

10 NEW BUSINESS OF AN URGENT NATURE - INTRODUCED BY RESOLUTION OF THE MEETING

10.1 ADMINISTRATION

Any new business of an urgent nature requires a resolution of Council in order to be considered.

The following item requires urgent consideration by Council:

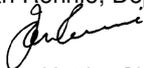
To reconsider a request by the Department of Defence for an alternative firebreak alignment, within the Lancelin Defence Training Area (LDTA) leased area and to request prescribed burning to be undertaken by the Department of Defence within the buffer reserve, and to consider revocation of previous Council decisions in regard to these issues.

OFFICER RECOMMENDATION

That the following new business of an urgent nature be considered by Council:

To reconsider a request by the Department of Defence for an alternative firebreak alignment, within the Lancelin Defence Training Area (LDTA) leased area and to request prescribed burning to be undertaken by the Department of Defence within the buffer reserve, and to consider revocation of previous Council decisions in regard to these issues.

10.1.1 LANCELIN DEFENCE TRAINING AREA – FIRE PREVENTION MATTERS

Location:	Lancelin Defence Training Area
Applicant:	Department of Defence
Folder Path:	Business Classification Scheme / Emergency Services / Planning / Fire Management Plans
Disclosure of Interest:	None
Date:	14 December 2015
Author:	Ian Rennie, Deputy Chief Executive Officer
Signature of Author:	
Senior Officer:	Tony Nottle, Chief Executive Officer
Signature of Senior Officer:	

PROPOSAL

To reconsider a request by the Department of Defence for an alternative firebreak alignment, within the Lancelin Defence Training Area (LDTA) leased area and to request prescribed burning to be undertaken by the Department of Defence within the buffer reserve, and to consider revocation of previous Council decisions in regard to these issues.

BACKGROUND

The issue of installation of firebreaks at the Lancelin Defence Training Area has been a topic of discussion for Council for

many years. The matter has been requested to be brought forward for further discussion and to update new Councillors on the issue. Council has made a number of decisions on this and some are outlined in this report.

Since the opening of Indian Ocean Drive (IOD) in 2010, installation of a firebreak along the eastern boundary of the LDTA has been of concern to many local residents, government agencies and at the Lancelin Defence Training Area (LDTA) Management Advisory Committee meetings.

On the 26 March 2012, the Environmental Officer of the Department of Defence, requested that both the Shire of Gingin and Shire of Dandaragan send a Firebreak Warning Hazard Abatement Notice to the Department of Defence. On the 28 March 2012, the said Notice was sent to the Department outlining the Shire's firebreak requirements.

The LDTA Fire Management Plan makes reference to the installation of a firebreak inside the eastern boundary of the LDTA west of IOD. The Department of Defence have stated that they are awaiting Commonwealth level approval for the clearing of Carnaby's Black Cockatoo foraging habitat. Until this approval is obtained, surveying and clearing of the firebreak cannot be implemented. The Department of Defence is still dealing with the approvals process in relation to the Carnaby's Black Cockatoo foraging habitat.

On the 8 May 2014, the Department of Defence was invited to attend the Council Forum and was given the opportunity to present their case relating to the firebreak variation. Defence did state that if approval was granted to utilize the existing firebreak instead of installing a new firebreak they would be able to manage the area within the buffer zone by introducing proscribed fire. Defence also stated that the Department of Fire & Emergency Services and Department of Parks & Wildlife could assist them with managing and introducing prescribed fire.

Discussions with the CBFCO Mr. Richard Allen was that Council hold a meeting with the CBFCO and DCBFCO's and discuss this matter further before making any decision. On the 12 August 2014 a meeting was held to discuss the Lancelin Defence Firebreak Variation. Attendance at this meeting included CBFCO Mr. Richard Allen, DCBFCO's Mr. Peter Ivey and Mr. Hugh Roberts, FCO's Mr. Richard Brown, Mr. Robert Wedge and Mr. Andrew Roberts, Cr. Wayne Gibson, Cr. Kaye McGlew and CESC Mr. Matt Dadd.

Discussion involved the alternative firebreak alignment and the proposal to manage the designated buffer area by application of prescribed fire. It was recognized by the Fire Control Officers

that it was likely the Department of Defence would not install the firebreak adjacent to the IOD, as per the fire management plan. It was also acknowledged that the buffer zone could be managed by introducing prescribed fire and would provide for protection.

It was agreed by Fire Control Officers to advise Council that:

Fire Control Officers insist the Department of Defence comply with local regulations in relation to the Shire of Dandaragan's Firebreak legislation but in the interim; the Department of Defence must undertake fuel reduction burning within the whole buffer area. It was also agreed local volunteers and Fire Control Officers would not be responsible or involved in the implementation of fuel reduction burning within the buffer area.

Whilst the Fire Control Officers requested the Shire to direct Defence to comply with local legislation, Council should be advised; that if the request for an alternative firebreak alignment is not granted, Defence would then not be obligated to manage the buffer zone with prescribed fire as stated by Defence at the meeting 8 May 2014. This would result in a stalemate, nothing will have been achieved, no protection from fire to the IOD and surrounding community. If the area was managed by prescribed fire, responding fire fighters would not be left exposed to direct impact from fire on IOD, this in turn reducing the possibility of spot fire over the Indian Ocean Drive creating more fires.

An attempt was made by contractors acting on behalf of the Department of Defence to carry out some burning in the buffer area. However, due to a light fuel load and unfavourable weather conditions the burn was not successful. The area had been previously burnt several years before.

It is highly probable the Federal Minister for Environment will not approve the disturbance of a Commonwealth protected species, such as the Carnaby's Black Cockatoo.

Defence have spent a considerable sum of money over the last five years upgrading internal firebreaks and strategic access within the LDTA. Installation of a firebreak on the eastern boundary will serve very little purpose in suppressing wildfires in the area, as a directive was given to all FCO's and Volunteers not to cross the fence line west of the Indian Ocean Drive.

The LDTA Fire Management Plan clearly states; no person or firefighter will enter upon LDTA without approval from Defence. It is also stated that the IOD will be utilized as a strategic containment line if fire were to start within the LDTA.

The Commonwealth Government & Departments are not bound by Local Government Regulations. The State Government is

also not bound by Local Government Regulations unless the lands are classified as freehold. The Shire of Dandaragan has no legislative power to direct the Department of Defence to install firebreaks, but would be installed under a good neighbour policy.

The area between IOD and the eastern boundary of the LDTA can be successfully managed by introducing prescribed fire at the right time, both reducing fuel loading and enhancing Biodiversity in the area. The Department of Defence should be responsible for all costs relating to the management of this buffer. Monies allocated to install the firebreak would more than cover the costs.

The Council Decision at the Council Meeting of 28 August 2014 was that:

“Council, not agree to the installation of the alternative firebreak as requested by the Department of Defence and that the Department of Defence be requested to carry out prescribed burning of the buffer area between the leased area and the Indian Ocean Drive road reserve”.

An email was received from the Department of Defence and considered by Council at the meeting held 25 June 2015: *“At the last LDTA MAC meeting, Members of the committee were asked to indicate their support to the handing back of the buffer strip to the State Government, Department of Lands. It was acknowledged during the meeting that you were not able to provide a response on behalf of the council until such time as the council had met and discussed the issue.”* Defence is currently reviewing its commitment to ongoing management of the buffer strip under the DoL Management Order as it provides no strategic value to Defence. The higher echelons within Defence are questioning the requirement for Defence to have management over the strip if it provides no value.

Three options being considered by Defence are:

1. Return management of the buffer strip to the State Government;

“The return of the buffer strip to the State Government is unlikely to result in any changes unless the State is prepared to commit and set aside funds to undertake bushfire management of this area as part of the returning of this land. It is unlikely that the State will agree to this proposal as there is a current move to selling land rather than acquiring it, and there is no economic benefit to acquiring the land.”

2. Transfer management of the buffer strip to the Local Government with the concurrence of the Shire of Dandaragan Council and DoL;
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“The second option of transferring the management to the Shire would also be a cost to ratepayers. Given that the land abuts a State road and Federal controlled land. There is no strategic benefit to the Council in acquiring the land.”

3. Extend the LDТА boundary to include the buffer strip within the Defence Lease. The current arrangements of the Management Order would remain extant, remove any ambiguity of responsibility and alleviate management issues.

“The option of the buffer land being incorporated into the Defence Lease is the most practicable option. This will remove the current ambiguity over management of the buffer strip and place the responsibility directly with the Department of Defence to provide fire management responsibility to the entire area.”

The issue of contention in this matter is the maintenance of sufficient firebreaks to protect farmland and nature reserves in the area. The Department of Defence have previously asserted that the buffer strip is a separate portion of land that under the current Management Order does not specify the requirement to provide firebreaks.

Council staff had been advised by the Department of Defence that they are seeking a budget allocation from the Federal Government in order to provide fire mitigation measures on the buffer in question.

The decision of Council at the meeting held 25 June 2015 was

“That Council advise the Department of Defence that it only supports extending the Lancelin Defence Training Area boundary to include the buffer strip within the existing Department of Defence Lease, provided that this buffer strip must include fire breaks as an essential requirement of the lease.”

At the meeting of Fire Control Officers held on 21 October 2015 the following motion was carried by the meeting:

“That the Shire be requested to pursue the installation of firebreaks on the west and east side of Indian Ocean Drive”.

COMMENT

Council considered the issues relating to Lancelin Defence Training Area at the Council Forum held 10 December 2015 and it was requested that the matter be brought forward as a late item for the Council Meeting to be held 17 December 2015.

Council indicated the position which it wished to take in regard to these matters and this will require the revocation of several

previous decisions of Council. These decisions were made by Council at the Ordinary Meeting held 28 August 2014 and 25 June 2015.

The process for revoking Council resolutions is allowed for in Local Government (Administration) Regulations 1996 Regulation 10.

10. REVOKING OR CHANGING DECISIONS MADE AT COUNCIL OR COMMITTEE MEETINGS — S. 5.25(1)(E)

- (1) *If a decision has been made at a council or a committee meeting then any motion to revoke or change the decision must be supported —*
- (a) *in the case where an attempt to revoke or change the decision had been made within the previous 3 months but had failed, by an absolute majority; or*
- (b) *in any other case, by at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (1a) *Notice of a motion to revoke or change a decision referred to in subregulation (1) is to be signed by members of the council or committee numbering at least $\frac{1}{3}$ of the number of offices (whether vacant or not) of members of the council or committee, inclusive of the mover.*
- (2) *If a decision has been made at a council or a committee meeting then any decision to revoke or change the first-mentioned decision must be made —*
- (a) *in the case where the decision to be revoked or changed was required to be made by an absolute majority or by a special majority, by that kind of majority; or*
- (b) *in any other case, by an absolute majority.*
- (3) *This regulation does not apply to the change of a decision unless the effect of the change would be that the decision would be revoked or would become substantially different.*

CONSULTATION

Council at the Forum – 10 December 2015

STATUTORY ENVIRONMENT

Bushfire Act 1954

POLICY IMPLICATIONS

There are no policy implications relevant to this item.

FINANCIAL IMPLICATIONS

There are no financial implications relevant to this item.

STRATEGIC IMPLICATIONS

There are no strategic implications relevant to this item.

ATTACHMENTS

Circulated with the agenda is the following item relevant to this report:

- Correspondence from the Department of Defence (Doc id: 61858)

(Marked 10.1.1)

VOTING REQUIREMENT

Officer Recommendation 1 – Absolute majority

Officer Recommendation 2 – Simple majority

If Council wishes to revoke the decisions of Council passed at the Ordinary Meetings held 28 August 2014 and 25 June 2015, it will be necessary for at least one third of the offices (whether vacant or not) of members of the Council to support consideration of the matter before the motion can be moved (Administration Regulation 10, Local Government Act 1995).

This means the support of three elected members is necessary before the next stage of the process to consider the revocation of the Motion.

To be successful, the revoked motion must be carried by an absolute majority.

OFFICER RECOMMENDATION

That the Council decisions for 9.3.1 of the Council Meeting held 28 August 2014 being:

“Council, not agree to the installation of the alternative firebreak as requested by the Department of Defence and that the Department of Defence be requested to carry out prescribed burning of the buffer area between the leased area and the Indian Ocean Drive road reserve”. and

The Council decision 10.1.1 of the Council Meeting held 25 June 2015 being:

“That Council advise the Department of Defence that it only supports extending the Lancelin Defence Training Area boundary to include the buffer strip within the existing Department of Defence Lease, provided that this buffer strip must include fire breaks as an essential requirement of the lease.”
be revoked.

OFFICER RECOMMENDATION

That Council agree to the inclusion of the buffer reserve into the Lancelin Defence Training Area lease area and approve the request from the Department of Defence for the installation of alternative firebreaks within the current

lease area and request the Department of Defence to carry out strip burning within the current buffer reserve.
