligence because it always comes up. One of the ways that lawyers establish negligence in court cases is to look at the policies, practices and procedures prior to the event, ignore the actual event and then look at the behaviour of the organisation after.

Ms M.M. QUIRK: They would say what is reasonably foreseeable and you would say from the 2007 report that this was reasonably foreseeable.

Mr Graham: I could not agree more.

Mr R.F. JOHNSON: That is a legal opinion, obviously.

The CHAIRMAN: Larry, do you have a fair amount more?

Mr Graham: I have two minutes to go. I am very cognisant of the time. The Gingis reports, Western Power's pole condition reports, all of the incident and investigative reports and Western Power's remedial action after the fire are damn good indicators of who was negligent.

Our system is broken. The biggest single cause of fire in Western Australia is the Government of Western Australia. In the last few years there have been five deaths and a loss of something like 142 homes with another 70 damaged. In Toodyay the estimate of the damage is somewhere between \$75 million and \$100 million with Western Power solicitors telling you the other day they had claims of \$130 million initially from a small section of Toodyay.

The overall damage in the State is more than \$300 million in the past five years. Every one of those fires has been caused by either direct government action or government inaction. Single-issue inquiries have addressed a range of issues, but none of them has adequately dealt with the problem. The problem is that the system is broken. In 1961 there was a Royal Commission into the Dwellingup fires. That Royal Commission is one of the best Royal Commissions this State has ever had. Its principles and policies have run fire fighting in this state for 50 years. It is time to revisit it. We need another Royal Commission into fires. It is not too difficult for this Committee to write a quick report recommending that and it is not too difficult for this Committee to quickly address the terms of reference—they would be picked straight out of the Dwellingup bushfire Royal Commission terms of reference; we would need only to insert new names and do it all again. It is

long overdue. I am sorry to have taken up so much time. This is important. Thank you for the opportunity and, again, congratulations to the committee for taking up this issue. It is a good task and a good issue. Well done.

Mr Biggs: Thanks to the Committee for giving us this opportunity to speak. I will make my submission brief because Larry has covered most of what I wanted to talk about. On 29 December 2009, the fire that was started by a government instrumentality destroyed my home and all that I possess, together with that of 41 of my neighbours. There were 37 homes and three shed dwellings that families were living in. I felt back then after the fire that we were being betrayed by the government. I still feel that today; I am very angry about it. How Western Power management was able before and after the fire to allow the electricity system to be managed in such a dismal way is beyond comprehension.

In the past five years my home, together with another 148 homes, have been destroyed. A further 70-plus homes have sustained severe damage directly as a result of or a lack of action by government departments. Worse still, after burning our homes to the ground the government has made the victims fight tooth and nail to get any reasonable compensation, which has added to our stress and our grief. There is multiple grief when we lose everything. People have said to me that it is material things. When I look at the little booties that my daughter wore when she was a baby or the kindy case that my son took to kindergarten and then came home and told me he was going to get married, those things mean a great deal to me.

Letters from my mother, who is no longer with me, which relate to almost 40 years of life in the UK and to life here in WA. Tapestries that were in the family for many years—150 or more years—are just gone. All the souvenirs that I have had in my lifetime, things that I made at school when I was just a young boy, and I am getting a lot older than a young boy now—it is all gone.

The Government has remarked how fortunate it has been that there has been no loss of life in the last few fires. They have even tried to take credit for this, despite that in at least two of these fires FESA personnel were sending citizens into danger. Whilst there has been no loss of life in the recent fires of Toodyay 2009, Lake Clifton, Armadale–Kelmscott and the Margaret River fires of 2011, four souls appear to have lost their life in other fires started or managed by government departments over the past five years; one in the Toodyay fire, and three in the Boorabbin fire, and then there was the unfortunate DEC worker last week.

Whilst there were no direct deaths in the Toodyay 2009 fire, in the last three years three deaths in the area could be arguably attributed to the fire. As well, we have had several suicide attempts and a number of people have been admitted to hospital suffering stress from this fire. None of that seems to get taken into consideration when it seems clear cut who was responsible for the fire and the fighting that is going on. Currently, there is a class action with some people who lost things. Many of those have signed off on a pittance to what they were claiming, simply to get it over with because the stress is just intolerable. I have yet to start a claim and there are other people like me yet to start a claim. So that human suffering will continue.

What is sad about this, and I have seen this with somebody else like that who has started the fire, which we could understand, but what we have got here is government departments starting it or allowing it in the Kelmscott–Armadale fire. It was a foolish act by a policeman who started the fire, but it was the actions of FESA that allowed those homes to go tumbling down one after the other. That is so clear in the Keelty report.

I noticed in what you were asking for is how things are going after the fires. We are moving on. As a community we are pretty strong in Toodyay but as individuals, people are waking up in the early hours of the morning—I do at two o'clock, three o'clock in the morning, and I cannot go back to sleep because it goes over my head. The other thing that goes through my head is that we are going to see more homes lost, and changing the name of FESA does not change the way things operate. If we go back to 1978 and Cyclone Alby—

Ms M.M. QUIRK: Sorry, can I just limit you a bit because we are pretty tight on time and I have a couple of questions I want to ask.

Mr R.F. JOHNSON: We were more interested in your views about the Toodyay fires to be honest because we have other people who want to talk about other fires.

Mr Biggs: We will go back then to the Toodyay fire, but 1978 was important—I would have liked to have got that through but not to worry.

Mr R.F. JOHNSON: You can put it in a written submission.

Ms M.M. QUIRK: We just need your direct evidence, Laurie.

Mr Biggs: Okay, that is fine. As a victim of that fire, getting answers has been impossible. To hear the lies, like Paul Italiano—I probably should not say lies, but he misled in here. We get on to the poles—I just want to touch on that issue as well. Mr Italiano said, “We are always looking at ways to improve the pole inspections. Seven years ago we used to drill to a depth of 50 millimetres.” One year they put so many white crosses on power poles throughout the state that management decided to cut that to 35 millimetres and went through marking out the white crosses. When I have uncovered information like that, it really upsets me that government departments are trying to cheat us out of proper compensation. People who have settled up there at the moment are taking a pittance. People are also feeling intimidated by the mediation that is taking place. We are moving on but, as I say, there are so many on the human side of it, so many tragic things, but if you want to ask questions—

Ms M.M. QUIRK: Just quickly, how many people are subject to these settlement negotiations at the moment?

Mr Biggs: At the moment I believe there are around 20 who are holding out and having ongoing mediation. That was from the original class action; a lot of us did a lot in that class action. Something else about the risk—

Ms M.M. QUIRK: The other thing then that you said is that those who are settling are settling for a pittance of what they have effectively claimed.

Mr Biggs: That is right.

Ms M.M. QUIRK: I have heard the figure of six cents in the dollar. Is that—

Mr Biggs: No, that is 60 cents in the dollar and that is again misleading. What they have taken is what people are reclaiming, then they have squashed that down and given 60 cents in the dollar from the squashed down assessment; in other words, they have just gone in and said this. As one man said to me yesterday, “Laurie, we did not lose any life in that fire but we did; we lost our life as we knew it at the time.” He said, “We have taken the money so we can try to move on.” I think that the government knows that. The other thing with RiskCover, which has not been covered by Larry, is that many people were excluded from it. A Chinese girl was badly burnt, dairy farmers were excluded—

Ms M.M. QUIRK: The dairy farmers were at Nannup?

Mr Biggs: No, the dairy farmers were at Toodyay. They lost their herd and were excluded from making a claim, and some other people were excluded from making claims as well. The other part about RiskCover was that there was a limit based on the money, and there were six categories. If you had a claim in every one, you were then penalised by 12%; so they put a ceiling on how much you could claim. So to say that there is \$5 million there that has not been claimed is totally inaccurate. Larry gave Paul Italiano an out there that he had just joined, but he joined Western Power in 2010 way before this fund was set up by the Government and Western Power. I will leave it at that because I know you need to get on to Roleystone.

The CHAIRMAN: Robyn, do you want to make some statements?

Ms Lewis: I think Frank would like to speak.

Mr Duffy: I was going to say ladies first, but never mind! Please bear with me, my experience of a parliamentary committee started at 9.30 am this morning. I have never done this before. There is no denying who started the Kelmscott fires. I emphasise “Kelmscott” as there were no fires in Roleystone or anywhere else on that day. It was caused by a policeman using an angle grinder. We know that. We know what happened; 71 houses were lost in the fires. We set up our group primarily to help the people recover from the fires.

I believe that recovery is divided into three sections, which are financial, physical and emotional, and all are intermingled with each other. A lot of us—I lost my house, Robyn’s parents lost their house. I lost everything the same as Laurie here. I agree with you that it is the physical things you lose, but there are also other physical things. There are the emotional problems. I am taking medication for depression at the moment. I do not like to admit that because I am a man and men do not do things like that, but I have to because it is very difficult. It is nearly two years on and it is very, very difficult.

We are trying to get the Government to look at our situation and maybe give us something similar to an offer that was given to Toodyay and Margaret River, and if I could just quickly give you some figures: 37 homes were lost in Toodyay and 39 homes were lost in Margaret River—76 homes were lost in those two areas. Put those into a package. Each person in those areas got money from the Lord Mayor’s appeal fund—same as we did—and that is fine. The Government then, according to Mr Barnett, gave \$20 million to that area; \$10 million to Toodyay and \$10 million to Margaret River. The exact figure that was given to Kelmscott was zero—absolutely nothing. We spoke with Mr Barnett and told him our individual problems.

There are lots of financial problems because the building quotes change. I will give you a very small simple example involving leach drains and septic tanks. You were allowed to have one, and now you have to have two. When I went to build my house they said that where my leach drains were I cannot fit in two, so I cannot build my house. I got over that. Instead of replacing the house I had, I went into a smaller footprint and went up two stories, which I do not want to do. Anytime you speak to Mr Barnett or anyone in government they talk about this “causal link”. This is a new word. It is not in the dictionary so it must be a political—

Ms M.M. QUIRK: No, it is lawyer jargon.

Mr Duffy: Oh, that is why it is not in the dictionary then.

Ms M.M. QUIRK: You have to pay to find out what it means.

Mr Duffy: Or go to university. He keeps talking about this causal link. He admits there is a causal link with Toodyay and with Margaret River, so we do not get anything because we do not have a causal link. I will read out a statement from the Keelty report—

Two firefighters from the Balingup Bushfire Brigade raised the following point with the Special Inquiry in regard to the Roleystone fires:—

It should say Kelmscott, but never mind—

Instruction was given that priority be given to protection of life, rather than property. This is standard instruction to fire fighters, but if carried too far, can arguably result in unnecessary loss of property. It is felt that this may have happened in the case of the Roleystone fire.

I wondered if my house burnt down because the firefighters did not try to save it or they were instructed not to save it. If that is not a causal link, I do not know what is, I really do not.

Ms M.M. QUIRK: I have heard evidence that a number of the houses were burnt down, if you like, in the aftermath of the fires going through and that there were embers or fires that had not been put out. Have you got any idea what percentage or—

Mr Duffy: No, I have no idea. I know one example of a gentleman called Dr Lim. We live on the side of the hill with Brookton Highway below. In actual fact, I saw the fire starting. I was in my garden when it first started. His house is immediately opposite ours and his house apparently went up in flames the day after the fires—was about four or five o'clock the day after. Robyn's parents' house apparently ignited at nine o'clock that night. I saw my house burning on the television at three o'clock, so I know mine was one of the early ones to go up. There were a few that did suffer from embers and they went up.

Ms M.M. QUIRK: So are you saying that the failure, if you like, to mitigate the damage by cleaning up properly after the fire has gone through may well have exacerbated the level of damage?

Mr Duffy: That, as well as the fact that no-one turned on a fire hose to put the fires out. We have evidence to show the firefighters just standing there watching the fires happening. There are statements in this report where it was stated that people were screaming "put the fire out in my house" and the firefighters refused to do it because they were instructed not to put fires out but, in actual fact, to save lives. I know where Robyn's parents' house is concerned that when their house was burning the firefighters were putting the water on the house next door to stop it from burning. They saved that house but—maybe that was the right decision, maybe not, but it was not the right decision for Robyn. All we are saying is that we really want the government to give us a break, to help us out and to help us rebuild. A few people have sold their blocks because they cannot afford to rebuild.

Ms M.M. QUIRK: You mentioned—these changes in building codes are good probably in bushfire prone areas, but that is red tape that you have had to negotiate. Have you had any assistance with that, because I imagine that is quite stressful?

Mr Duffy: No. It is nothing to do with the bushfire areas when we talk about septic tanks and leach drains. It is nothing to do with bushfire areas saying that, "I cannot build my house on the same footprint because it is too close to the hill." Whereas 15 years ago it was fine, but today it is not fine because the building regulations say that I have to put in a four-metre high retaining wall, which will cost me in excess of \$100,000. I do not think that anyone can come up with that money in a couple of weeks.

The CHAIRMAN: Just considering the time again—

Mr Duffy: Thanks, fine. We are just trying to get some equity.

Ms Lewis: I have not got a great deal more to add to what Frank has already alluded to. The Mick Keelty report contains all the inadequacies on the management of the fire on that date, and leading up to it from both FESA and local government.

FESA did an assessment of my parents' fire management plan 12 months before the fire. Their management plan consisted of reticulation around the property as well as on the roof and at no stage did FESA suggest to my parents there would be no water. When we left the home at one o'clock that afternoon, the reticulation was all going, the house was being kept dampened down and, from what we understand, about two hours later the water was cut off. As Frank said, we have witnesses to say that their house went up at about nine o'clock.

The CHAIRMAN: When you say water was cut off, was that because power was cut to the area so the pumps stopped or —

Ms Lewis: It was scheme water, it was not—

Mr Duffy: Who cut it off, was it FESA?

Ms Lewis: Yes, FESA cut it off and in the Keelty report the fire hydrants around were not working and things like that. So like I say, it is all in the Keelty report.

Ms M.M. QUIRK: So your parents were proactive enough to consult FESA beforehand and check on what they needed to do. Are you a little bit resentful of the tenor of the Keelty report in that it is a shared responsibility and somehow anyone whose house burnt down had not done the right thing?

Ms Lewis: That is right, and that is what is being portrayed in the media. We were insured, but who insures the extra leach drains and retaining walls? And they have not got a driveway. My parents are 80 and 90 years of age.

The CHAIRMAN: Members, are there any other questions?

Mr Duffy: I was going to ask the Committee is it possible that we could have a Royal Commission into this whole situation of bushfires?

Mr R.F. JOHNSON: It has been suggested by Larry already. It is something the Committee will take on board.

Mr Duffy: Okay, sorry. Thank you.

Mr T.G. STEPHENS: So that I understand your suggestion, your comment was about the pot of money that has been out there and has not been accessed. Your suggestion is that that pot of money should be available to others to draw on—

Ms Lewis: I think there needs to be an acknowledgement. Even though this causal link does not relate to the origin of fires in Kelmscott, there is certainly a causal link that further damage was sustained that was unnecessary because of the manner in which it was mismanaged by government agencies—FESA and DEC. I do not think that in any way has been acknowledged. The CEO of FESA was sacked or moved aside. That is an acknowledgement but that does not—it was not her fault but that does not help us. We need financial support, not that we begrudge the Toodyay and Margaret River people a cent of what they have been given in financial assistance, but the Kelmscott people feel that this is probably the largest declared disaster in the history of the Perth metropolitan area, and if you cannot turn to your state government for support, then who can you turn to? Misconceptions have been made, even as late as last week by the local member by stating that it was—

Ms M.M. QUIRK: Do you mean Tony Simpson?

Ms Lewis: Tony Simpson made a statement on radio the other day that the State Government and local government paid for the demolition of the properties and the clearing of those properties. That is wrong. It was the federal government under the public health safety act because of the presence of asbestos that took care of that clean up. The local government, the City of Armadale, were very helpful but they too—there is a big vacant block of 13 acres next to my parents' place. Neighbours and everybody had been contacting the local City of Armadale because it had not cleared that block for years and guess where the fire went? It came straight up through there. The fuel load was colossal.

Mr T.G. STEPHENS: The assistance has come from Federal Government, the local government has been helpful, but there have been no other funds from the state?

Ms Lewis: No, apart from the Lord Mayor's fund.

The CHAIRMAN: Your expectation from Government now, accepting that there is an argument and they are saying no causal effect, but your belief is that the fire and emergency people, their focus was to protect the life, which is fine, I do not disagree with that, but the second part should be to protect property where it is possible without endangering life.

Ms Lewis: Absolutely. There are no stories in the Keelty report or anywhere else that we have heard where FESA actually saved lives. They did not carry anybody out. We all got out on our own.

We all made our own way out at the time, but I tell you what, we would not leave now. Now lives will be put at risk because people will stay because they know they cannot count on FESA to protect their homes.

Ms M.M. QUIRK: Can I just go back to this “causal link” thing Frank. The assistance that was given to both Toodyay and Margaret River was, at a time they were saying, “This is not compensation, this is an assistance package.” In other words, they were saying in those two cases there is no causal link. Is that what you are concerned about or you think is inconsistent?

Mr Duffy: It is totally inconsistent. Mr Barnett just changed his mind. He said in *The West Australian* of 10 October 2011 that—

“This is a fair and considered packaged designed to help affected families get back on their feet,” ...

“It recognises the impact of the fire on those people who were not insured or who were not fully insured ...

Mr Barnett said payment cap compared favourably with the support provided to victims of the February 2009 Victorian bushfires ...

And the last thing he said was—

“We are not attempting to make up for people’s total losses. This is a hardship payment,” ...

Because of this, we asked the Government if it could give us the same hardship payment, and it said no because there the Government had no causal links to your fire.

The CHAIRMAN: Mr Biggs, you were trying to get in there.

Mr Biggs: Coming back to FESA not saving homes or property, many years ago the shire ranger came to see me and we put a road right through my property to the back valley where the fire came up, and not one vehicle travelled through that road on the day of the fire. In FESA’s last report, with the Toodyay 2009 fire they said that all fire has been extinguished within 10 weeks. I have video footage of fire four months after the fire. There was no attempt to clean up or dampen down and that is why homes went up in Kelmscott, and we lost a lot more trees in Toodyay.

Ms M.M. QUIRK: Larry, can I just ask about this \$10 million fund. Was that put aside by Western Power?

Mr Graham: \$5 million by Western Power and \$5 million by the State Government.

Ms M.M. QUIRK: That was to offset any potential liability claims?

Mr Biggs: That is right. As Frank was just quoting —

“We are not attempting to make up for people’s total losses. This is a hardship payment,”
Mr Barnett said.

But remember it was a government entity that caused our hardship and it was a government entity that allowed homes to burn in Roleystone.

Ms M.M. QUIRK: You said that it closed on 31 March 2011. Before those claims could be paid, I understand RiskCover had to get around and have a look at them. They took a helluva long time as I understand it.

Mr Biggs: They took a little bit of time, but then there was only one person doing it, Ron Norris, who to me was doing quite a good job. Other people did not fully agree with that.

Ms M.M. QUIRK: So you are saying that then that truncated the time that people had to claim because they had to wait for that assistance.

Mr Biggs: Yes, and all those assessments had to be made. It was pleasing to see that Margaret River moved ahead a lot quicker, but it would be nice to see Roleystone—and there is another fire

that has not come up, the Lake Clifton fire where 11 homes were destroyed. Again, when we look at the fire reports there is such contradiction as to how that fire started, and the Lake Clifton people feel absolutely left out.

Ms M.M. QUIRK: One of the things that Keelty suggested in the Margaret River report was that there be some legislative mechanisms, like a formal inquiry after each fire, which is independent of the agencies. The government has rejected that but is that something almost like the rolling royal commissions so you are not having to wait two years to publicly give evidence for example.

Mr Graham: Since 1961 when the Royal Commission established the Bushfires Board, all the laws, all the regulations and what has happened sequentially since then is that inevitably politicians have interfered, and that is your right, that is your job, but they have done it with no basis other than what is good politics for the moment, not what is good emergency or bushfire management.

Ms M.M. QUIRK: Sometimes the two can actually co-exist.

Mr Graham: They can. Please do not take that as a criticism. I said it is your right, you can, but I suspect if we were to get a Royal Commission established that looked post 1961 to now, you would find that in the last 15 years the changes have been exponential and have demolished the good work that was done post 1961. If you go down the road that was being recommended of an inquiry at the end of every fire, you end up with what FESA has got, and that is a major incident report. They always make the same four recommendations; communications were bad, management needs to improve its communications with its workforce; we need more money from the Government and every other government that—

Ms M.M. QUIRK: And more training.

Mr Graham: Yes, every other government department needs to seek their authority with us in an emergency. They are the same four recommendations every time, and you will get nothing different.

Mr Biggs: That incident after the fire, they already do that. FESA did that after Toodyay and Margaret River. The Margaret River report—

Ms M.M. QUIRK: They are getting less frank unfortunately because they know there has been more scrutiny.

Mr Biggs: Yes, the Margaret River one is sitting with the government and they have had it now for about eight or 10 weeks and still people are being kept in the dark.

Ms M.M. QUIRK: They have it since 22 June, Laurie.

Mr Biggs: So even more than 10 weeks. It is a long time.

Mr R.F. JOHNSON: You are talking about the Noetic report are you?

Ms M.M. QUIRK: Yes.

Mr Duffy: I was there a few weeks ago and it is so unfortunate that those people are going through the same that we went through, what these folk are going through —

chai: It is about time it stopped.

Mr R.F. JOHNSON: Can I get a word in edgeways if I can?

Ms M.M. QUIRK: Sorry, Rob.

Mr R.F. JOHNSON: Can I firstly say that the reason for this inquiry was initially to ensure that we as a State, a Government, and as agencies responsible, are better prepared for this upcoming bushfire season, which is recognised as being potentially the worst we have ever seen. If we do not learn from history, we are going to make the same mistakes in future. Your evidence here today is critical, as people who were actually involved in and experienced those fires in Toodyay, Kelmscott–Roleystone and indeed Margaret River—we will be talking with those people very

shortly. It is essential for this committee to know from your perspective and your knowledge from actually being there as to what went on on the day. The causal link, which is a legal expression, is recognised by many people in relation to the Toodyay fire as the Western Power poles. The causal link in Margaret River is quite clearly the seven prescribed burns that were lit by DEC, which caused the fire that caused the damage.

The problem with Kelmscott-Roleystone is establishing a causal link. I am not a lawyer and it is not for me to work out whether that is right, but it is for us as a committee to make recommendations to Parliament in relation to any compensation, and assistance and so on. I think that every member on this committee will take that very seriously and do that, but there are inconsistencies, I agree. Robyn, you mentioned that after the Kelmscott-Roleystone fire, within a very short space of time the CEO of FESA ends up out of her position, and so does the chief fire officer and it is almost like blaming them for the fire. That did not happen in Margaret River. Certainly that CEO is still enjoying the good life as the Director General of DEC. You might say, “Well there are inconsistencies there” and I think you would probably be justified in saying that. We have to get to the bottom of a lot of this and we need to know from your perspective what happened in the past so we can better advise Parliament, and then on to the Government how we can try to avoid the devastating fires that we have experienced over the past few years.

You would be aware that in my previous life before I sat on this committee that I was very closely involved in all of your fires—Toodyay, Kelmscott-Roleystone and Margaret River—so I have a little knowledge of what went on and I have my own opinions as to what should take place, but I am sharing those with my colleagues. But I accept that if we do not learn from this week, we are going to make the same mistakes in the future. We have to get into a situation where we are better prepared for bushfires and we can deal with them and fight them in a very quick-response way and try to ensure no lives are lost, but that we absolutely minimise any damage to property.

Mr Graham: Can I put in a couple of short sentences about the issue I see confronting you, and that is from sitting at the back here and listening to the evidence. What we know is that Western Power does not understand the problem. Any reasonable reading of their evidence tells you that they do not understand the problem. Secondly, their pole maintenance has almost doubled in the time they started being put under pressure to examine it. It is twice as bad now as it was a little while ago. We know that DEC—because they told you so—are behind in their controlled burns. We know that the load is worse now than it was last year, and they are all coming in here telling you they have learned their lessons. They have not learnt a damn thing. That is the message that you need to get out. What they have learned is to put advertisements on television telling the people who did not cause the fires how not to cause them, and that is the dilemma you are confronted with. I am sorry to get angry about it, but it is bizarre.

Mr T.G. STEPHENS: I would like to come back to Larry with a question to think about: what would you do if you were Minister for Energy in response to this thing? But, David, thinking about that, I will come to the Kelmscott crew, and simply ask the question: what has been the impact upon the community of the response of government or the failure of government to respond to your needs? I hear the sense of the individuals. I know that communities are individuals, but what is the impact on Kelmscott?

Mr Duffy: As I said earlier, we formed the group in relation to it, and I do not think there is any anger, but there is a great deal of helplessness and disappointment. We have never really got angry because I think we are still stunned that it happened to us. It is pretty difficult to be standing in front of flames that are 10 metres high trying to save your house. I think the people of Kelmscott are a bit lost, a bit disillusioned—definitely disillusioned with the Government—and extremely disappointed with the way we have been treated.

Ms Lewis: I think this sense of injustice is defeating people. Frank and I are here as individuals, but it has affected a cross-section of the community. You have young families. You have people who

are almost ready for retirement. You have people like my parents who cannot earn, they cannot borrow. I am selling my home so I can build them a home. The ripple effects are catastrophic. What hurts the most and is disappointing us the most is that—look, fires are going to happen and things will go right on the day and things will go wrong on the day, and yes, we need to learn from them, but it is helping those people who are devastated by what happens on that particular day.

Ms M.M. QUIRK: Would you call it a lack of empathy?

Ms Lewis: Absolutely; and it is unjust. Every taxpayer pays a one per cent flood levy, and you would not take that away from the people affected by the floods, but it is like we have been forgotten. It is like there is no link to any government agency so you cannot possibly be suffering the same hardship or deserve the same support. That is what is totally demoralising, and it is really hard.

Frank and I both work full time, but we are lucky that the organisations we are with have allowed us to be able to put so much time and effort in on behalf of other people in the community, because some of them just cannot rally the strength. It is hard. We really felt so honoured and appreciative that we got to eyeball Mr Barnett and plead our cases, and I cannot understand how he can look at us, look in our eyes and our faces and see the devastation, and still not do anything. That was on 25 August and we have heard nothing. It is so hard to keep going back to those people to tell them that—you know, we are just battle weary.

And the fact that insurance companies, that insure people who make mistakes with public liability, and now we have to battle that as well. It is just—yes, it is exhausting to say the least.

Mr Biggs: It is absolutely, emotionally, as Frank was saying—I go for walks at 2 or 3 o'clock in the morning because the emotional pain for people is just unbelievable. It is multiple deaths, it is multiple grief that you have to go through, and no understanding.

Mr T.G. STEPHENS: I will come back to a question about the changes in the building code. I guess there is a sense of a recommendation there that almost says, “Look, you’ve changed the building code, that if you are going to wear the cost—if I have to rebuild with a changed building code, maybe you have to step up to the plate with the cost of the change”?

Ms Lewis: And the thing is, for the people of Kelmscott to receive—because most of us, I think all but one or two were insured—we had insurance. We are responsible residents, home owners. If we were to get a similar package to that, it would save every one of us. I can tell you that now. It would save every one of us. It would give them—you know, you will still have the emotional baggage, there is no doubt about that, but you would have a future. You would have hope, and you would have the capacity to be able to put some of your garden back, put in a driveway, and the relief with just that, it is not something you can put into words.

Mr T.G. STEPHENS: So Laurie—I was speaking to Laurie, Larry. I am seeing you as Laurie and I am seeing him as Larry.

The CHAIRMAN: You have the magic wand, but you have about 30 seconds to do it.

Mr Graham: The short answer is I would be calling in the head of Western Power and telling him he should be looking for a job, and I would be calling in the new CEO and saying that the government and cabinet met and accepted responsibility, which your government has done, now act accordingly, and if that requires a ministerial direction, here it is; get on with it.

Mr T.G. STEPHENS: Thanks, mate.

The CHAIRMAN: Ladies and gentlemen, can I thank you all sincerely. I do realise that every time we ask you questions about the events of the days the fire went on in your places that it is opening old wounds. So I do appreciate that you have come along and given us the benefit of your experience. I do feel the sense of abandonment, particularly for the Kelmscott-Roleystone people,

that you have just not been acknowledged at all as having hardship, and that is a great shame. So I thank you again for coming in.

I will read you a final closing statement. Larry could probably recite this off the top of his head! Again, thanks for your evidence before the Committee this morning. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within seven days from the date of the letter attached to the transcript. If the transcript is not returned within this period, it will be deemed to be correct. The reason we want them back so quickly is that all of these transcripts go up on the website, so it is not just us in here, and people who have listened, everybody has an opportunity to read that, so it is important that we get that up there. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the Committee's consideration when you return your corrected transcript of evidence. Again, thanks very much for coming in this morning.

Hearing concluded at 10.37 am
