

TRANSCRIPT

STANDING COMMITTEE ON THE ENVIRONMENT AND PLANNING

Inquiry into fire season preparedness

Melbourne — 6 September 2016

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Mr Bernard Teague (sworn), Former Chair, 2009 Victorian Bushfires Royal Commission.

The CHAIR — I indicate this is the environment and planning committee, and pursuant to its reference on bushfire preparedness I will ask Mr Teague to take the oath, and then follow with a short introductory statement and some questions to follow.

Mr TEAGUE — Can I perhaps say by way of a few matters of introduction that I have done a certain amount of homework, and that may or may not show. I had expected to be here with Jack Rush, but he has had to attend a funeral. I am aware that this is probably the first formal occasion that I have spoken as chair of the royal commission, but I am *functus officio*, to use an appropriate Latin expression, which means that I finished my role back in 2010, so you could make allowances for that. Obviously even if I had the other two members of the commission, we would have difficulty having any particular authority, but I have taken a keen interest in what has happened in relation to things like the implementation monitor's report, so there are some areas where I accept that it was inappropriate for me to say no, but I thought that the value I can give may well be limited because of the reservations I have just mentioned.

Ms SHING — Thanks for that caveat, Mr Teague.

The CHAIR — Can I lead off with what I think is a central question for our inquiry. Going back to the 1990s and 2000s there was limited preparatory burning undertaken, and I think there was a wide view that developed after the series of bushfires in the 2000s, particularly in 2009, that in fact that was a part of the problem. You made recommendations in terms of the volume of preparatory burning that was undertaken annually and with specific targets. The emergency services have in very recent times begun to apply a different regime, which is claimed to be more targeted rather than a volume or hectare-based target. It is in that context that I am interested to understand how the commission reached some of its conclusions, the background to that, to understand how your recommendation came about and how that might apply to the future.

Mr TEAGUE — Back to the preliminary remarks, that is precisely why I thought it was appropriate that I attend here because of this particular issue. We knew that it was going to be a matter that we were going to investigate in considerable detail, and we had an expert panel, and we relied very much on what they had to say. There were some aspects of the expertise on the panel that were mildly off-putting. For example, the West Australians are very strong on controlled burning, but they have a different type of terrain. Even though Western Australia is vast, it is the south-west corner that matters, and it is more undulating. Victoria, despite being relatively small, has so many different kinds of terrain that really it is very hard to apply what happened in Western Australia in Victoria. Having said that, the general consensus of the experts was that the amount of controlled burning that had taken place, as seen by a graph — —

And I do have it in my pocket. The only thing I bought along was the graph. It is attached to, I think, the Victorian National Parks Association submission. It is attachment 1. I have done a little bit of homework in finding that particular graph, because it is just a one-page sheet, a fact 5 sheet, and what is clear from the yellow columns there is that in the — —

The CHAIR — That is the submission to our inquiry, is it?

Mr TEAGUE — Yes, it is in the material that is before you. What is clear from that is that it really goes back over a long period of time, 80 years or thereabouts, and what it shows is that in the 80s the amount of planned burning had been much more significant and in the 90s it dropped off significantly. Our concern was that there was not an appropriate test — and we looked for other kinds of tests without being satisfied — which at that time was appropriate. I have had the benefit of looking at what Neil Comrie said in his report two years on. He said he would have had major reservations about the 5 per cent target. Tony Pearce came to see me last year, and when he explained a different kind of approach, which really looked at effectiveness in a more scientific way than had been possible at the time of the inquiry. I accepted that we would be in no way outspoken, even if reminded to be, because it had been to some extent a lineball decision as to whether we would go the way we did go because of the awareness that 5 per cent was an artificial test and that one could reasonably understand why to get to the 5 per cent work would be spent on areas which did not really have much effect and therefore it was better overall to move. As I understand it now, and I have informed myself by reading the papers that are before you to the extent that that is possible, it does seem that a much more effective means has now been worked out of checking that appropriate levels of controlled burning are carried out.

The CHAIR — Even accepting that, and I will just lay on the table my scepticism here — —

Mr TEAGUE — The scepticism that we reflected in our report?

The CHAIR — No, my scepticism about preparatory burning and what I think were legitimate fears that various agendas inside agencies and bureaucracies did not approve of the particular models of preparatory burning. It was for that reason in part that the level of preparatory burning fell off. I am looking at some historical sense now, going forward — —

Ms SHING — Retro-speculation, as it were.

The CHAIR — No, I think this is actually a view that is widely held, particularly through country Victoria. My concern is that moving away from some clear targets will allow scope for many of the same bureaucrats to implement many of the same policies and that over time we will backslide to a point where the scale and volume of preparatory burning is not sufficient — even if it is a little more targeted, and I do not have a quibble with that — and that over time that will build up to a large volume of fuel again.

Mr TEAGUE — I can only say that this is an area where it is appropriate to take different positions and that we were aware of a variety of other minor, but not minor to the people concerned with the matter, things like plants and the effect on plants, things like animals and the effect on animals, things like vineyards and the effect on vineyards. I just give these examples. They were all matters that were important, but they were also matters that seemed to have some impact, and other factors had impact, on particular professionals. There were a strong range of views presented to us, not only by the members of the panel but also by other experts who made submissions or gave evidence. But in the end we had something in the order of seven or eight experts and we really had them work together over the weekend and then come in and give evidence, and it was a matter of, on balance, we planned to go the way that we had, but we were very cognisant of the different positions taken by other people.

Ms SHING — I would like to take you to the submissions and materials and commentary around the need for interoperability and the way in which agencies need to come together. The *Safer together* framework is something about which we have heard a lot in the course of this particular inquiry. We have had a lot of evidence on the need for people to have appropriate operational mechanisms in place so that everyone knows what they are and the higher standard of things they are meant to be doing in certain scenarios. But culture also plays a very, very big role in the way in which people come together and work together on the ground. What are your observations about the way in which fire services, at their best, can function to foster positive culture and improved engagement to achieve better ends for community safety?

Mr TEAGUE — I do not think I can answer that in the way that you would like me to answer it, in the sense — —

Ms SHING — I am not hoping you will answer it in any particular way.

Mr TEAGUE — I understand that, but I was so impressed by the CFA volunteers and what I saw and heard of them in the royal commission that I volunteered to join them after the royal commission. I am now so imbued in that culture, but there are things about the culture that I find mildly disturbing. At Daylesford, where I am a member, I do not do as much for it as I would like to and it is perhaps, if you like, too blokey in the sense that they say that they try to get women in but have not been able to get them in, and there are various other culture factors that come into play. But I accordingly do not have sufficient familiarity with the facts. My familiarity is more likely to come from reading the reports of my close friends, like Gordon Lewis, who did a report in 2008, and David Jones, who did a report in 2011. They looked at those matters far more than we did, because we were very much concerned about interoperability and we made some comments but of a limited nature because it was not the sort of thing that we examined in any great detail. I have not had occasion to go into the detail so it is more appropriate that I say I will pass.

Ms SHING — That is all right. In relation to the question of culture, it is interesting because that does seem to come down to the particular volunteer brigade. In Gippsland, for example, there are many brigades where women number equally to men in the volunteer-only turnout — —

Mr TEAGUE — I became involved to some extent before Hazelwood took over in community engagement, and it was in that aspect of the CFA that I began to realise how very different the different brigades were, and the involvement of women there was far more extensive than I had otherwise appreciated. So for

those sorts of reasons I accept that my involvement in Daylesford is an impediment, if you like, in trying to give overall comments rather than being an advantage.

Ms SHING — That is okay. So in relation to community safety that appears from all of the witnesses and the evidence that we have heard in this inquiry at least to be the absolute priority for firefighters and for personnel who assist fire and emergency services workers.

Mr TEAGUE — Can I just comment on that?

Ms SHING — Yes, of course.

Mr TEAGUE — We were intrigued at the royal commission that there was an emphasis on lives and property as if they were comparable, and I could not believe that. Of course, having done 90-odd murder trials, the human life was just so all important. We were trying to get ways of expressing, even shortly, the position. We did not come up with ‘leave and live’, but from my point of view that is just the perfect answer to giving a short statement of the position. I am sorry, I interrupted your question. You were going on to say something further.

Ms SHING — No, that is all right. So in relation to that particular issue, though, it seems that community safety, as it relates to lives and property, is very much something which derived from the history of the CFA and the way in which landowners came together to be able to collectively defend each other’s properties. Of course lives and preservation of life was part of that, but preservation of livestock and property was a driving factor in that collective effort.

Mr TEAGUE — Yes.

Ms SHING — How do we have confidence around the continued prioritisation of community safety under initiatives such as *Safer together*, under initiatives such as appropriate levels of controlled burning, and around the way in which we have changed our thinking on emergency services response?

Mr TEAGUE — I do not know that I can see that there is a clear answer that I can give so far as those matters are concerned because a number of matters are raised, but so far as I was concerned, with controlled burning there was always the risk for community safety, and what has happened in Lancefield and Wye River and other places has heightened that concern that there is an increased risk to life and property, but overall I have got no doubt in my own mind from hearing all the evidence, even though it is some years ago, that controlled burning was clearly an appropriate course, because in the long run, looking back over it all, it will have saved more lives and saved more property, even though on the occasions that it has got out of control there have been very unfortunate consequences.

Ms SHING — And a final question in relation to Aboriginal methods of fuel reduction and removal, incendiaries and the way in which they have been deployed to have something other than a blanket approach. These are the sorts of things which tend to indicate that we have almost come full circle in our understanding of the way in which fire behaves and the way in which we can, to the best extent possible, reduce or remove risks. How do we work with communities that abut private and public land to make sure that these challenges and changes — often again which come between various agencies and require people to cooperate on the ground — can operate in the most effective manner?

Mr TEAGUE — I do not say that I can give you any specific answers so far as I am concerned. Clearly the position in relation to the history of the Aboriginal burning, which has been reviewed and overlooked extensively by what people like Stephen Pyne and others had written showed how important it was. I note, looking at questions of mosaics and that kind of thing, occupied my mind in recent years, that I cannot give you anything more specific other than to say they were issues that we very much had in mind, along with a variety of other factors, when we came to our conclusions back in 2010.

Ms SHING — So it would be fair to say that you and others have retained an open mind in relation to retro-innovative ways to reduce fire and to reduce risk as a result?

Mr TEAGUE — I think that is right.

Ms SHING — Good.

Mr TEAGUE — I have kept looking at what reports have come out — ones like Neil Comrie’s and Tony Pearce’s and the one that we presented to you, which has given me the best up-to-date information I could get — from DELWP, I think it was. That gives me an idea that relevant agencies do appear to be working towards something that is scientifically appropriately but also takes account of a number of other considerations such as those you mention.

Ms SHING — Lovely. Thank you.

Mr MELHEM — I think last time I saw you I was a witness in that royal commission. Winding the clock back to the recommendations of the commission, and now six years on, in your own assessment how do you think we are travelling as a state in implementing the royal commission recommendations, and are we better prepared than we were in 2009?

Mr TEAGUE — I think the answer is clearly we are much better prepared. I still in lots of informal ways try to keep in touch. I speak three or four times a year at the executive consequence management bringing together of various agencies. I am conscious then from that that there are a lot of things being done in a lot of different ways, but I am also conscious of the lessons learnt at the time of the royal commission that we are — —

Stephen Pyne, who I just referred to, says that we have a fire plume and it is the most dangerous in the world. One of the things that I was unable to get out was a standard that would apply to the kind of fire we have every 20 to 30 years, where it is beyond code red — way beyond code red, and obviously Black Saturday was one of those and Ash Wednesday was another. Because of those being an inevitable part — if you had a fire in the Dandenongs that was ultimately controlled, or if you had fire perhaps down in the Otways — you could have a massive death toll from a future fire of that kind.

I think we are doing as much as we reasonably can, such as I can assess it based upon reading reports of Comrie and Pearce, but there will always be a significant level of complacency, and the longer you go in that period since the last really major fire, the greater that complacency unfortunately will become and the easier it is to just reduce the kinds of measures that ought not to be reduced.

Mr RAMSAY — Thank you, Mr Teague. My question is very similar to Mr Melhem’s because I was wondering — —

Mr TEAGUE — Sorry, I have mislaid a hearing aid and I have got an appointment this afternoon to get another one, so you will have to be a little more articulate than you would otherwise be.

Ms SHING — Mr Ramsay can bellow when required.

Mr RAMSAY — I can; I can bellow. My question was similar to Mr Melhem’s in that I was interested to know your personal view about the current status we are with the implementation of the recommendations. Also, if you had another commission, and you were to be asked to provide further recommendations, based on what you know now, what sorts of recommendations would you offer the government of the day?

Mr TEAGUE — I remember the second question first. The position is that we were so intentionally involved in looking at detail in relation to the matters that we looked at over that period of 18 months that we really came up with things that we thought were the most important and relatively prioritised. We were also aware that other people would have liked us to look at different things. We were also aware that there were some areas where the amount of money that might have to be spent was such that it was not appropriate for a retired judge and others to be saying this is where the government must spend its money. Electrical infrastructure was one of the examples where it was inappropriate to say, ‘You’ve just got to get rid of all the powerlines that do not meet certain standards’.

The planning side was one where we were also conscious of there being difficulties, and to some extent the planned burning meant that a lot of money was going to have to be spent and it was a question then of priorities. Ultimately I think that those — and there probably are another one or two matters involved — where lots of money had to be spent were ones where we would accept that there could be reservations about what we had said that might be an undue expense to the community. But essentially having looked at the reports of Neil Comrie and Tony Pearce, not in great detail but enough to get the impression, I felt that it was important — and

of course it was followed through with Hazelwood 1 and Hazelwood 2 — that getting the recommendations implemented was a very important part of the scene.

It does appear that that approach has been followed by other inquiries of saying, ‘We need an implementation monitor’, so that you do not have the position that did apply with some of the early reports, for example, in relation to ones where there was not an inquiry — not Ash Wednesday but the previous one — Judge Stretton’s report, which just seemed to lie on the shelf. It did not mean there was not anything done, but the process of having the implementation monitor has meant that a keen eye is being kept on a continuing basis on how much progress is being made in relation to these matters, and for that I really am grateful.

Mr RAMSAY — Just a quick one, if I may. I was just wondering if you would be so game as to proffer a view in relation to the current EBA. I note your colleague Mr Jack Rush indicated that he thought it was an unfair agreement, the cabinet-endorsed EBA. Do you have a view about that matter given — —

Mr TEAGUE — That is what I mentioned earlier. It is one where I am biased, so the end result is you should not take any account of any opinion I express anyway, because of my continuing involvement with volunteers. I do not understand — —

Although many years ago I acted for unions, so I understand why the push is going there, but there is also the factor that probably overtakes them all — that is, if it is a matter before the court, it is inappropriate to be making comments about those sorts of matters, even though I know I have got parliamentary privilege operating in my favour.

Mr RAMSAY — But you are biased towards supporting the volunteers in any agreement that would compromise the volunteers’ work.

Mr TEAGUE — I am biased in the sense that I know the volunteers’ side.

Ms SHING — Verballing the judge; there we go.

Mr TEAGUE — All I am doing is saying that expressing an opinion really would not help, because I think that anything that can be done to maximise the capacity of volunteers to give of what they are prepared to give should be utilised.

Mr RAMSAY — Thank you.

Ms DUNN — Thank you, Mr Teague, for your contribution today, and I think the last time I saw you I was also a witness at that commission, which was some time ago. I just wanted to clarify in relation to the comments you made to a question by Mr Davis. It is around that planned burning, and it is the tension between what was a recommendation at the time, which was the straight-out 5 per cent target, and what we are hearing now from agencies in terms of developing a far more nuanced risk-based assessment of where the most appropriate place is to burn to achieve community safety in that, I guess, if you had your time over and you knew then what you know now, perhaps you would think that that is a far better response — what is happening on the ground now than just that straight-out 5 per cent blunt target.

Mr TEAGUE — I think the answer is we would want to have the experts examine very carefully what is now said to be a much more effective and more scientific process, provided the experts come up and give us the confirmation, because I had no experts and neither did the others in the area. Provided it is carefully examined that what they say really is as effective and scientific as they claim, then that certainly would be, from my point of view, the best way of accepting that it is an appropriate way to go.

Ms DUNN — Yes, so it is a matter, I guess, of getting that evidence base to give some certainty.

Mr TEAGUE — That is right. It is inevitable that the people who are now doing that planning are saying it is effective and it is the way to go. It would be desirable, from my point of view, to have other experts come in and provide the confirmation or say to the contrary.

The CHAIR — Independently, as it were.

Mr TEAGUE — But it was an expensive process to put a panel of experts together back in 2010. We did get them from America and from Western Australia and I think New South Wales, so we had a lot of different perspectives brought to bear. The balanced view ultimately that was arrived at was the one that we accepted.

Ms DUNN — Thank you for that, Mr Teague. The only other thing I wanted to touch on is I know as part of the recommendations the issue of shelter in place was looked at quite closely as part of the commission. It would seem to me that there has been a lot of work done by municipalities in relation to neighbourhood safer places, places of last resort, and not a great deal has been done on shelter-in-place options at a more localised level. I am just wondering whether you have any observations or views around that, because my concerns are that on that broader scale places of last resort are places that falsely give a sense of security to communities and encourage them to be on roads in emergency events where they should not be, whereas a more localised shelter-in-place solution would actually have a greater impact in terms of saving lives. What are your views in relation to that?

Mr TEAGUE — I have not done my homework in relation to that particular area and what precisely is done.

Ms DUNN — That is fair enough.

Mr TEAGUE — I know that there have been a couple of areas where the focus has been — because of the difficulty of getting out from a particular place, that is where the emphasis has been strongest. My impression was that, also looking at the question of schools and whether because they are geographically often located in a way that taking appropriate measures can make them into a safer place — but it was always intriguing for members of the commission. I do not think we put it in the report, that there appeared to be no pubs that were burnt down but lots of churches that were burnt down in the various really severe fires. It is just that there are ways of looking at sheltering places that are unusual, although the most important place that I kept on harping on about, perhaps too much, at the royal commission was the advantage of having water — water of whatever kind, whether it is a swimming pool or just a dam nearby or other kinds of water. The capacity to be able to just go and get into the water is just an extraordinarily important matter that tends to be overlooked.

Mr DALLA-RIVA — Thank you, Mr Teague. I am trying to get an understanding, because one of the terms of reference is about the relevant administrative and organisational structures in place. We are hearing evidence from various agencies, organisations, unions, volunteer organisations et cetera. When you were heading the royal commission did you get a feeling of the aspect that there are lots of agencies but no centralised coordination?

Mr TEAGUE — Yes.

Mr DALLA-RIVA — That is the sense I am getting as well, and in terms of that, what suggestions would you make to this committee to see what — I do not want to propose another organisation, but for fire preparedness is there one particular organisation or one agency that should have the overarching responsibility of saying, for example, ‘Get in the water’? I am trying to get an understanding. Is there one agency or organisation that should have that overarching control heading into a fire season?

Mr TEAGUE — I think the position which has now been taken by Craig Lapsley is the most significant area that we looked at where the absence of a position — say, apart from the person; it was just so important to have a person able to take control, particularly in relation to those really big emergencies. That does not mean that that is an adequate solution for lots of minor emergencies, and that is an area where there perhaps needs to be further investigation. I cannot answer that, but so far as Craig Lapsley’s position is concerned, that was one where in the short term at least, while he is there, he seems to be the ideal kind of person because he is forever trying to involve other people in the process rather than dictatorially saying, ‘This is the way it’s got to be’. Now, just how you get that approach in place is another matter, because it is a question of leadership.

Ms BATH — Thank you, Mr Teague. In relation to the planned burns and the 5 per cent, we have that on one side and on the other side we have the DELWP new approach — the stronger together, risk-based management. In your opinion does this have to be an either/or, or could there be a scenario where through a risk-based management approach there ends up being a 5 per cent outcome?

Mr TEAGUE — I think that the 5 per cent is artificial and therefore, if you have got a well-tested alternative basis which is on effectiveness, you will still be able to have a graph like the one that I have referred to that was put in by the national parks and which shows how if you are doing it on an effectiveness basis, you are almost always likely to be below the 5 per cent. It is worthwhile keeping that 5 per cent in mind, bearing in mind that we were told by a couple of people who were on that expert panel it should be 8 per cent. We said, ‘No, we will leave it at 5 per cent’, but it is not a matter, now that I am looking back on it, that I could see that should be treated as something that is all important. Effectiveness, in my view, would be more important than a 5 per cent figure.

Ms BATH — My next question relates to that we have heard and that I guess there would be general agreement that the whole idea of fire preparedness is to minimise the risk to life and property, and — —

Mr TEAGUE — And in that order.

Ms BATH — Yes, that is how I said it and why I said it. In relation to the volunteers or paid CFA, that should be the main priority of all the agencies as well. We have heard today from the former CEO, Ms Nolan, that due to some of the consultative clauses within the proposed EBA there may be many incidents where the various parties have to go to the Fair Work Commission and have these cases heard for a resolution. I guess my comment would be that there will be a lot of energy and manpower and womanpower taken up within that domain when the core business is protection and preparedness moving forward for many years to go for firefighters. Could you make comment on that?

Mr TEAGUE — Only the comment that there will always be those kinds of problems. With volunteers and paid firefighters there will always be significant problems. There are various ways that could be taken to try and adjust to those problems, but you will never solve them all. What was said by Gordon Lewis and what was said by David Jones in their reports make it clear that it is just not a problem that is solvable. It covers so many different complex questions that it really is a situation where I think I would be delighted if the court comes up with any kind of solution, but I am glad I am not the judge sitting on the matter that is coming up for hearing in the very near future, because I think the trouble is that the kind of matter you are saying deserves to be solved, but it is relatively insoluble. If you read materials like *Volunteering in Australia*, which covers what volunteers can do in a variety of other ways, there is always going to be a certain tension arising between volunteers on the one hand and paid workers on the other, because they just see things through a different prism.

Ms BATH — They may be a very busy judge, he or she.

Mr TEAGUE — I will be very interested to read it when it is published.

The CHAIR — I thank you, Mr Teague, for your fantastic evidence, and I place on record again my thanks for the work you did on the bushfires royal commission. We may yet have another discussion. I think there are a number of points you have raised there that we will want to look at in the evidence. Thank you.

Mr TEAGUE — Thank you for the opportunity.

Witness withdrew.