

STANDING COMMITTEE ON COMMUNITY DEVELOPMENT AND JUSTICE

Report

MR D.A. TEMPLEMAN (Mandurah) [9.58 am]: I present for tabling the second report of the Standing Committee on Community Development and Justice entitled “Emergency Services Legislation in Western Australia”.

[See papers Nos 473 and 474 .]

Mr D.A. TEMPLEMAN: The report that has been tabled this morning represents the work of the Standing Committee on Community Development and Justice over the past 12 months. On 24 October 2001 the committee resolved to undertake an inquiry into emergency services issues and legislation in Western Australia, and agreed on terms of reference. A number of factors motivated the committee to undertake this inquiry; and it was the first inquiry of this committee. Clear in the minds of members of the committee and of the wider community at that time were the events of September 11 last year, and certainly the Bali tragedy in October this year also underlines the need to ensure that Western Australia’s emergency responses are in line with world’s best practice. However, it was not the causes of an emergency that concerned the committee as such in its inquiry. Whether destruction of buildings or danger to people is caused by human action or an act of nature, the problems are similar, but it is really the adequacy of the response and the frameworks that underpin the response that form the basis of the Community Development and Justice Standing Committee’s report that I have tabled today.

Members and the wider community are well aware that Western Australia regularly experiences a series of natural disasters, including, of course, cyclones in the north west, bushfires, floods and, on occasions, earthquakes. These represent a threat to life and property. Despite these regular and real threats, the committee found that Western Australia remains the only State in Australia that does not have legislation covering its response to these potential disasters. With this in mind, the committee sought to research the various legislative frameworks that are in place in other States of Australia, and also looked at some of the world’s best practice examples of legislation throughout the world, including during the committee’s visit to Canada in July 2001, which included attendance at a world conference that examined disaster management.

It is important to note that in the gathering of this information the committee not only held a series of hearings and meetings in Western Australia, including regional WA, with a visit to Port Hedland and meetings with the local emergency services representatives there and local government, but also visited the States of Queensland and Victoria to ascertain the legislative experiences of those two States, which are considered at this stage to have some of the best legislation in Australia. The committee gathered evidence, information and responses from a variety of sources and has therefore put together a report that I believe is comprehensive. It recommends in particular that Western Australia now needs to move towards having its own legislation.

The key recommendation of the committee is that the Government give a high priority to an emergency management Act and that the State’s emergency management Act should be in accord with the drafting instructions contained in appendix one of the report. It is important to note that it is a rarity that drafting instructions be included in a committee recommendation. However, the committee believed that it was essential that drafting instructions be recommended to the Government to be taken into account in its consideration of the report.

A number of elements within the drafting instructions for the legislation will be highlighted, and may be seen by some sectors of the community as controversial. I will deal with a couple of those and then give the reasoning behind such a recommendation. The committee consulted with the Western Australian Commissioner of Police, the Chief Executive Officer of the Fire and Emergency Services Authority of Western Australia, and local government authorities, including, during the visit to Port Hedland, representatives of the Western Australia Local Government Association and other individuals, including the shire president from Moora, who appeared before the committee. Those people gave a clear indication to the committee that certain powers were seen to be important in the drafting instructions for legislation. Some of those include the ability for the relevant authority to order the evacuation and/or removal of people and animals from emergency areas; certain rights of entry; the ability to take possession of an emergency area to make it safe for the community; the power to order premises to close during an emergency; and powers to shut off any supply of fuel, gas, electricity, water or drainage facilities within an emergency area, to direct or prohibit the movement of persons, animals or vehicles into or within an emergency area, to remove any person who obstructs emergency management operations, and to close roads. However, I emphasise to the House that these powers can be used only in times of declared emergency, as per the recommendation. Although significant, the proposed powers are restrained by appropriate checks and balances contained within the drafting instructions.

In the past 12 months, some compelling evidence has been given to the committee during its deliberations. I have mentioned that the Commissioner of Police, for example, appeared before the committee. I will use one simple quote and highlight to the House that although there was an acknowledgment that the current arrangements with policy statement No 7 and cabinet minutes have, to this date, worked to the satisfaction of some of these key people, those people certainly highlighted that they wanted to make sure that legislation would underpin the emergency management practices in the State of Western Australia. For example, according to the report, the Commissioner of Police told the committee -

Although from my observations and those of others involved Policy Statement No 7 seems to have worked very well, we do not have any legislation. We are currently very keen to have that. If the policy were enshrined in legislation with some additional elements, we think it would work very well.

Mr Bob Mitchell, the Chief Executive Officer of the Fire and Emergency Services Authority, also told the committee that -

There is no doubt that legislation is the preferred option for underpinning emergency management within Western Australia.

Those comments and others that have been made in the presentations to the committee over the past 12 months certainly underpin what the committee is recommending; that is, that the legislation recommended by the committee should underpin emergency management within the State of Western Australia. I believe that legislation will then clear up any uncertainty that may exist and will provide the protection that both the personnel involved in emergency services responses and the thousands of people who volunteer their time in a range of emergency services capacities deserve to have.

I have outlined some of the powers that are recommended. I will also highlight to the House, as part of this report, that the legislation that is recommended will, in the committee's view, lead to the removal of uncertainty within the command structures. It will also clarify the legal authority for emergency management agencies to take appropriate action. In the current climate of litigation, the protection issues related to liability can also be clarified and underpinned by an Act such as that which we are recommending.

The committee met with a number of key personnel in various emergency services. Although I am sure other members will mention it, I want to highlight the tremendous contribution that volunteers continue to make in the emergency services throughout the State. The committee recognises that Western Australia would be unable to meet its emergency management needs without the commitment of its thousands of volunteers - men and women. The committee has been very impressed by the level of skill and the dedication that volunteers show, and have shown in the past, in their various areas of emergency service. They receive no financial reward. The various agencies need to look at their volunteers to ensure that their value is respected and acknowledged now and into the future.

The committee visited various parts of Australia, the north west of the State, and Canada. During the visits, one of the key issues raised was that emergencies should be coordinated at the local level. Response and recovery should be localised whenever possible. For that reason, the report contains a number of recommendations about local government. A key recommendation is the enshrinement of the option given to local governments to share local emergency management advisory committees. Through giving local authorities that option, it is believed that local communities can determine who is best placed to coordinate an emergency. It is interesting to note from two examples given - one in Port Hedland and one in Moora - that, during emergencies, communities look towards key local figures in the community for leadership. This was clearly outlined in a presentation to the committee by the Shire President of Moora, Mr Michael Bates. In his evidence to the committee, Mr Bates explained clearly that during the floods in 1999 the local community turned to the local government - him especially - for leadership. The importance of local influence was outlined by the Mayor of Port Hedland as well.

The committee has not focused directly on terrorism because, as I said at the beginning of my presentation, the committee was focused not on the causes of an emergency but on the adequacy of the response. Any terrorist activity or emergency caused by an act of terrorism will, in most cases, still require the same response as any other emergency.

The committee believes it has presented to the Parliament a comprehensive report that covers a range of issues concerning emergency management in the State. It believes that the creation of an emergency management Act for the State is urgent. It is crucial. A number of key presentations to the committee over the past 12 months also support the need for legislation. In 1996 the previous State Government commissioned the Barchard report, which also made similar recommendations. The most significant recommendation of that report was the need for emergency management legislation in Western Australia. The need is also underpinned by a number of

uncertainties that exist in emergency arrangements. The current arrangements are not underpinned by a legislative framework.

I acknowledge the members of the committee, who I believe worked very hard to ensure that the report was prepared and tabled on time. It was always intended to table the report before the end of this year. The recommendations of the report ask the Government to give a high priority to its response. I acknowledge the member for Pilbara, who has always been a strong advocate for greater protection for communities and people through legislation, not just in his electorate but throughout the State. His guidance has been important to the other members of the committee. I thank the members for Perth, Nedlands and Joondalup, and the member for Hillarys, who was involved in the preliminary investigations of the committee.

As I mentioned before, the committee believes that its recommendations must receive priority. It looks forward to the response from the minister. The key finding is that Western Australia is the only State that does not have emergency management legislation. The finding is underpinned by the Barchard report and a raft of other recommendations and considerations by various parties. The lack of a legal framework in Western Australia places emergency services, workers, lives and properties at unnecessary risk during emergencies. It is important that local authorities be strongly considered in any legislation because, in many respects, it is at a local level that expertise is well placed to respond to, and recover from, emergencies.

The committee is very pleased to present this report to the Parliament of Western Australia. It does so with a sense of urgency. The committee looks forward to the minister's response. The committee will move into two other inquiries, one being an inquiry into rehabilitation programs in prisons in Western Australia. In addition, terms of reference are being prepared for an inquiry into the arts community. On behalf of the Community Development and Justice Standing Committee, I present to the Parliament the second report on emergency services legislation in Western Australia.

MR A.P. O'GORMAN (Joondalup) [10.18 am]: At the outset, I offer my thanks to the principal research officer of the committee, Michael Baker, and the research officer, Nici Burgess, in helping create the report. The committee comprises four new members of Parliament, but was greatly helped by one member with a vast amount of experience. I thank the members for Perth, Nedlands and Pilbara, and the chairman, the member for Mandurah. I thank everyone for their assistance; we all learnt a lot in compiling the report.

The role volunteers play is unique in the world when compared with some of the jurisdictions we visited. In Western Australia, the emergency services - the State Emergency Service, the bush fire brigades and the volunteer sea search and rescue groups - put in many hours of their own time, and some of them put in their own money, to make sure that they are able to provide their services to the community. For this, they ask nothing back from the community except an acknowledgment that they do it. The time they put in varies from a couple of hours a week up to the heaviest workload we saw, in Port Hedland, where the SES coordinator puts in up to 50 hours a week of unpaid work. That is more than a standard working week for a person in employment. The deputy for that coordinator puts in up to 30 hours a week, which is also almost a full week's workload on top of his normal job. When people are in emergency situations and the emergency services respond to them, they should recognise that these people are working without payment, and also putting in hours for training, to make sure that we have an emergency service that really works in Western Australia.

The emergency service in Western Australia has worked over many years and is now at the stage where we are looking at introducing legislation. The volunteers are right behind introducing this legislation, because their greatest fear is of litigation. Some aspects of the draft legislation will address the issues of litigation. At the moment, if volunteers enter a property without the permission of the owner, they can be subject to litigation. All members of the community should recognise the importance of supporting our volunteers in this way. The head of the Fire and Emergency Services Authority, Mr Bob Mitchell, summed that up in the hearings when he said -

We would all agree that volunteers in Western Australia do an outstanding job. Without them, the State would not have an adequate emergency service. It is a matter for the State to determine what price is put on that service and what rewards it gives. In the normal sense of reward - I do not necessarily mean financial, I mean recognition and so on - we try very hard, although FESA and the community must do more to recognise the input of the volunteers who service the community.

Mr Mitchell has recognised the value that should be placed on our volunteers in emergency services. I do not have a lot more to say on this, except that volunteers are the underpinning of our emergency services. When we are out there and we see the SES in their uniforms directing traffic or asking us not to do certain things, we should heed them. This legislation will put in place powers that will allow them to do that without fear of litigation.

MR J.N. HYDE (Perth) [10.24 am]: I fully endorse the report of the committee. I was delighted last week to join SES volunteers, professional fire officers, the Minister for Police and Emergency Services, and others involved in the emergency services in my electorate at the launch of emergency service month. I will

concentrate in my comments on the important role of local government in emergency service. I love local government. It is often clichéd as being the closest level of government to the people, but it is much more. It is the melting pot of community action, where society's real priorities come to the fore. It is also a form of government that is not boxed into a parliamentary building like this place, or an electorate office, particularly in regional Western Australia. It is a form of government where the local mayor may run or work in a bottle shop, and it is where people go to talk over issues. Councillors can be encountered at the supermarket or at children's sport on the weekends. For all those reasons, it is no wonder that in other States, and elsewhere in the world, the primary role of local government in local emergency management planning is enshrined in legislation. Even here, as the Moora flood showed, and our evidence in this report reinforces, in a time of crisis a local community looks to its community leaders for direction and confidence. Local government is in the best position to determine what form of local emergency planning should be done and who the players should be. On page 44, our report states -

The Committee considers that all local governments should have, as a minimum requirement, a clear understanding of the risks faced by its community. Each local government should develop and maintain a plan to manage each of these risks.

With 144 local governments in Western Australia, this will vary considerably. Already, many councils have audited their emergency potential and have plans in place. If the Government adopts our draft legislation, those councils with experience of living with cyclones, sea surges, fires or dangerous industry will have no real change in their workload or compliance requirements. Others may find that emergency preparedness is valued highly by the community, and perhaps has not been given a priority in the past. Only by auditing the local situation will local governments be able to make an informed decision. I was heavily involved in the community security audits for Safer WA, which the previous Government introduced, and the present Government has continued, encouraging each council to undertake a local security audit. As expected, many areas found only minor crime and safety issues, with problems easily fixed. I would expect the same response to an emergency services local audit. Some councils will find that procedures are in place, people are working together and any glaring omissions can be easily fixed. Many smaller councils will band together. Already regional councils have been created to collectively address rubbish disposal issues, or to share chief executive officers and health officers. I do not see the requirement to do an audit and to have a plan as imposing extra costs on councils. The clean-up powers we are proposing for councils will save costs for cyclone, storm and fire-prone council areas in the long run.

We have discovered that many councils are already funding their local State Emergency Service and other emergency operations. Under the Fire and Emergency Services Legislation (Emergency Services Levy) Amendment Bill 2002 currently before Parliament the funding of the SES and other emergency bodies will be provided through FESA. Councils that have been providing large financial support to voluntary groups will now be relieved of that need. If Western Australia is compared with Queensland, it can be seen that the Queensland emergency services levy covers only fire and voluntary fire groups, and not the SES, which the local councils and the community in Queensland help to fund. Cairns City Council spends \$240 000 in its current budget for emergency services. The Barchard report into emergency services in Western Australia in 1997 found that inadequate importance was placed on the crucial role of the local government in the local emergency management area committee. FESA Chief Executive Officer Bob Mitchell said in evidence to the committee, regarding the Moora floods, that people did not look to the SES for guidance during that disaster, but to the local government. Moora shire president Michael Bates told our committee that it is essential for local government to be involved at the recovery stage, first because of local knowledge, and second because of the respect the community has for local government. Somebody who is an accepted peer will be shown more respect than somebody who is forced on the local community. That is the local government's role.

I am fortunate to have an emergency-ready council in my local area. I know that my closest evacuation centres are the Loftus Centre and the Mt Hawthorn Community Centre, yet many residents may be unaware of the emergency readiness their councils, police and the SES have in place. In Port Hedland, we found that local communities are incredibly keen to control their own emergency management processes. As we have discovered, the best planning is constant. The actual plan is the outcome of the planning process, which is driven by the community and based on up-to-date information. The local community, through its elected local council, knows the important players in government agencies, volunteer groups and the private sector. In Canada, local councils must have a plan and a coordinator.

Interestingly, whereas our existing Western Australian policy No 7 lists the lead agencies for a variety of scenarios ranging from nuclear warship mishap through to chemical spill, no agency is listed for a terrorist situation. In fact, the term "terrorism" does not appear in that document. Under this suggested legislation from our committee, the minister of the day would have the ability to quickly adapt structures for emerging fields of

emergency situations. Western Australia is one of the few places left in the world that relies on policies based on a wink and a nod rather than dedicated legislation.