

BUSH FIRES AMENDMENT BILL 2016

Council's Amendments — Consideration in Detail

The following amendments made by the Council now considered —

No 1

Clause 4, page 3, after line 22 — To insert —

(7) The *Interpretation Act 1984* section 42 applies to and in relation to the bush fire risk treatment standards as if they were regulations.

No 2

Clause 5, page 4, lines 27 to 29 — To delete “35(1), a local law made under section 33(5a) or bush fire risk treatment standards published under section 35AA(5);” and substitute —

35(1) or a local law made under section 33(5a);

Mr J.M. FRANCIS: I move —

That amendment 1 made by the Council be agreed to.

Ms M.M. QUIRK: As I understand it, this amendment makes it clear that the guidelines issued by the commissioner under this legislation are, in fact, a disallowable instrument. This is a matter that I raised previously with the minister and I was assured that, under the Interpretation Act, it was a disallowable instrument. I gather that this amendment is to make that abundantly clear for the purposes of our colleagues in the other place.

Mr J.M. FRANCIS: Absolutely; it is to make it abundantly clear. This amendment will ensure that the bushfire risk treatment standards are a disallowable instrument, as the government has committed to and as, I think, we both agree they should be. At the end of the day, with these kinds of issues, I think it is appropriate that the —

Ms M.M. Quirk: By way of interjection, minister, can you indicate when you think those guidelines will be finished?

Mr J.M. FRANCIS: I am advised that, as consultation is underway at the moment, it will be within the next six months.

Question put and passed; the Council's amendment agreed to.

Mr J.M. FRANCIS: I move —

That amendment 2 made by the Council be agreed to.

Ms M.M. QUIRK: Can the minister clarify why this amendment was considered necessary and why he supports it?

Mr J.M. FRANCIS: This is an issue that was raised by a number of people before it was considered by the Legislative Council, particularly by the Association of Volunteer Bushfire Brigades. It approached us and raised this issue to outline and clarify the definition of “normal brigade activities”. My briefing is that the bill originally amended section 35A of the Bush Fires Act 1954 so that if a landholder directly engaged a bush fire brigade to help carry out mitigation activities to meet the bushfire risk treatment standards, those activities would not be considered normal brigade activities. The rationale for this was that bush fire brigades should not be expected to help landholders remove vegetation from around their homes to meet the non-compulsory standards. Subsequent to the bill's passage through the Legislative Council, the Association of Volunteer Bushfire Brigades advised that, currently, bush fire brigades will often help landowners clean up around their homes to mitigate the bushfire risk, in a similar manner to the anticipated treatments under the new bushfire risk treatment standards. The association was concerned that if those activities were excluded from the definition of “normal brigade activities”, the volunteers may not be covered by insurance or have protection from liability when carrying out those activities. Essentially, it is almost used as a training exercise, as the member can imagine, for a lot of volunteer bush fire brigades; a lot of new members get to see a fire for the first time by helping to do small reduction burns on private land. The amendment to the bill removes a reference to the bushfire risk treatment standards in the definition of “normal brigade activities”. Volunteer firefighters can currently be directly engaged by landholders to help carry out this work. There should be no limitation on this continuing to occur into the future simply because the work aligns with the new standards.

Ms M.M. QUIRK: From what the minister says, this was a concern of the Association of Volunteer Bush Fire Brigades, but he used the word “may”. Did the association believe there was some lack of clarity in the provision that was not absolute, and that had the legislation stayed as it was, the brigades would not be covered by insurance?

Mr J.M. FRANCIS: That is correct, member for Girrawheen. It was raised with my office by the association post the passage of the bill through the Assembly but before it was considered by the Council, which is why it was amended there and we are now back here.

Ms M.M. QUIRK: I am curious as to whether the minister consulted the association prior to this bill being introduced into the house.

Mr J.M. FRANCIS: My understanding is that, yes, everyone was consulted; there was an awful lot of consultation, but I do not think it was picked up by anyone until such time as it passed through the Assembly. It is a fairly simple amendment to give coverage to those who are doing that kind of work; we just have to be realistic as to what “normal brigade activities” are. When it was first raised with me about two weeks ago, my initial reaction was that I thought commonsense might apply—the person is wearing a uniform and they are in a fire truck. Whether combating a fire or doing hazard reduction on private land, it is pretty much normal brigade activity. If they were out doing something by themselves, it is obviously not. If it is not sanctioned by the brigade, it is probably not normal brigade activity, but this is just to provide clarification.

Ms M.M. QUIRK: Finally, can I clarify this: as the legislation currently stands, if the landholder, for example, is directed by local government to clear the land and engages the bush fire brigade, is that covered by insurance?

Mr J.M. FRANCIS: My understanding is that it needs to be done through the local government with the approval of local government. It is probably easier if I can just give the member an example of what I know happens. The City of Cockburn—my patch—might direct a private landowner on a five-acre block in Banjup to act on the mandatory requirements for firebreaks. It might also direct the landowner to reduce overhanging branches and reduce the fuel load on the ground if it is a large block that has a significantly deep and aged dry fuel load on it. The landowner would then have a number of different options: they might pay a private contractor to do it; they might do it themselves, as I tend to do on my block; or they may ask the volunteer bush fire brigade if they can help do a cool burn—a low-lying burn through a bush block to reduce the fuel load. That obviously has to be done through the executive and management team of the local volunteer bush fire brigade and would be sanctioned as a normal brigade activity. That is pretty obvious—they are turning up with fire trucks, which are a government asset, and volunteer firefighters are trained to a certain level in order to undertake that task. As I said, it is also a great opportunity and experience for training volunteer firefighters; they get to see for the first time what is involved in doing a fuel reduction burn and learn how to use the equipment. It is obviously a far more controlled environment than a raging fire, so it makes perfect sense to include those kinds of situations in the definition of “normal brigade activities”.

Question put and passed; the Council’s amendment agreed to.

The Council acquainted accordingly.