

BUSH FIRES AMENDMENT BILL 2016

Receipt and First Reading

Bill received from the Assembly; and, on motion by **Hon Michael Mischin (Attorney General)**, read a first time.

Second Reading

HON MICHAEL MISCHIN (North Metropolitan — Attorney General) [2.09 pm]: I move —

That the bill be now read a second time.

I am pleased to introduce the Bush Fires Amendment Bill 2016. This bill is an important part of the government's continued response to the report of the special inquiry titled "A Shared Responsibility: The Report of the Perth Hills Bushfire February 2011 Review", which was undertaken by Mr Mick Keelty, APM, AO.

Recommendation 38 of the Keelty review stated that local governments should institute a comprehensive program to assess fuel loads and bushfire preparedness on private properties. Mr Keelty recommended that this program should involve the creation and maintenance of a building protection zone on private properties, in line with guidelines. Evidence shows that fuel load reduction can reduce the exposure of assets to bushfire and thus assist in firefighting efforts and increase the likelihood of a building or other asset surviving a bushfire.

This bill allows the Fire and Emergency Services Commissioner, after consultation with the minister, to publish standards that will specify measures to prevent the outbreak, spread or extension of a bushfire, or to mitigate the effects of a bushfire. Undertaking the measures specified in the standards will not be compulsory. Currently, under the Bush Fires Act 1954, local governments bear the primary responsibility for determining the requirements for bushfire risk treatments to be undertaken by occupiers of land within the local government area. Bushfire risk treatments are currently required and enforced by local government under section 33 of the Bush Fires Act, through the issuing of what are commonly referred to as firebreak notices. There has, however, been recognition that complying with firebreak notices may leave occupiers of land open to prosecution for breaching other acts that are inconsistent with the terms of the firebreak notice inasmuch as they prohibit the clearing of vegetation. This bill does not change the onus on local governments to implement bushfire mitigation measures in their areas, but complements this responsibility by clarifying the circumstances in which owners or occupiers of land can undertake mitigation works to protect their properties without the risk of breaching other laws. Owners or occupiers of land who undertake the measures specified in the standards will be afforded protection from breaching other written laws, except in the circumstances set out in the bill. The Department of Fire and Emergency Services currently issues guidelines for occupiers of land with regard to bushfire risk treatments; however, those guidelines have no legislative standing, and undertaking bushfire mitigation measures in accordance with these guidelines requires a landowner to comply with the provisions of other acts with regard to things upon the land. This may act as a disincentive to undertake mitigation measures. A clause has been inserted into the bill so there is the ability to prescribe written laws that will not be overridden by the standards to be published by the Fire and Emergency Services Commissioner. This provision came about as a result of consultation that revealed situations in which it may not be appropriate to override other written laws in all circumstances. This will provide the ability to balance the need to protect buildings and other assets from bushfires with the need to ensure that, where appropriate, other matters such as the ecological protection of particular areas of the state are maintained.

The written laws that may be prescribed will be the subject of further consultation. During the consultation for this bill, other agencies indicated that they may not seek to have any laws they administer prescribed. This will depend on matters set out in the standards, such as the size of the area that can be cleared around an asset, or the severity of the mitigation measures.

The changes set out in this bill are in line with the Premier's building protection zones policy, which states —

In an effort to improve the State's preparedness for bushfire, all public sector bodies and entities listed in Schedule 1 of the *Public Sector Management Act 1994* are encouraged to implement or improve existing Building Protection Zones (BPZs) around their critical assets in high bushfire risk areas.

Although the policy is focused on the public sector, it indicates the state's commitment to the utilisation of a fuel reduction strategy for bushfire risk mitigation.

This bill defines an owner or occupier of land for the purposes of the standards to include a department of the public service that occupies land or a state agency or instrumentality that owns or occupies land. This will ensure a consistent approach to the carrying out of bushfire risk treatment measures for all owners or occupiers of land in the state. There has been broad agreement that this proposal will assist in lessening the impact of bushfires on communities and strategic assets.

Pursuant to standing order 126(1), I advise that this bill is not a uniform legislation bill. It does not ratify or give effect to an intergovernmental or multilateral agreement to which the government of the state is a party; nor does this bill, by reason of its subject matter, introduce a uniform scheme or uniform laws throughout the commonwealth.

I commend the bill to the house and I table the explanatory memorandum.

[See paper 4414.]