

**ECONOMICS AND INDUSTRY  
STANDING COMMITTEE**

**INQUIRY INTO 2011 KIMBERLEY ULTRAMARATHON EVENT**

**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
WEDNESDAY, 9 MAY 2012**

**SESSION TWO**

**Members**

**Dr M.D. Nahan (Chairman)**  
**Mr W.J. Johnston (Deputy Chairman)**  
**Mr M.P. Murray**  
**Ms A.R. Mitchell**  
**Mr I.C. Blayney**  
**Mrs M.H. Roberts (Co-opted Member)**

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**Hearing commenced at 11.10 am****HAMES, DR KIM DESMOND,  
Minister for Tourism, examined:**

**The CHAIRMAN:** Before we commence today, I ask those in the public gallery to refrain from using audio recording devices as they may interfere with Hansard and, also, switch off your mobile phones.

Thank you, Minister, for appearing before the committee today. This committee hearing 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 contempt of Parliament. Before we commence, there are a number of procedural questions that I need you to answer. Have you completed the “Details of Witness” form?

**Dr K.D. HAMES:** Yes.

**The CHAIRMAN:** Do you understand the notes at the bottom of the form?

**Dr K.D. HAMES:** Yes.

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

**Dr K.D. HAMES:** Yes.

**The CHAIRMAN:** Do you have any questions relating to your appearance before the committee today?

**Dr K.D. HAMES:** No.

**The CHAIRMAN:** Before we ask any questions, do you wish to make a brief opening statement that addresses the terms of reference?

**Dr K.D. HAMES:** No.

**The CHAIRMAN:** You have provided us just now with some papers.

**Dr K.D. HAMES:** Perhaps to clarify that, I got a request on Monday; that did not give me time to do that, so I have just put through the list of the details of issues that I was involved with when they came to me when they went before cabinet and the like, and letters relating to those points that I have —

**The CHAIRMAN:** I take it these are briefing notes provided both as your role as Minister for Tourism and Minister for Health.

**Dr K.D. HAMES:** Quite clearly they do not include cabinet documents because they are exempt.

**The CHAIRMAN:** Could you give us a quick outline of your involvement in the decision-making process to give sponsorship to the RacingThePlanet ultra-marathon?

**Dr K.D. HAMES:** Sure. It is probably easiest if we go through the page before you, so you have got it in writing. On Sunday, 12 June—obviously at home—I had a briefing note that I signed off regarding royalties for regions funding and the government’s framework of that. That included a mention of some potential new events, one of which was just the Kimberley Ultramarathon. We see that as the first document that is attached.

**The CHAIRMAN:** Just to be clear, that is the first time you as the minister came across any idea for sponsorship?

**Dr K.D. HAMES:** Anything to do with the ultra-marathon.

**The CHAIRMAN:** Including from Tourism?

**Dr K.D. HAMES:** Yes. On Tuesday, 21 June, I approved a briefing note from the Department of Health. Again, you will see that is quite a simple form where they ask me to tick off on approving registration of the doctors who were going to be involved in the event, so I did that. On Friday, 22 July, I was provided with a copy of the Tourism WA board papers—now, I have not included those, because I think you have asked for board papers but that is from Tourism WA and you could get them anyway—ratifying their out-of-session decision to sponsor the Kimberley Ultramarathon event. All board papers I get a copy of at my office, and I go through those. I do not specifically remember, I have to say, but I would have seen that as one of the events that they ticked off on.

So, on Friday, 5 August, there was a draft cabinet submission provided to my office relating to that event. On Wednesday, 7 August, both I and Brendon Grylls signed that cabinet submission. On 22 August it went before cabinet and was approved. On 26 August, a joint media statement that had myself, Tuck Waldron and Brendon Grylls on it—I think Tuck actually did the release of that. I think he was in the Kimberley at the time. In Broome he did that. Friday, 2 September, was the date that the ultra-marathon commenced and the date that the competitors were burnt and I was advised of that by phone from Stephanie Buckland. On 6 September—you will notice there are papers attached to show that I told the Assembly that that had occurred. I guess they are the issues leading up to it including the event that are relevant.

**The CHAIRMAN:** In the ministerial statement that you, Tuck and Brendan released on 26 August, it states —

“It will be a truly extraordinary experience ...

That is true.

... Organisers expect about 100 people from about 30 countries to take part in the race.”

They had a race the year before that had well over 100 people —

**Dr K.D. HAMES:** I think they had 250, did they not?

**The CHAIRMAN:** At that time, 26 August, which is only a few days, six days or so before the race, RacingThePlanet would have known that at first they had probably less than 40. Turia Pitt, one of the injured runners, was pulled in the day before or so. They were struggling to get 40, not 100, and also there were not people from 30 countries. This was crucial to sponsorship of the event. I put it to you that I think some of the people from the department of Tourism should have known about this. Do you lament the fact that you put out a press release on inaccurate information?

**Dr K.D. HAMES:** I can only tell you what we were given. We were given a press release from the department that said it was expected there would be 100 and I gathered that was based on the previous figure of 250. The contract required 40-something. That I have seen since; that I did not know at the time. All I can say is we put that out in good faith. I do not know that that affected events, but all I can say is that we put that out with the information that was provided to us.

**Mr W.J. JOHNSTON:** Could I ask, Dr Hames —

**Dr K.D. HAMES:** Sorry, I am just getting a clarification. The explanation I am getting is that the draft was done by communications in Tourism WA; it was sent to RacingThePlanet and was not recommended for amendment by them. So they provided that to me in good faith. You say they should have known. The fact is the advice I have is that they did not know because RacingThePlanet had not told them.

[11.17 am]

**Mr W.J. JOHNSTON:** Could I just clarify: the contract itself was only signed a day or two before the event; do you consider that to be good practice that Tourism WA waits till the last moment to sign an agreement?

**Dr K.D. HAMES:** No, it is not good practice, but nor is it unheard of. Sometimes these events, and there have been other events that we have had since, particularly under the royalties for the regions program—we go through an exhaustive process of going—Tourism WA approve an event. It then goes before the royalties for regions group, who look at that event in detail. It has got to come back, be signed by myself and by Brendon Grylls, and often there is a delay in the program. Remember that we had only approved that increased funding in the budget. I guess that gave them a couple of months to work on this, but no doubt the timetable was squeezed, and certainly it is not ideal.

**Mr W.J. JOHNSTON:** The issue that is raised is actually what I was driving at, because we have received evidence that Tourism had come up with this idea of having five major events, and they made a recommendation to the board and the board approved that process. Then the government has allocated extra funding and they have gone back to that decision without saying they are changing the decision, but actually changed the decision by funding these other events.

**Dr K.D. HAMES:** I do not see anything wrong with that, to be honest. I mean, we put in —

**Mr W.J. JOHNSTON:** Well, the —

**Dr K.D. HAMES:** Sorry; I need to be able to answer.

**Mr W.J. JOHNSTON:** If I had got to the question mark, I am sure you would be happy to do so, but the question I am asking is: clearly this process was rushed. The submissions that were made by the executive to the board of Tourism WA were inaccurate. The information you were provided was also inaccurate. It does appear that everything was being rushed to spend the money rather than proceeding to make sure that there was a quality outcome, and the risk assessment plan sticks up when I make those comments.

**Dr K.D. HAMES:** We will go through that later, but I do not think it is accurate what you have said, that this was a rushed decision to spend the money. It was for that financial year starting in June. We had a whole year to spend the money. It was just the previous events and the previous plan around action events seemed to be a very good plan and one supported by the Tourism WA board, and so when that additional funding was available, I see nothing wrong with them looking around for other events. What is Tourism WA there for? It is not just to help support little local events; it is to sell Western Australia to the world, so their job is to do international marketing about parts of Western Australia that will appeal to the world to try and attract tourists to our state. So when the event was there—and I know you have been through the history of how that event came to be in the first place without Tourism WA sponsorship. When that extra money was there and there was an opportunity to piggyback on that for international marketing in what was seen to be a successful event, why would they not come forward to that as quickly as possible and try and get on board a proposed event so we could use the marketing to sell the Kimberley to the world?

**Mr W.J. JOHNSTON:** My last question on this topic is: why then did the boards say in the board papers and the decision that actually the best thing for Western Australia was to have five major events and not get involved with other events? How come you made one decision and then changed it?

**Dr K.D. HAMES:** You would need to ask the board that, and I am sure you have. So you are asking me for an opinion on what the board thinks. My view was that as a government —

**Mr W.J. JOHNSTON:** No. I am asking you whether you think it is good practice.

**Dr K.D. HAMES:** I do not think it is necessarily bad practice to put the other side on it. You have got additional funding provided in a budget. You have got an opportunity to expand on something that seemed to be a good series at the start. It did not have anything in that first series of five on the

Kimberley, and that is a fantastic area that we want to sell to the world, so why would you not take an opportunity, when you have got an event coming, to get on board? And, remember, the sponsorship—while we had to provide some sponsorship to the event itself to get what we wanted, our major funding was to go to a company producing footage of that event so we could market that internationally. That is why we wanted to get on board. Can I say it is a bit like the *Red Dog* story? We got in a bit of trouble with the guy who did the *Red Dog* movie because we did not get on board in the early stage and then wanted to come in at the end and live off the back of what was a fantastic movie, and he in fact told us to nick off. We had an opportunity, an event was coming, it was put to us that this was a good opportunity for international marketing, the board clearly agreed and recommended it to us, and we were of that same view.

**Mrs M.H. ROBERTS:** Mr Hames, we are here today because four competitors got severely burnt, and there were some other more minor burns, in the event. There are two ways that that could have been prevented. One was by the race being cancelled, and the injuries certainly could have been lessened if evacuation had been more immediate. That is the advice the committee has received. One of the failings appears to be that there was not sufficient local expertise engaged, enough contact with local people; that the local emergency services were not appropriately engaged; and there are some people locally and with government agencies that say that they would have recommended that the race not go ahead, and they certainly would have made other recommendations in terms of an emergency management plan. Looking at the quality of information that was provided, we do not know what is provided to cabinet. We can surmise but we do not know. We do know that the board believed when it made the decision that there would be 100 competitors and that there would be a local event manager, and a local event manager ties into what I have been saying in the preamble to my question. Did cabinet believe that there were to be 100 competitors when it signed off on the decision on 22 August, and did you or cabinet believe that there would be a local event manager in place?

**Dr K.D. HAMES:** Can I say first, through you, Mr Chair, that obviously a tragedy has occurred, and the purpose of this inquiry, as I understand it, is to inquire around the issues that led to that and, in effect, what can be done to prevent such a tragedy occurring in the future. And our sympathies go out to those people involved, quite clearly. In terms of cabinet process, again I cannot talk about cabinet process, but the contract required 40 people to be there.

**The CHAIRMAN:** A minimum.

**Dr K.D. HAMES:** A minimum of 40. While it was the view—it was certainly my view that there would be 100, but the contract required a lesser amount because the critical issue here was getting adequate footage of the race in the Kimberley for international marketing. So that would have been the concern of TWA, and in fact cabinet. If we had been told there were 41 people and not 100, we would not have been concerned because 41 was the minimum because that was the view of the number that was required to broadcast that internationally. Now, Mr Chair, I have read through your inquiry up until now in terms of some of the questions that you have asked, and quite clearly identifying—and this issue goes to having a local person there—of assessing the risk. I put it to you that unless you have got evidence to the contrary, no-one would have picked up that fire was a risk in the Kimberley, not that there was not —

**Mrs M.H. ROBERTS:** We have got evidence.

**Dr K.D. HAMES:** Well, I do not think—I would like you to reflect on that, because my health evidence—and I will confirm that today—is that in the last five years nobody has presented to any of our hospitals with injuries as a result of burns by bushfires in the Kimberley.

**Mrs M.H. ROBERTS:** Maybe they took due care.

**Dr K.D. HAMES:** I do not think that is the issue.

**Mrs M.H. ROBERTS:** These people were put in this awful situation. It does not happen every day.

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**Dr K.D. HAMES:** Mr Chair, that is not how committees should —

**The CHAIRMAN:** You have asked your question.

**Mrs M.H. ROBERTS:** You have not answered my question.

**The CHAIRMAN:** He has not finished.

**Dr K.D. HAMES:** As you know, Mr Chair, I have had some experience in committees and their management, including with the member who has asked the question. Indeed, I think when I was not a minister, I had done seven parliamentary inquiries, two as chair, so I do know how they operate. What I would like to say to you is that if you had a local person assessing the risk of those competitors being burnt by fire, you would not have identified it as a risk. You would have more identified dehydration as a risk, snake bite as a risk, other injuries along the way —

**Mrs M.H. ROBERTS:** Point of order, Mr Chair. I just want to restate my question: did you believe when you took it to cabinet that there would be a local event manager in place or not?

**Dr K.D. HAMES:** No, but that does not detract from the rest of my answer, which is my answer, not yours.

**Mrs M.H. ROBERTS:** So you are saying no, you did not believe that would be the case.

**The CHAIRMAN:** Excuse me.

**Dr K.D. HAMES:** Please.

**Mrs M.H. ROBERTS:** I have not asked for all this other detail. The minister has said he has to leave at 12 o'clock, so if he is going to give very long answers to questions I have not asked, it is not helping the process.

**The CHAIRMAN:** He is answering the question. Let him do it.

**Dr K.D. HAMES:** The point I am making in response to the question is that no, I was not aware whether or not a local—in fact, that is not a level that a minister would ever be involved in. That is in fact—and we have been through—I know Tourism WA have been through the issue of responsibilities of a sponsor versus an events manager, and I would be pleased if you would ask questions along those lines at some stage, because that is a critical issue here that needs to be resolved. But did I know that there was not? No, I did not know because that is not my responsibility as a minister to be involved in that level of detail in terms of the management of an event in this state.

**Mrs M.H. ROBERTS:** So you submitted false information to the cabinet. What was put to cabinet was that there was a local event manager, 100 competitors, assorted other things.

**The CHAIRMAN:** The questions go through the chair. You are making a statement, not a question. Please. Okay?

Now, health: you are also Minister for Health. Did you receive parallel information from the Department of Health as to their concerns about particularly 2010 and their interaction with RacingThePlanet in the planning for the 2011 Ultramarathon?

[11.30 am]

**Dr K.D. HAMES:** No, I did not. As I stated—as you know—in Parliament, we have been back and gone through all of any papers involved from Health, and there was no advice provided to me by Health about the event the previous year. I have since become aware that there were issues, but certainly not at that time.

**Mr W.J. JOHNSTON:** In Parliament you stated that the event organisers were told to talk to the local police. I am just wondering who gave you that information.

**Dr K.D. HAMES:** That information would have come from Tourism WA and discussions with me about the event.

**Mr W.J. JOHNSTON:** Because that is not the evidence that Tourism WA has given to the committee. I am just trying to clarify where you got that information.

**Dr K.D. HAMES:** It is my recollection that I was advised about talking to local people about that. In fact, I presume that is more likely to have been after the event than before it.

**Mr W.J. JOHNSTON:** Absolutely. I am not asking you when.

**Dr K.D. HAMES:** In fact, inevitably that that would have been after the event. That is just my recollection.

**The CHAIRMAN:** Minister, you grew up in the Kimberley; you know it. Would you be concerned that a group from overseas running a risky event by nature in tough terrain, no doubt, failed to liaise in advance in the planning process with FESA, with Health, police, the SES and all the emergency services involved in it? Also, they came and did not bed down their communication devices. The phones did not work, a lot of them were overseas phones and did not have the numbers, and not everyone had the phone numbers or could communicate. Would you have been very concerned about this? Given the results that you have read in the evidence we presented—or that has been presented to us—are you very concerned about what transpired in the management of this race at that time?

**Dr K.D. HAMES:** I certainly am, and I think anyone would be, particularly when we have events of this nature and, in fact, a lot of different events that are sponsored by government and other bodies, that are inherently a risk, and so you would expect all those things to be done. While fire might have been at the bottom of the list if you were looking at previous injuries to people in the Kimberley, because there is no record of that occurring, nevertheless, it is well known that fires are frequent in the Kimberley. In fact, they have been going for thousands of years in the Kimberley, and so you would expect that anybody doing their job would have looked at —

**The CHAIRMAN:** Minister, you raised the issue about fire as debatable, and I accept your data, but these people came across over a ridge, there is fire all around the place, they did not know where it was and they hit a wall of fire. They really hit a wall of fire. Some of the people affected were very experienced people in the bush. It was probably a—the fire was all around. It is common, as you well know, in the Kimberley, often at low intensity, but this one was not the case. They simply, one, were not prepared—did not appear to have a decision as to what you do when you get near a fire and when you pull out, and also were not prepared to react. These people—the people affected—sat on a ledge for three and a half hours.

**Dr K.D. HAMES:** I understand all those. Quite clearly that will be the responsibility of your committee to highlight those failings by the company in addressing those issues. I do not know if you want me to answer in terms of giving you an opinion —

**The CHAIRMAN:** I just wanted you—as the Minister for Tourism, you have looked at that data. What do you plan to do about it?

**Dr K.D. HAMES:** That gets to the issue of risk and gets back to the issue that I am keen to discuss. Something that I hope the committee will look at extremely seriously is where does the line cross in terms of who is responsible for risk management—the manager of the event or the sponsor? What stage does a sponsor need to go to to prevent that management? Quite clearly, from what I have read so far, I would hope the committee would come back with a recommendation to government—not just to me as minister, but for all those government bodies that are involved in sponsorship; as you know, Healthway sponsors a significant number of events—football—Sport and Rec do. There are a whole range of government and, in fact, non-government organisations, that sponsor an event. Where does sponsorship end and where does management begin? What should be the role—I think, quite clearly the spot we are at at the moment is not the right spot. A risk management plan —

**Mrs M.H. ROBERTS:** I want to make a point of order if I may, Mr Chairman. This is our opportunity to ask questions of the minister. We have only 20 or 25 minutes left. I think the minister is making some good points. If he would like to provide his views on sponsorship and the role and so forth to the committee, he could do that in writing and could not waste our time.

**The CHAIRMAN:** He is not wasting his time, but a lot of interjections are wasting time. Let him finish.

**Dr K.D. HAMES:** With respect, the issue here is this is a committee reporting to government, and I am a member of government.

**Mr W.J. JOHNSTON:** No we are not. We are not reporting to government at all.

**Mrs M.H. ROBERTS:** I have some specific questions.

**Dr K.D. HAMES:** I am more than happy to answer them, but I just want to raise the issue of —

**Mr W.J. JOHNSTON:** Put a submission in.

**Dr K.D. HAMES:** Yes, but I have not seen anywhere where you have considered so far in your deliberations —

**Mr W.J. JOHNSTON:** You have our terms of reference; put a submission in.

**Dr K.D. HAMES:** —about the issue of when does it end.

**Mr W.J. JOHNSTON:** Put a submission in.

**Dr K.D. HAMES:** This is specifically about this event and when our risk management —

**Mr W.J. JOHNSTON:** It is not answering the question.

**Dr K.D. HAMES:** This is the question: when should our risk management —

**Mr W.J. JOHNSTON:** That is your question, not our question.

**Dr K.D. HAMES:** — be put in place and was it adequate what we did? My answer to you is no, I do not think it is adequate where that risk management plan sits at the moment. Quite clearly, as a committee, you are going to have to give advice to us on where we should do it, so I will just leave it at that.

**Mr W.J. JOHNSTON:** No, we give advice to the Parliament.

**The CHAIRMAN:** Excuse me, I asked the question; it is a relevant question. Please stop the interjections.

**Mr W.J. JOHNSTON:** Well, he should answer it.

**The CHAIRMAN:** You are slowing up the whole process because you want to ask a different question. Let him answer it and get on with it.

**Dr K.D. HAMES:** I apologise, Mr Chair, but I have lost track of what the specific question was that you asked.

**The CHAIRMAN:** Member for Midland.

**Mrs M.H. ROBERTS:** On 22 August when cabinet made the decision, were you or were you not aware that Tourism WA had signed a variation of their contract with Beyond Action on 9 August to include the Kimberley Ultramarathon; and, if so, did you inform cabinet?

**Dr K.D. HAMES:** No, I did not know they had signed a variation of agreement. On that issue, I know that certain members of the committee have made public statements about that issue relating to signing a contract in advance. My advice from Tourism WA—remember, that is what I have got to go on—is that that was a variation of agreement with the company that was going to do the footage. That was not enacted unless cabinet approved the decision to proceed with the contract.

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Fairly certainly—again, I am not going into cabinet submissions—the costing for that contract would have been in the costings that would have been provided to cabinet.

**Ms A.R. MITCHELL:** Minister, just going back to the information you received through Tourism WA, I know it is hindsight now, but looking back, how do you feel about the information that you have been provided to make your decisions on; and, if you have not been happy, what have you done now to make sure that the information that you receive is of better quality?

**Dr K.D. HAMES:** I guess it is fair to say that there are some aspects with which I am not happy and I have certainly communicated those to the committee. You will see under attachment 5 there is a briefing note that talks about those things of insurance and sponsorship. There is a particular aspect there that I have put in my notes about that to Stephanie Buckland about the issue of being able to make public statements about things of confidentiality in their contract that stops Tourism WA from being able to talk about it. I wanted to have that clarified and I received information back from the committee to say that while there is a requirement for confidentiality by Tourism WA, that does not prevent me from being able to ask or discuss any details about what was in the contract, hence me making the statements in Parliament that yes, they do have insurance and who that insurance was, to make sure that was in the public arena. In terms of the other aspect of that, which was the risk management, the view of Tourism WA was that the risk management plan was something that the manager of the event should be responsible—hence, as you know, they got it on the day. Just for your advice, prior to 2006 there was no requirement for risk management plans.

**Mr W.J. JOHNSTON:** There was not a Kimberley marathon too.

**Dr K.D. HAMES:** There was no requirement for risk management plans. That was instituted by your government in 2006 to bring in the process that we have now, which was, I think, an excellent idea but in fact does not go far enough. That is why I think we need to have a risk management plan that has perhaps an independent assessor. We do not have the staff in Tourism WA to go off and do all those risk management—to do a detailed assessment: did they do this; did they do that; did they do something else? I think prior to any sponsorship event in the future, not just for Tourism WA, but other organisations like Healthway that funds other programs that might put people at risk, there needs to be a clear change in management of that risk management plan system.

**The CHAIRMAN:** Can I explore what you know about the insurance? The requirement of the agreement between Tourism WA, or Eventscorp, and RacingThePlanet was that the head insurance was sighted and obtained—not just the insurance cover document, but also the schedules. We were informed today that the department of tourism does not have those schedules, and the schedules are absolutely vital to finding out what the full coverage actually is—exceptions and what not.

**Dr K.D. HAMES:** I am concerned about the issue of insurance in total because, as you have seen through the contract, they had to have public liability insurance, I think, to \$10 million so on, and yet on the other side this is a company that operates from overseas. We have in the contract “subject to the laws of Australia” but nevertheless they are an international company. How do you make those things work? And the insurance cover, how does it work? And how does it work when people in fact—I am sure you have seen the documents that the competitors signed that waived all their rights for all issues, including death. It seems extraordinary to me that people should do that.

**The CHAIRMAN:** You mentioned just now that you were concerned in your notes—section 5—about certain things being held confidential by the department of tourism, and you have mentioned insurance. We have asked the department of tourism for the details of any insurance they have. They have provided us with some, but not the schedules. Do they have the schedules?

**Dr K.D. HAMES:** I have no idea. You would clearly have to ask—and have asked—Tourism WA.

**The CHAIRMAN:** Have you asked for them?

**Dr K.D. HAMES:** No. I just asked what was the insurance company that they were insured with, largely because in my meetings with the Sanderson family it was one of the key issues that they had

that they wanted resolved was that if they wanted to claim against that insurance policy, the managers of the event were refusing to tell them who that company was. I have to say that I found that fairly inappropriate, so I found out what that company was and made it public.

**Mrs M.H. ROBERTS:** Just quickly on that point, minister, are you aware that the company name that you provided was not actually the insurer but a broker, which is entirely different to being an insurer?

**Dr K.D. HAMES:** No, I am not aware of that.

**The CHAIRMAN:** One of the crucial issues here is we are not comfortable with who is the insurer and what insurance is covered. We have a real problem with it.

**Mr W.J. JOHNSTON:** You only know the things that you are told. I have asked you about the police issue, now I would just like to ask you a question about the race being on private land. But, of course, we know that for quite some distance the race was actually on public land. I am wondering how you came to the view that it was on private land.

**Dr K.D. HAMES:** In fact, I have only been advised today that it is in fact not private land; it is crown land that is a pastoral lease. My understanding from reading —

**Mr W.J. JOHNSTON:** Even stretching private land to include leases, I am talking about the road and the bridge and the park.

**Dr K.D. HAMES:** Sure, but my understanding from reading a report that I think I have had since the fire was that the significant bulk of it was on the pastoral lease land—something like 15 per cent—because they had to seek approval to go down certain roads and across bridges.

**Mr W.J. JOHNSTON:** I am just asking you: how did you come to the view that it was all on private land? Because we know it is not right, and it is not your fault that you are not told the right thing; I am just asking you how did you come to that —

**Dr K.D. HAMES:** I had not seen at that stage the report that said 15 per cent was on public land. But even so—and I have made those comments since about a private event on private land—because, by and large, that is what the bulk of it was. They asked in running that event—it is on crown land that is leased land—but that was an operation that the Crown, in terms of government, was not involved in giving approval for that event to be on the station.

[11.45 am]

**Mr W.J. JOHNSTON:** When you said in Parliament that it was a private event on private land, you knew that 15 per cent was on public land.

**Dr K.D. HAMES:** I cannot recall when I found that figure of 15 per cent. Either I knew and was meaning that this is largely a private event—if you have a deal with an owner of a block of land —

**Mr W.J. JOHNSTON:** I am just asking a simple question and now getting a long answer.

**Dr K.D. HAMES:** I am just extending the answer a little. If it is freehold land and someone is on it and they have to run across a footpath to get on it, I probably would still say it is a private event on private land.

**Mrs M.H. ROBERTS:** Minister, you have provided a list of dates and events and you have attached to the back certain documents, including your press release and some ministerial memorandums. Would you be prepared to provide the committee with all correspondence, memorandums and briefing notes received by you or your office concerning the 2011 Kimberley Ultramarathon up until February 2012? I say February 2012, which is well past the event, because I understand that you have received correspondence from some of the competitors and people on their behalf and that there will be information post the event.

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**Dr K.D. HAMES:** Mr Chairman, I do not have an issue with that but I would have thought this was outside the terms of reference of this inquiry. Perhaps you could seek advice as to whether that is the case.

**Mrs M.H. ROBERTS:** I do not believe it is. Any or all of those documents have the potential to be relevant. We have a selection of documents chosen by you or your office. I am asking if we could have every document so we can see the full picture—I am not making any accusation here—rather than a selection of documents.

**Dr K.D. HAMES:** Just for your information, all the documents that relate to the fire, the events leading up to the fire and the consequences of that fire are in this folder. The only documents that are not here relating to details of discussions with the family are issues relating to the setting up of this inquiry. There is nothing that is not here that relates to the events around the fire, only issues relating to the setting up of the inquiry. I do not think the setting up of the inquiry is in the terms of reference.

**The CHAIRMAN:** That is an issue for the committee to deliberate on.

**Dr K.D. HAMES:** If it is determined, I will provide them.

**Mrs M.H. ROBERTS:** Prior to this inquiry being established—that is why I have chosen that date of February; we can make it up to the date of the inquiry—I am aware of the fact that you received correspondence from people because some of it was cc-ed to me. They were letters addressed to you post the event. You have responded to those and so forth. Those things are not included here.

**Dr K.D. HAMES:** I am happy to provide those letters relating to anything of that nature—the letters that came to me from Kate Sanderson's brother, for example, or any other members and my responses to them. I am more than happy to provide them. I do not think they are relevant but they may be and there is no reason for me not to provide them.

**The CHAIRMAN:** Does that satisfy you?

**Mrs M.H. ROBERTS:** Not entirely because I have asked for all the memorandums and so forth. For example, you met with Kate Sanderson's brother. I expect that your department would have provided you with a briefing note ahead of that meeting. I would like the committee to be able to see that briefing note.

**Dr K.D. HAMES:** I am happy to provide any information of that nature.

**Ms A.R. MITCHELL:** Minister, is it of concern to you that Tourism WA did not undertake an immediate post-event evaluation?

**Dr K.D. HAMES:** The issues relating to the fire itself and what occurred were issues around the fire itself and what caused the fire. An inquiry was obviously undertaken by FESA and a separate inquiry was undertaken by the police. When you say that Tourism WA had an inquiry —

**Mr W.J. JOHNSTON:** You did.

**Dr K.D. HAMES:** No, I did not say they did.

**Mr W.J. JOHNSTON:** I was not making an interjection; I was just saying the word in my own mind; that is all right.

**Dr K.D. HAMES:** And the words come out.

**Mr W.J. JOHNSTON:** Absolutely.

**Dr K.D. HAMES:** When you say “an inquiry”, Tourism WA did detail the internal investigation of what happened. In fact, they had to do this as part of this. And in discussions with me in terms of what was wrong with this and what was wrong with that, if you mean some formal inquiry process into the events, no, they did not. But to some extent, those issues have come out from Tourism WA about what they have done and what changes we have requested. But at the end of that, the issue

remains: what is the responsibility of a sponsoring organisation? It is a question you need to answer for the Parliament in terms of what should be the responsibility of an organisation that sponsors an event.

**Mr W.J. JOHNSTON:** Can I just clarify that? We asked whether an event audit report had been sought by Tourism WA. It said that Tourism WA did not consider it appropriate to seek an event audit because the event was under investigation by WA Police and FESA and is currently part of an active parliamentary inquiry process.

**Mrs M.H. ROBERTS:** They were looking at the source of the fire.

**Dr K.D. HAMES:** I do not think there is a lot of difference to the answer I gave. In fact, I do not think it is different at all.

**Mr W.J. JOHNSTON:** You said there had been an internal inquiry.

**Dr K.D. HAMES:** No. I said there was detailed internal assessment. You called it an inquiry or a formal process.

**Mr W.J. JOHNSTON:** Review, assessment—let us not split hairs here.

**Dr K.D. HAMES:** What they did is covered in the process of this inquiry—looking at all they did, when they did it, how they did it and so on and so forth. That internal assessment of what Tourism has done and what they should do in the future is part of this whole process. If this had not occurred, should we have independently gone and done one? We were in the process right from the very start of looking at whether we could have an inquiry and how could we do it. As you know, I wrote to the Public Sector Commissioner. There are a range of things around that that led to where we are today.

**The CHAIRMAN:** Could I go back to the insurance? It is very important. It is an important area we need more information on. Part of the contract with the event sponsorship agreement is that a public liability policy must be taken out under terms and conditions that are reasonable and approved by Tourism WA. Do you have any idea if Tourism WA approved the details of the insurance taken out by RacingThePlanet?

**Dr K.D. HAMES:** No, I do not have that information. You just met with them so I presume you asked them.

**The CHAIRMAN:** Yes, I did. They informed us that they did not have the schedules for the insurance that detail exclusions and otherwise of insurance. Were you informed any differently?

**Dr K.D. HAMES:** No.

**The CHAIRMAN:** Is that disconcerting to you as minister?

**Dr K.D. HAMES:** It is but can I just clarify that? The whole issue of insurance is of concern to me, not just when they sighted the insurance. My understanding is that they were advised that the company had public liability insurance. How does that stand in the face of people signing off their rights and what is the conflict?

**Mr W.J. JOHNSTON:** That is for a court to determine.

**Dr K.D. HAMES:** I would be very interested in knowing what those are because that determines what we do from now on in terms of managing that insurance risk. It is very difficult for those who have been seriously injured in an event in Western Australia to have the opportunity to make a claim against a company for the management of an event that has been managed poorly. Very clearly, that needs to be critically addressed to determine what needs to be done in the future, not just for Tourism WA. Your background is in commerce. You know the effects. Where does the risk lie? Where do you share that risk? Does the risk become a government of last resort that assumes all risk? We sponsored the Perth to Bali yacht race by providing prizes at the end. That was all we sponsored. If one of those yachts had sunk, where is the state responsibility? If Healthway sponsor a

local footy team and they do not have an ambulance present because the management did not do it, does that become the responsibility of the management of the event or the person who provides that sponsorship? They are critical issues—I know you do not want me to make suggestions—that need resolving.

**The CHAIRMAN:** When we were up in the Kimberley—I ask you to put your health minister hat on now—one of the things we heard about was the inadequacy of helicopter rescue facilities in the Kimberley. It is a big area. I know it is very difficult. Have you looked at that at all, particularly ones with winches, trying to get some of the smaller helicopters there? From advice given to us, the only reason the severely burnt people are alive today is because of the heroism of the helicopter pilot, the person from St John Ambulance and the pilot's offsider. The pilot was immensely skilled. If he had a winch, maybe he could have got them out earlier or even had the capacity to put people on a stretcher. Has the Department of Health looked at that or FESA or somebody else?

**Dr K.D. HAMES:** As you would no doubt be aware, the Minister for Emergency Services has that responsibility. We have not had issues come to us in the past; it has been more about issues around the Pilbara with the gorges and the like. You have to go on past history of events. If you are going to say that you should have that, you need to get advice from the Department of Health about the sorts of injuries that have occurred in that region in the past. What level of service do you need to go for the history of accidents and injuries in the Kimberley region in the past?

**The CHAIRMAN:** If we are going to run these risky events, either private or public, and they are increasing, they are going into harm's way. This was the feedback we got significantly.

**Dr K.D. HAMES:** That is true. Probably the biggest risks, as I said before, for an event in the Kimberley are dehydration, snake bite or falling off a cliff, all of which are potential. We have to ensure that those risks are covered but again that would be the responsibility of the Minister for Emergency Services. I have not had any information through Health to suggest that there has been a critical failure in that area in the past. Perhaps you have other information on that that I am not aware of.

**The CHAIRMAN:** Thanks for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it is deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on a particular point, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Thank you again for your evidence.

**Dr K.D. HAMES:** Thank you in response. I will provide that supplementary information.

**Hearing concluded at 11.58 am**

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