



Report 1: 2022-23 | 18 July 2022

OPINION ON MINISTERIAL NOTIFICATION

Wooroloo Bushfire Inquiry



**Office of the Auditor General
Western Australia**

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The Office of the Auditor General acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of the Aboriginal communities and their cultures, and to Elders both past and present.

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WESTERN AUSTRALIAN AUDITOR GENERAL'S REPORT

Wooroloo Bushfire Inquiry

Report 1: 2022-23
18 July 2022

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**THE PRESIDENT
LEGISLATIVE COUNCIL**

**THE SPEAKER
LEGISLATIVE ASSEMBLY**

WOOROLOO BUSHFIRE INQUIRY

This report has been prepared for submission to Parliament under the provisions of section 24 of the *Auditor General Act 2006*.

It deals with a decision by the then Minister for Emergency Services, the Hon Reece Whitby MLA, not to provide information to Parliament on the establishment of the Wooroloo Bushfire Inquiry.

A handwritten signature in black ink, appearing to be 'C Spencer'.

CAROLINE SPENCER
AUDITOR GENERAL
18 July 2022

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Introduction

This report deals with a decision by the then Minister for Emergency Services, the Hon Reece Whitby MLA, not to provide information to the Legislative Council's Standing Committee on Estimates and Financial Operations (the Committee) as part of the 2021-22 Budget Estimates hearings. The requested information concerned advice on the establishment of the Wooroloo Bushfire Inquiry.

Section 82 of the *Financial Management Act 2006* requires a Minister who decides it is reasonable and appropriate not to provide certain information to Parliament, to give written notice of the decision to both Houses of Parliament and the Auditor General within 14 days of the decision.

Section 24 of the *Auditor General Act 2006* requires the Auditor General to provide an opinion to Parliament as to whether the Minister's decision was reasonable and appropriate.

What we did

The Audit Practice Statement on our website (audit.wa.gov.au) sets out the process we follow to arrive at our section 82 opinions, including:

- a review of relevant State government entity documents
- a review of any relevant advice provided to the relevant Minister by entities, the State Solicitor's Office or other legal advisers
- interviews with key entity persons about our draft findings and the Auditor General's opinion.

Our procedures are designed to provide sufficient, appropriate evidence to support an independent view to Parliament on the reasonableness and appropriateness of the Minister's decision.

We have not performed an audit; however, our procedures follow the key principles in the Australian Auditing and Assurance Standards.

Opinion

The decision by the then Minister for Emergency Services not to provide Parliament with information, being the advice on the establishment of the Wooroloo Bushfire Inquiry, was reasonable and therefore appropriate.

The information was prepared for two submissions to Cabinet and its release would reveal Cabinet advice and deliberations.

Background

As part of the Committee's consideration of the 2021-22 Budget Estimates, additional questions were submitted on 3 November 2021 by the Hon Martin Aldridge MLC asking the then Minister for Emergency Services to table any advice received in relation to the establishment of the Wooroloo Bushfire Inquiry. The Hon Martin Aldridge asked:

4. I refer to the answer to Question 9 prior to hearing relating to the Wooroloo Bushfire Inquiry and I ask:
- (a) Given the inquiry is close to completion and was announced on 13 August 2021, how can it be the case that you do not have an estimated cost of the inquiry,
 - (b) What costs have been incurred to date for the conduct of the inquiry,
 - (c) Of those costs identified in (b) how much can be apportioned to the Australasian Fire and Emergency Services Council (AFAC) and the inquirers versus internal costs of DFES [Department of Fire and Emergency Services] and Department of Premier and Cabinet,
 - (d) I again ask the Minister to table any advice received in relation to the establishment of an inquiry,
 - (e) I again ask the Minister to please table the letter or engagement, contract, or similar instrument with AFAC for the conduct of the inquiry, and
 - (f) Please provide the hourly, half-day, and day rate applicable to each of the inquirers.

On 17 November 2021, the then Minister declined to provide the information requested in question 4(d), replying:

- (d) The Independent Review was established by Cabinet. This information is Cabinet in Confidence.

On 11 March 2022, the Auditor General wrote to Minister Whitby about the requirement to give written notice of a decision not to provide information to Parliament. The Auditor General had been requested to follow up the matter by the Committee on 16 February 2022.

On 12 April 2022, the Auditor General received the then Minister's notification in accordance with section 82 of the *Financial Management Act 2006* of his decision not to provide the information as it was a Cabinet document.

Key findings

The decision by the then Minister not to provide the advice received on the establishment of the Wooroloo Bushfire Inquiry was reasonable and therefore appropriate.

Minister Whitby's staff advised us the requested information was submitted to Cabinet. We reviewed the two associated Cabinet submissions and found release of the information would reveal the advice to, deliberations and decisions of Cabinet as:

- the requested information was clearly created for the purpose of informing Cabinet and contained recommendations on the establishment of the Wooroloo Bushfire Inquiry
- Cabinet considered the information in both submissions
- most of the information in the submissions such as rationale, proposed Terms of Reference, consultation and formation of the Inquiry panel was not publicly available. While some introductory and background information such as when the fire occurred, damage caused by the fire and its impact was publicly available, it was a small portion and necessary to support Cabinet's deliberations.

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