

EXECUTIVE SUMMARY

This is the Report of the Community Development and Justice Standing Committee on the *Inquiry into Fire and Emergency Services Legislation*. The Committee resolved to conduct the Inquiry on 24 August 2005 principally on request from the Hon. Michelle Roberts, MLA, then Minister for Police and Emergency Services.

Chapter One outlines the Committee resolution for the conduct of the Inquiry, the scope of the review and the process pursued in the gathering of evidence. It highlights the valuable contribution of volunteers in the delivery of emergency services in this State.

Chapter Two *examines the means by which legislation puts in place effective and efficient measures to prevent, prepare for, respond to and ensure recovery from emergency services.*

Section 2.1 considers the request for amalgamation of the *Fire Brigades Act 1942*, the *Bush Fires Act 1954* and the *Fire and Emergency Services Authority of Western Australia Act 1998* into one consolidated emergency services Act. The Fire and Emergency Services Authority of Western Australia (FESA) cites that the Acts do not provide for the roles that emergency services units now perform, lack interoperability and that the earlier Acts are dated and too detailed. FESA essentially argue that one Act would provide a strategic legislative framework for the operation of emergency services. The majority of stakeholders to the Inquiry agreed with this premise, a few on the proviso that the new Act clearly provides for the individual emergency services entities. The Committee supports the majority view on this issue similarly on this proviso.

Section 2.2 discusses whether the emergency services Act should bind the Crown. The more contemporary *Fire and Emergency Services Authority of Western Australia Act 1998* binds the Crown whereas the *Fire Brigades Act 1942* and *Bush Fires Act 1954* do not. FESA argues that the lack of consistency between the Acts promotes confusion, misinterpretation of the legislation and that non-compliance places the community, property and the environment at risk. FESA therefore recommend that provision be made to bind the Crown. This will mean that Government agencies with Hazard Management Agency (HMA) and support roles in emergency services will be required to comply with the emergency services legislation, despite the existence of agency specific legislation that might contradict the Act's intent, functions or powers. Personnel not covered by the emergency services legislation will be required to recognise and comply with the intent and authority of the legislation.

The greatest impact for the community in regional and remote Western Australia will be ensuring a consistent approach to fire management planning across the State. Currently under the *Bush Fires Act 1954* the State is exempt from having to undertake fire-break and/or other fire mitigation works on its land. The main comment by stakeholders was the lack of equity or accountability of the State in this regard and the resultant impact on neighbouring properties. The Department of Conservation and Land Management (CALM)¹ and Main Roads Western Australia highlighted concerns about the potential financial, practical and environmental implications of fire-break and hazard reduction notices on their land. CALM were also worried about the impact

¹ Renamed the Department of Environment and Conservation on 1 July 2006.

on their prescribed burning program of existing provisions which prevent the lighting, or enforce the extinguishment, of a fire.

The Committee supports the emergency services Act binding the Crown for reasons of equity and consistency, however is aware that if, for instance, the *Bush Fires Act 1954* is amended to bind the Crown, there would be a risk of it becoming unworkable. It is suggested however that the Acts be repealed and re-drafted, allowing the State the opportunity to develop flexible legislation that enables land owners and land managers to use fire prevention tools in addition to, or as an alternative to, fire-breaks.

Section 2.3 outlines, in brief, agency accountability for building safety. The Department of Housing and Works (DHW) holds responsibility for building control legislation, although a number of agencies including FESA and local government hold support roles to ensure compliance with the Building Code of Australia. Described is the process by which DHW, FESA and the Western Australian Local Government Association (WALGA) arrived at a degree of consensus about building safety provisions in the emergency services legislation and Building Regulations.

Section 2.4 discusses FESA's request to approve building plans and specifications to ensure compliance with the fire requirements of the Building Code of Australia and FESA's operational firefighting needs. Under the *Building Regulations 1989* plans and specifications for Class 2 to Class 9 Buildings (as per the Building Code of Australia) are required to be submitted to FESA for assessment but the legislation does not prescribe what action FESA is required to take, nor does a developer have to comply with FESA's advice. This raises concerns of liability. FESA requests the power to approve building plans and specifications, extension of the Class of buildings to which these provisions apply to include Class 1B buildings and the power to issue Certificates of Classification (Occupancy) in regard to those buildings which pose a 'high risk to life' or have 'complex/complicated fire and emergency safety systems'. FESA view that the option for appeal to the State Administrative Tribunal should exist for a developer aggrieved with a decision of FESA in regard to non-approval of building plans and specifications. DHW, FESA and WALGA concur on these arrangements.

The Committee agrees with this proposal on the grounds that FESA needs to have certainty that they can work with complicated fire safety systems and ensure that duty of care obligations are met to firefighters and the general public. The Class of buildings to which these provisions apply should be extended to include Class 1B buildings which incorporate establishments such as backpacker hostels, bed and breakfasts and guest houses.

Section 2.5 discusses FESA's request to retain existing powers under the *Fire Brigades Act 1942* to inspect public buildings to ensure that there is no risk to life and property, order the owner to take remedial action, apply to a Magistrate to close the building until breaches are rectified, and remove people from the building, if there is a danger to life. The provisions currently apply to "public buildings" which is dated terminology, not clearly defined and open to interpretation regarding application of these powers. FESA has requested that this term be re-defined as Class 1B to Class 9 buildings.

DHW and WALGA concur that FESA should retain these powers but that they only apply to the operation of fire and emergency safety systems. DHW, WALGA and FESA agree that in instances where non-fire and non-emergency system related

breaches are detected, building safety could be assured by establishing a referral mechanism to an “expert” agency to enable adequate assessment of risk and remedial action by a building owner, if required.

The Committee agrees with the proposal on the basis of FESA’s expertise, ability to provide consistency of approach, and carriage of resources, necessary to ensure fire safety in buildings. For reasons of clarity it views that the provisions should apply to Class 1B to Class 9 buildings. Establishment of a referral mechanism for assessment of non-fire and non-emergency safety systems breaches to a relevant “expert” authority is also deemed to be appropriate.

Section 2.6 outlines FESA’s request to retain the powers under Section 25A of the *Fire Brigades Act 1942* to direct the owner of a premises to provide and install fire detection and suppression equipment necessary to prevent, detect, respond to, or extinguish fire. The provisions currently apply to Class 2 to Class 9 buildings although FESA requests these be extended to include Class 1B buildings.

On the basis of FESA’s expertise in fire safety and its duty of care obligations, the Committee views that the Authority should retain these powers and that for reasons of community safety and consistency, that the provisions apply to Class 1B to Class 9 Buildings.

Section 2.7 discusses FESA’s proposal to transfer the power to approve the establishment of Bushfire Brigades (BFBs), from local government to FESA. FESA contends that this is required given its management of the Emergency Services Levy (ESL), which now funds BFBs. In distributing funds, FESA conducts a resource-to-risk assessment to determine a locality’s requirements and views that applications from local governments for the establishment of brigades, surplus to a localities requirements, compromises the ESL.

Evidence indicates that some local governments have requested transfer of all or part of the responsibility for BFBs to FESA. Others oppose the recommendation arguing the need to balance local knowledge and community aspirations with financial considerations.

The Committee supports transfer of the power to approve the establishment of BFBs from local government to FESA. This is principally on the basis that the Authority administers and approves funding for these Brigades and because the ESL is a finite resource. The Committee view however that a local government dissatisfied with a decision of the Authority should have the right of appeal to the State Administrative Tribunal.

Section 2.8 deliberates on FESA’s request for the transfer of the administration of ESL applications for State Emergency Service Units (SES) from local government to FESA. FESA argues that this should occur because FESA now hold legislative responsibility for the administration of SES Units. FESA also suggests that in the event of transfer that local government should continue to accommodate SES Units until the building is replaced via the ESL Grant Scheme or an alternative position is negotiated with FESA.

Stakeholder opinion on this proposal was fairly evenly divided. Those opposed to change saw this role as integral to the emergency management responsibilities of local government or as providing the community with greater influence over SES ESL applications. One Shire expressed strong opposition to the notion of local government continuing to house SES Units, on the grounds of fairness. Those supporting the

change did so on the basis of lack of expertise in SES matters and costs associated with administering the ESL. Either way, stakeholders were convinced of the requirement to keep local government apprised with regard to their local SES.

The Committee supports the proposal on the basis that FESA has administrative responsibility for SES Units and recognises that local government must be kept informed in relation to SES matters. Fairness would also dictate that FESA give priority to re-accommodating SES Units via the ESL.

Section 2.9 outlines concerns expressed by SES Units regarding management by non-SES trained FESA staff. It was intimated that at a corporate level, FESA needs to focus on employment of full time SES trained staff for liaison with SES Units. The Committee views that due attention needs to be given to the provision of adequate training for management personnel, relevant to the emergency services groups they are managing.

Chapter 3 *examines the means by which legislation puts in place appropriate risk management strategies on land owned/managed by local governments or State Government departments or agencies.*

Section 3.1 discusses FESA's suggestion that it be empowered to request (and approve) fire management plans from land owners or managers for prescribed categories of land or land usage, including Crown land, land used for pastoral or grazier, or plantation purposes. Further, that land owners or managers aggrieved with a decision of the Authority be provided the option of appeal to the State Administrative Tribunal. The contention is that there is currently inadequate or inconsistent fire management planning on large tracts of land and existing fire management mechanisms such as fire-breaks are not always practical, however that all land (considered to be of high risk) in this State should be subject to appropriate risk assessment and mitigation.

The majority of stakeholders supported the concept of fire management planning, to assist in reducing and suppressing wildfires, as an alternative to fire-breaks (which in some terrain is environmentally damaging) and as a means of managing current high fuel loads. There was strong support for fire management planning to apply to Crown land and for stakeholder input into fire management planning to be assured. There was some debate as to whether planning should be voluntary or compulsory. CALM did not oppose fire management plans but did not support FESA having final veto given CALM's expertise in biodiversity.

The Committee views that fire management plans must be a legislative requirement to ensure a degree of consistency and application Statewide. This is achievable through: compulsory fire management planning on prescribed categories of land; FESA providing assistance in fire management planning processes; the establishment of new or the utilisation of existing Committee representative structures to progress fire management planning; the conduct of sample audits of fire management plans at State level and the lodgement of CALM's fire management plans with the local level committee for comment and integration with broader fire management planning. The Committee agrees with the option of appeal to the State Administrative Tribunal for land owners or land managers aggrieved with a decision under a fire management plan.

The Committee views that the Conservation Commission of Western Australia should continue to develop management plans with a fire management component (where

relevant) for CALM land vested in the Department under the *Conservation and Land Management Act 1984*. This should be extended to include all Department managed lands deemed to be of high risk, where a fire management plan would mitigate that risk. Under this arrangement, local government may still issue fire-break and hazard reduction notices on all land, apart from CALM's land vested under the *Conservation and Land Management Act 1984*, however, where a fire management plan exists, notices must be issued in accordance with those plans.

Chapter 4 examines the effectiveness of incident command and control systems in fire and emergency services including interoperability in multi-agency incidents.

Section 4.1 discusses Control Authority at major incidents. Under the Australasian Inter-Service Incident Management System, Control refers to the “overall direction of emergency management activities in an emergency situation” and involves “the responsibility for tasking and coordinating other organisations” according to the needs of the incident. It operates horizontally across organisations. Command, involves “the direction of members and resources of an organisation in the performance of the organisation's role and tasks”. It operates vertically within an organisation. Western Australia's Control arrangements are established in State Emergency Management Committee (SEMC) Policy Statement No.7. It dictates that:

FESA is the HMA for fire in the metropolitan area and within designated townsites, unless the fire is on or near CALM-managed land or allocated Crown land.

Local government is the HMA for fire within the local government area but outside of the designated townsite, unless the fire is on or near CALM-managed land or allocated Crown land. Local government is also the Hazard Management Agency for fire on Unallocated Crown Land.

CALM is the HMA for fire when it is on or near CALM-managed land or allocated Crown land, but only if a CALM Officer is present. If a CALM Officer is not present, CALM may refuse to take control of the fire.

Essentially the HMA is responsible for control at multi-agency incidents. FESA cite that the current Control Authority arrangements place the organisation in a precarious position regarding liability and imply that they can expose the community to unnecessary risk. Essentially FESA contends that under the *Bush Fires Act 1954* they cannot assume control from local government unless requested, are required to follow local government direction, are not necessarily included in planning and yet can be handed control of a fire at any time during an incident. Similar arrangements exist with CALM. However FESA imply that these arrangements are complicated by CALM being able to assume control of a fire “in” or “near” CALM land, which in the absence of a definition of “near”, means CALM can effectively assume control of a fire anywhere in the State. FESA imply that these arrangements raise concerns particularly with new housing developments abutting or in the vicinity of CALM-managed land.

FESA proposes that it be able to assume control from CALM and/or local government under prescribed circumstances, principally where in the opinion of FESA, local government or CALM do not have the ability, experience and/or resources required to control a fire; or in the opinion of FESA, the fire or fires have escalated to a level whereby State level control is required. Control by FESA does not relieve CALM or local government of the command of its personnel, brigades and units.

CALM views that current Control Authority arrangements are effective and appropriate and that assumption of control by FESA is not appropriate given CALM's expertise in biodiversity conservation. CALM support FESA being able to assume control from local government.

The acceptability of Control Authority arrangements varied amongst stakeholders according to whether "non-legislative" fire control arrangements had been negotiated at the local level, the degree of local government expertise to combat fire incidents, the extent by which local government, CALM and FESA interacted at the local level, and the personal experiences of emergency services personnel in relation to fire control. Despite stakeholder views, in most cases, a commonality existed in relation to the desire to work cooperatively on the ground and for any system of Control Authority to recognise local volunteer knowledge and agency expertise.

The Committee considered the recommendations of a number of recent (2004/05) State and Commonwealth Government reports which assert the need for one agency to assume control under prescribed circumstances. These included two reports of the State Coroner, a performance examination by the Auditor General of Western Australia and a report of the Council of Australian Governments. The Committee also examined Control Authority arrangements in New South Wales and Queensland and found that both jurisdictions have single agency control.

The Committee accepts that several major inquiries have indicated a need for one agency to assume control in a multi-agency incident given the inherent risks posed by the authority for bushfires being dispersed across multiple agencies when bushfires demand a coordinated response or when fires cross organisational boundaries. FESA as the Statutory Authority responsible for fire in the State of Western Australia is most appropriately placed to assume control in major incidents. The Committee has ensured a check on the use of this power by FESA by proposing that it may only be exercised under prescribed circumstances and that the decision to assume control is made at the Executive, not local, level. Further, it has been recommended at Section 5.1 that the Auditor General of Western Australia consider the impact of the Committee recommendations, including control, as and when determined.

Section 4.2 details concerns expressed by stakeholders regarding the incompatibility of radio communications and/or deficiencies in communications' infrastructure which are currently being addressed via the Government's Emergency Services Communications Strategy. The latter includes a new radio communications system. This section also discusses Government's Shared Land Information Platform which will provide a single point of access for land information data and allow for the use of consistent and in some cases, real time data, for improved decision making. An area of focus of the Shared Land Information Platform is emergency management.

Chapter 5 examines the means by which State legislation establishes regulatory responsibility to ensure that appropriate prevention, preparedness and response measures are established for emergency services.

Section 5.1 explores whether or not there needs to exist a regulatory body to ensure the efficient and effective delivery of emergency services in Western Australia. It was viewed by various stakeholders that a regulatory agency would ensure greater policy coordination amongst agencies, provide independent assessment of agency performance, assess the efficiency of the legislation, review fire suppression by

Crown agencies, be an appeal mechanism for fire management planning and manage the ESL.

The Committee sought advice from a range of relevant Government departments including the Department of Treasury and Finance, the Department of the Premier and Cabinet, the Office of the Auditor General, CALM, the Conservation Commission of Western Australia and FESA. Where relevant, agencies did not support the concept of an independent regulator. Reasons primarily included:

that the responsible Minister or Auditor General could undertake reviews into agency compliance;

that the SEMC has a role in ensuring an efficient emergency management capability;

that an independent regulator consumes considerable resources;

that departments can deliver regulatory and service delivery roles provided they are structurally separated within the agency; and

that CALM's management plans are already subject to adequate regulation by the Conservation Commission of Western Australia.

The Committee view that many of the concerns that have arisen prompting calls for an independent regulator will be addressed under the *Emergency Management Act 2005* and via recommendations of this Report.

Although FESA does not support assuming a regulatory role for reasons of conflict of interest, the Committee views that the complexity of emergency services and number of service delivery agencies warrant ongoing monitoring and review of performance and can be performed within the agency provided the role is structurally separated. The Committee is therefore of the opinion that a regulatory role should be established within FESA and is convinced that operational matters will complement this role.

The Committee excludes CALM from the jurisdiction of the regulatory unit on the basis that CALM's performance is satisfactorily audited by the Conservation Commission of Western Australia and in acknowledgment of the independence of the Commission. That said, it is recommended that CALM be required to undertake fire management planning in prescribed circumstances and the Committee proposes in Section 3.1 for Government to make provision for the conduct of adhoc audits of fire management planning across the State.

Although the Committee views that there is no demonstrated need for a permanent regulatory agency for emergency services, it believes that there needs to be some independent assessment of performance under the legislation. The Committee would suggest that this role would most appropriately be assumed by the Office of the Auditor General given its recent *Performance Examination - Responding to Major Bushfires* and the fact that many of the recommendations of that report informed this Inquiry.

Chapter 6 examines the means by which legislation provides an appropriate balance between centralised control and community centred emergency management.

Section 6.1 discusses the option of local government transfer of administrative and operational responsibility for BFBs to FESA, under agreed terms and conditions. The *Bush Fires Act 1954* empowers local governments to establish and maintain BFBs.

FESA asserts that a number of local governments have approached the Authority requesting the transfer of emergency incident control in the local government area, the operations and administration of BFBs, and assumption of the administration of the ESL for capital and recurrent costs of such brigades. Requests have been made on the basis of lack of expertise by some local governments, the negative impact of rural adjustment on service delivery, the need for improved coordination, financial pressures of litigation and compliance with Occupational Health and Safety requirements, and lack of alignment of the views of local government and FESA. Some local governments in the south west of the State were opposed to transfer principally on the basis of local government control being integral to community centred emergency management. Others viewed that FESA should also assume responsibility for preparedness and recovery.

The Committee supports the concept of well resourced and capable local governments retaining their bushfire responsibilities while allowing less resourced and less capable local governments to access assistance from FESA. The Committee views that local government is more appropriately placed to perform emergency prevention functions given local knowledge and expertise. The Committee views however that there should be an avenue of appeal for a BFB member or local government aggrieved with a decision of FESA in regard to the management of that particular Brigade.

Chapter 7 details any major issues that emerge that the Committee considers should be included within the inquiry.

Section 7.1 discusses FESA's proposal for re-establishment as the Department of Emergency Services. FESA was established as an Authority in 1998 on the basis that it carries out roles not traditionally aligned with corporate Government, the majority of its "staff" are volunteers, funding is received from a range of sources, local government has a significant role in strategic decision making of emergency services, two of its constituent agencies were statutory authorities and a board would be established with strategic decision-making powers.

Section 6 of the *Fire and Emergency Services Authority of Western Australia Act 1998* establishes the FESA Board as the governing body of FESA. FESA essentially argues that it be re-established as a department because a representative Board of Management raises issues of liability as members are required to perform roles that they are not necessarily qualified to perform, particularly in terms of corporate expertise and governance. FESA references a number of reports and a legal case in support of its re-establishment as a department and to highlight the difficulties inherent in representative boards of management.

FESA proposes re-establishment as a department with an advisory board whose composition would generally reflect that of the existing Board of Management. FESA views that this would provide emergency services volunteers with direct access to the Director General, greater proximity to the Minister for Emergency Services and allow members to legally represent the views of volunteers at meetings without being compelled to promote the corporate position. FESA has suggested that the new department be named the Department of Emergency Services to more appropriately reflect the amalgam of emergency services.

The Committee sought advice on the proposed changes from the Department of Treasury and Finance and the Department of the Premier and Cabinet. Neither supported re-establishment as a department and in doing so referenced the findings of

a number of Government reports. In essence both contended that the concerns over a representative board governing a public sector agency could be addressed under the existing status of Authority. The Department of the Premier and Cabinet indicated that there were a considerable number of issues that needed to be considered in repealing FESA's status and re-establishing it as a department.

Stakeholders were mainly concerned about the proposed name change. Fire related services were generally opposed to the loss of the word "fire" from the agency's name because of the impact on their identity. Conversely, non-fire related services argued that inclusion of the word "fire" impacted negatively on their identity, and should be omitted from the new corporate name.

The Committee were of the opinion that the full implications of changing to a departmental structure needed to be identified and that the appropriate avenue for review would be the responsible Minister, or the Minister for Public Sector Management, with approval of any proposal by Cabinet. The Committee views however that notwithstanding FESA's status, due consideration should be given to the corporate name and that in fairness the latter should reflect the amalgam of emergency services. This does not however negate the requirement for individual emergency services to retain their identity under the umbrella organisation. The Committee also views that there is also sufficient "expert" opinion to indicate that amendment to the existing board structure is required, however is mindful that this could occur within the existing authority structure. The decision is a matter for Government policy, although any Board structure should reflect the composition of emergency services in this State.

Section 7.2 discusses the perceived impact of the ESL, a property-based levy introduced by Government in July 2003 to fund the majority of emergency services administered by FESA. The ESL is the primary funding source for BFBs, the SES, career and volunteer Fire and Rescue Services Brigades, Fire Service Brigades, Emergency Service Units, FESA's administrative costs and a number of other emergency services expenses.

The most critical debate in this Inquiry was raised by local government regarding whether the ESL had resulted in an increase in the effectiveness of emergency services in the State. Prior to the ESL there were differing levels of commitment, funding, equipment and service of BFBs depending on a range of factors particular to the local government area. Local governments that provided a high level of support view that they are now disadvantaged given the ESL's focus on ensuring less equipped local governments are brought up to an appropriate standard.

FESA intends to use a resource-to-risk assessment model to ensure that equipment provided is commensurate with the risk faced by the community. Currently FESA operates via four year asset replacement programs as well as providing operating grants.

Several requests were made by stakeholders regarding expansion of the Levy. This included requests by local governments for the ESL to cover prevention, preparedness and recovery costs for fires, fire management on unallocated Crown land, maintenance costs associated with equipment purchased separate to the ESL, local government administrative costs associated with collection and management of the ESL, training for administration of the ESL and funding for slip-on units. A number of solutions were proposed to address the perceived short-fall in the ESL including an

injection of funds from consolidated revenue, increase in the levy charged, removing unnecessary equipment off emergency services vehicles or tailoring equipment to suit the terrain in which it is operated, greater transparency in management of the ESL (through placing the ESL with an independent body) and improved consultation with local government around equipment required.

FESA acknowledges that the vehicle replacement program has favoured local governments that have not previously provided sufficient funding for units, however notes the requirement for this to occur in order to ensure that the State has a roadworthy fleet. FESA details that overall there has been a reduction in the average age of the State's fleet from 15 to 12 years.

The Committee is cognisant that it will take some time to ensure that a high standard of emergency service is achieved in every local government area, however views that in the interim, it is critical that less resourced local governments are provided with the equipment and expertise to ensure that emergency services personnel are protected while performing their duties. The Committee therefore sees the disparity in the short-term as inevitable.

Financial figures and data reviewed by the Committee show that the ESL has resulted in improvements in emergency services throughout the State. The Committee does not view expansion of the ESL to fund emergency services related costs external to the current ESL criteria as possible, to do so would increase rates and charges beyond the Consumer Price Index which is likely to be unacceptable to Government and the broader community. Further, the ESL was not intended to change the statutory obligations of local government in regard to the funding and management of a range of land management and community safety responsibilities under the *Bush Fires Act 1954* and *Local Government Act 1995*, including the resources and infrastructure required to administer those responsibilities. The Committee does not support removal of the ESL from FESA. It does view that some attention needs to be given to reviewing the viability of slip-on units.

The Committee contends that it would be appropriate for the Auditor General to consider conducting an assessment of the effectiveness of the ESL, taking into consideration the impact of resource-to-risk assessment models employed in the distribution of the levy.

Section 7.3 discusses the proposal by FESA to establish Emergency Services Areas in place of existing ESL category boundaries and fire districts which currently govern the provision of emergency services by FESA. Essentially fire districts are no longer valid given that ESL category boundaries, which generally mirror fire districts, are now used to determine distribution of emergency services funding. Fire districts are now used only to demarcate operational boundaries and to stipulate fire hydrant ownership and responsibility arrangements. The Committee recommends at Section 7.4 transfer of hydrant ownership and responsibility to the relevant water supply authority which will negate the need for fire districts to demarcate fire hydrant boundaries. It is suggested that Emergency Services Areas would replace ESL category areas (and in turn fire districts) and would serve to define ESL boundaries, emergency services delivery boundaries and any other boundary that needs to be defined for the purpose of FESA performing its functions under the Act. This would provide a less confusing, more consistent and efficient approach to boundary definition.

Stakeholders generally viewed that the change would result in less confusion. Principal opposition came from the United Firefighter's Union who were opposed on the grounds of loss of identity for fire service personnel. The Committee acknowledges the argument in relation to the preservation of the identity and role of fire brigades, however is satisfied that while fire districts are to be abolished, the proposed Emergency Services Areas boundaries will serve an equivalent function in demarcating operational jurisdictions. The Committee views that the establishment of Emergency Services Areas in place of fire districts and ESL category areas will resolve any present confusion arising from multiple boundaries.

Section 7.4 discusses FESA's proposal for transfer of hydrant ownership and responsibility (apart from servicing and reinstatement of paving) to the relevant water supply authority and amendment of relevant organisational budgets to recognise costs associated with asset transfer.

There are principally three water supply authorities in this State, the largest being the Water Corporation, which covers the majority of Western Australia's populated areas, Aqwest (Bunbury) and Busselton Water. The current hydrant arrangements are reasonably complex. In brief, FESA determines the establishment and removal of fire hydrants in fire districts and the water supply authority carries out hydrant related work and invoices FESA. Local government reinstates the paving. FESA receives ESL funding for hydrants. In the metropolitan area a shared payment arrangement has been negotiated between FESA and the Water Corporation in recognition of maintenance costs associated with third party use of hydrant infrastructure. In non-fire districts, local government is responsible for the capital and operating costs associated with fire hydrants. The water supply authority performs the work and local government meets associated costs. Local governments do not receive ESL funding for hydrants and do not have cost sharing arrangements with the water supply authority. Water supply authorities meet the cost of water.

FESA's argument for transfer centred on billing arrangements, third party use of hydrants, non-competitive maintenance contracts, hydrants forming part of water supply infrastructure and this State being the only one with the existing arrangements. Local governments were concerned about billing arrangements and the non-competitive nature of contracts, however also viewed that hydrants were not core business and expressed dissatisfaction at costs not being met under the ESL. Local government debate centred on whether hydrant ownership and maintenance should rest with FESA and the ESL, or the Water Corporation, given that hydrants form part of their infrastructure. The water supply authorities were opposed on the basis of hydrants being non-commercial, not part of core business, ageing hydrant infrastructure, liability issues and arrangements being in place to recognise third party usage.

Legal advice sought by the Committee indicated that the ownership of hydrants was of minimal, if any, relevance to the incidence of civil liability in negligence. The Water Corporation, in turn, sought its own legal advice which was contradictory to that accessed by the Committee.

One of the issues for consideration in relation to the transfer of hydrant infrastructure to water supply authorities was the substandard nature and insufficiency of hydrant numbers in some local government areas. It was suggested that local government rectify the latter prior to transfer. The same would apply to FESA if similar inadequacies were identified in fire districts.

In consideration of the evidence provided and with reference to interstate hydrant arrangements, the Committee is convinced that arrangements in this State are unnecessarily complex and inappropriate. The Committee views that the fact that hydrants form part of the water supply authority infrastructure does inhibit competitive price negotiations. The Committee is therefore of the opinion that fire hydrant ownership and responsibility, apart from the servicing, marking of hydrants and reinstatement of paving, should be transferred from FESA and local government to the respective water supply authority in the manner recommended by FESA. The Committee accepts that Government needs to provide appropriate recompense to the relevant water supply authority for running a non-commercial enterprise which is not part of their core business. Due consideration will also need to be given to the legal advice sought in the context of this Inquiry, in the drafting of the emergency services Act.

The Committee is concerned that fire hydrants have not been maintained in a satisfactory condition by some local governments however acknowledges that local authorities have not had the benefit of the ESL. The Committee views that the matter of funding for upgrade or replacement of existing or installation of new hydrant infrastructure for local government areas should be re-considered once an audit has been conducted and the financial implications determined. Coverage deficiencies in existing infrastructure in fire districts should be undertaken by FESA.

Section 7.5 discusses the provision of emergency services to Indigenous communities. This was not an issue that the Committee was able to consider in great detail. Essentially local government has held responsibility for bushfires in Indigenous communities since the enactment of the *Bush Fires Act 1954*, however Emergency Service Units and SES Units, established under the *Fire and Emergency Services Authority of Western Australia Act 1998*, operate within and external to fire districts. Road Rescue and hazardous materials response also have a broader ambit. FESA detailed that there were a number of impediments to service delivery to Indigenous communities, principally isolation and seasonal access. FESA cited that they do however provide a full response service to hazards. Little capital equipment is provided given the absence of registered brigades in communities.

Limited comment was made by stakeholders concerning varying degree of service to remote communities, the difficulties inherent in recruiting Indigenous people to volunteer units and the impact of landscape burning by Aboriginal people in the north of the State. The Committee is aware that considerable consultation has been undertaken at the Commonwealth level with Indigenous people, Government and community based services to underpin the development of a *National Emergency Management Strategy for Remote Indigenous Communities*. The Strategy is due to be released in late 2006. The priorities centre on decision making structures, communication and engagement, planning, and resourcing of remote communities for emergency management. The Strategy will provide an overarching framework from which the states and territories can develop their own emergency management approach and priorities for communities. The Committee is cognisant that policy development will take time and is mindful of the need to lend support to this process. Government should however assess, and ensure the commitment of, appropriate levels of resourcing and funding to ensure effective implementation of the National Strategy.

Section 7.6 explores in brief, heavy industry emergency response arrangements. Although not a core concern of the majority of stakeholders to this Inquiry, the

Committee is mindful that such arrangements are critical to the safety of industry employees and the broader community. Several issues were raised in this regard. Firstly, FESA expressed concern about the reliance in remote areas of the State by some heavy industry on FESA's capability to reduce industry created hazards. FESA view that a major incident in a regional area would significantly challenge FESA's resources.

Secondly, FESA requested that provision be made to enable privately owned industry to enter into an agreement with the Authority to establish an Emergency Service Unit to provide an emergency service response for community members residing in predominantly industrial towns, of a comparable standard to that of other towns in the State. The concept is based on an individual industry's ability to respond to Emergency Service Unit requirements and does not negate a company's need to maintain a response capacity in accordance with its own risk assessment or risk profile.

Thirdly, the Department of Environment commented on the adequacy of legislative provisions for the removal of fire hazards. The Department viewed that FESA was not adequately enforcing these provisions and felt that there was a need for these provisions to be strengthened and clarified, particularly with respect to cost recovery. FESA has traditionally favoured a consultative approach however acknowledges that prosecution or penalties for which legislative provision already exists, may be appropriate where the consultative approach fails.

The Committee concurs that heavy industry must have the capacity to respond to incidents matched against identified risks of the operation. Although in many instances appropriate arrangements are in place, there must be a standardised approach. The Committee therefore views that Government should consider appointing FESA as the lead agency to facilitate a collaborative review with industry and other relevant stakeholders of heavy industry emergency response arrangements.

The Committee agrees with FESA's recommendation in relation to the establishment of an Emergency Service Unit, where appropriate, in predominantly industrial towns. It appears that there are already moves in some centres involving the integration of industry and community emergency services. With respect to the Department of Environment's concerns, the Committee considers that FESA should consider prosecution or penalties in instances where consultation with industry to ensure the removal of hazardous substances is unsuccessful.

Section 7.7 outlines a number of issues peripheral to the Inquiry, including CALM's request for a prescribed fire management function under the *Conservation and Land Management Act 1984*, evidence of inadequate resourcing of St John Ambulance in regional areas, difficulties in recruiting and retaining volunteers across the emergency services, the inadequacy, inequity and lack of clarity in insurance cover for volunteers, and funding arrangements for the Volunteer Marine Rescue Services.