

**Andrew Dover**

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**Subject:** FW: Shire of Collie BRM Plans**From:** RYAN Paul [<mailto:Paul.Ryan@dfes.wa.gov.au>]**Sent:** Wednesday, 16 August 2017 1:08 PM**To:** David Blurton <[david.blurton@collie.wa.gov.au](mailto:david.blurton@collie.wa.gov.au)>**Cc:** SWIFT Graham <[Graham.Swift@dfes.wa.gov.au](mailto:Graham.Swift@dfes.wa.gov.au)>; CARTER Murray <[Murray.Carter@dfes.wa.gov.au](mailto:Murray.Carter@dfes.wa.gov.au)>; BOWEN Mark <[Mark.Bowen@dfes.wa.gov.au](mailto:Mark.Bowen@dfes.wa.gov.au)>; [mpexton@walga.asn.au](mailto:mpexton@walga.asn.au)**Subject:** Shire of Collie BRM Plans**Importance:** High

Hi David

Thank you for our meeting me last Friday at the Shire of Collie offices with AC Graham Swift and CS Gary Kennedy.

As per our discussions, DFES is seeking the Bushfire Risk Management Plan (BRM Plan) to be endorsed by the Office of Bushfire Risk Management (OBRM) and adopted by the Shire of Collie. OBRM advises they will not endorse the BRM Plan until the statements within the plan referencing the issue of future funding for treatments and the notion there is a reliance on State funding to undertake mitigation works are removed. The plan also makes multiple citations to the ongoing funding of the Bushfire Risk Planning Coordinator and the requirement for this position to progress the BRM Plan and development of a treatment schedule also requires removal.

I am cognisant the Council also has reservations with adopting the BRM Plan as it poses perceived risks for the Shire of Collie. WALGA and LGIS have published a document, 'Disclosing Hazard Information: The Legal Issues' which was tabled at the WALGA State Council meeting in July 2016. This report was primarily based on the findings of Michael Eburn and John Handmer's paper, 'Legal issues and information on natural hazards' and the presentations made by Dr Eburn to WALGA members in November 2015 concerning the disclosure of hazard information.

Please find the hyperlink to the document - <http://walga.asn.au/getattachment/Policy-Advice-and-Advocacy/Environment/Climate-Change/Climate-Change-Projects-and-Resources/Disclosing-Hazard-Information-Legal-Issues-Paper.pdf.aspx?lang=en-AU>

Essentially, the legal issue examined within the paper is whether or not:

- The disclosure of hazard information by Local Government, (which may lower property values) would expose Local Government to successful legal claims of 'pure economic loss' from those affected property owners seeking to recover their financial losses.

The conclusion on page 50 of the 2016 meeting agenda expressed the following salient points:

*"It is clear that in undertaking their duties, Local Governments are likely to gain information relating to hazards. When obtaining such hazard risk information Local Governments are encouraged to consider all relevant statutes, regulations, policies and supporting guidelines available and document appropriately their decisions. Considerations in relation to the collation of hazard information should be logical and balanced against any other legitimate concerns and challenges that a Local Government may have. This may include resource constraints, which will be taken in account by the courts in settling any liability claims.*

*Disseminating hazard information effectively is a critical component of hazard mitigation that helps to ensure that communities are aware of the risks they face. Further, there is no legal impediment to releasing reasonably accurate hazard information. Yet, to the contrary, the failure to not use, or disclose hazard information once it has been gathered could attract various forms of liability. For these reasons, Local Governments are encouraged to disclose their hazard information.*

*Further, to avoid successful claims of liability, Local Governments will need to take reasonable care to ensure that any information disclosed is reasonably accurate and provided in a manner that considers how the information will*

*be used and by whom. On this basis, Local Governments are encouraged to develop a policy and procedure detailing how information will be disseminated and how information requests will be dealt with and ensure that the policy is applied effectively."*

Based on the above, I would recommend the Shire of Collie seeks advice directly from WALGA. DFES is very keen to finalise the BRM Plan and once adopted by Council it provides the mechanism to seek mitigation funding from the State Bushfire Coordinating Committee (SBCC). The SBCC is currently developing the mitigation activity funding criterion. The Office of Emergency Management will be responsible for distributing these funds to Local Governments with approved BRM Plans.

Terry Hunter (CBFCO) also raised the Shire of Collie BRM Plan status with me last week at the Burning Question - Now & Beyond - WA Prescribed Burning Forum. From my conversation, Terry is also keen to have the BRM Plan adopted and advised me that he will be contacting you this week to work towards a resolution.

In conclusion, I trust the above information provides you with the information you are seeking. It is still my intention to entirely reassign the Shire of Collie resources to an alternative LG, if State Government funding is approved to continue the BRMP program into 2017-18, when the terms of contract expire in late September 2017.

Should you wish to discuss this matter further, please give me a call.

Best Regards

**Paul Ryan**

Assistant Commissioner

Hazard Planning & Response

Department of Fire & Emergency Services | 20 Stockton Bend Cockburn Central WA 6164

P. 08 9395 9440 | M. 0408 946 154 | E. [paul.ryan@dfes.wa.gov.au](mailto:paul.ryan@dfes.wa.gov.au)

[www.dfes.wa.gov.au](http://www.dfes.wa.gov.au)



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