

LOCAL GOVERNMENT ACT 1995

Serpentine Jarrahdale

BUSH FIRES ACT 1954

Bush Fire Brigades Local Law 2021

Under the powers conferred by the *Bush Fires Act 1954* and the *Local Government Act 1995*, and under all other powers enabling it, the Council of the Shire of Serpentine Jarrahdale resolved on 21 June 2021, to make the following local law.

PART 1—PRELIMINARY

1.1 Citation

This local law may be cited as the *Serpentine-Jarrahdale Bush Fire Brigades Local Law 2021*.

1.2 Interpretations

(1) In this local law unless the context otherwise requires—

Act means the *Bush Fires Act 1954*;

Brigade Area is defined within the Brigade Operating Procedures;

Brigade Member means a member of a bush fire brigade as defined in the Bush Fire Brigade Operating Procedures;

Brigade Administration Officer means a person holding a position referred to in clause 2.2 (1)(iii), whether or not he or she was appointed by the Local Government or elected at an annual general meeting of a bush fire brigade or otherwise appointed to the position;

Brigade Officers Committee is a committee of all elected officers;

Bush Fire Brigade means a bush fire brigade for the time being registered in a register kept pursuant to Section 41 of the *Bush Fires Act 1954*;

Bush Fire Control Officer means a person appointed under that office by the Local Government in accordance with Section 38 of the *Bush Fires Act 1954*;

Bush Fire Procedures means the Bush Fire Brigade Operating Procedures adopted by the Local Government as amended from time to time;

Cadet means any adolescent member of the Brigade between 11 and 15 years inclusive;

Chief Executive Officer means the Chief Executive Officer of the Shire of Serpentine Jarrahdale;

Chief Bush Fire Control Officer means the duly appointed Chief Bush Fire Control Officer of the Shire of Serpentine Jarrahdale;

Department means the Department of Fire and Emergency Services, Western Australia;

Deputy Chief Bush Fire Control Officer/s means the duly appointed Deputy Chief Bush Fire Control Officer/s of the Shire of Serpentine Jarrahdale;

Grievance Policy is a policy and management document administered by the Local Government and applies to all Brigade members who have a **grievance** about unfair treatment, discrimination, harassment, victimization, vilification and/or bullying;

Local Government means the Shire of Serpentine Jarrahdale;

Local Government Grant Scheme means the arrangements to distribute Emergency Services Levy funds to Local Governments via Capital and Operating Grants;

Normal Brigade Activities means the activities prescribed in Section 35A of the *Bush Fire Act 1954*; and

Regulations means Regulations made under *Bush Fire Act 1954*.

(2) In this local law, unless the context otherwise requires, a reference to—

- (i) a Captain;
- (ii) a Bush Fire Control Officer
- (iii) a First Lieutenant;
- (iv) a Second Lieutenant;
- (v) any additional Lieutenants;
- (vi) an Equipment Officer;
- (vii) a Secretary; and
- (viii) a Treasurer;

means a person holding that position in a bush fire brigade.

1.3 Repeal

On the day that this local law comes into operation the Shire of Serpentine Jarrahdale *Volunteer Bush Fire Brigades Local Law 2019* as published in the *Government Gazette* on 26 July 2019 is repealed.

1.4 Application

(1) This local law applies throughout the district of the Shire of Serpentine Jarrahdale.

(2) The Chief Executive Officer shall prepare, adopt and implement Bush Fire Brigade Operating Procedures.

PART 2—ESTABLISHMENT OF BUSH FIRE BRIGADES

Division 1—Establishment of a bush fire brigade

2.1 Establishment of a bush fire brigade

(1) The Local Government may establish a bush fire brigade for the purpose of carrying out normal brigade activities.

(2) A bush fire brigade is established on the date of the Local Government's decision under sub clause (1).

2.2 Brigade name and appointment of officers of bush fire brigade

(1) On establishing a bush fire brigade under clause 2.1(1) the Local Government is to—

- (i) give a name to the bush fire brigade;
- (ii) specify the area in which the bush fire brigade is primarily responsible for carrying out the normal brigade activities (known as the "brigade area");
- (iii) election of the following officers in line with the Brigade Operating Procedures—
 - (i) a Captain that is to be the Senior Bush Fire Control Officer for the brigade;
 - (ii) a Bush Fire Control Officer(s);
 - (iii) a First Lieutenant;
 - (iv) a Second Lieutenant;
 - (v) any additional Lieutenants;
 - (vi) an Equipment Officer;
 - (vii) a Secretary; and
 - (viii) a Treasurer.

(2) When establishing a bush fire brigade, the Local Government shall register the bush fire brigade in accordance with the Act and Regulations.

Division 2—Transitional

2.3 Existing bush fire brigades

(1) Where a Local Government has established a bush fire brigade prior to the commencement date, then on and from the commencement day—

- (a) The bush fire brigade is to be taken to be a bush fire brigade established under, and in accordance with this local law; and
- (b) Any rules governing the operation of the bush fire brigade are to be taken to have been repealed and substituted with the Bush Fire Brigade Operating Procedures and Policies on the commencement day of the Local Law.

(2) In this clause—**commencement day** means the day on which this local law comes into operation.

Division 3—Dissolution of bush fire brigade

2.4 Dissolution of bush fire brigade

In accordance with *Section 41(3) of the Bush Fire Act 1954*, the Local Government may cancel the registration of a bush fire brigade if it is of the opinion that the bush fire brigade is not complying with the Act, this local law, the Bush Fire Brigade Operating Procedures or is not achieving the objectives for which it was established.

2.5 New arrangement after dissolution

If the Local Government cancels the registration of a bush fire brigade, alternative arrangements are to be made in respect of the brigade area.

PART 3—ORGANISATION AND MAINTENANCE OF BUSH FIRE BRIGADES

Division 1—Local Government responsibility

3.1 Local Government responsible for Structure and Bush Fire Brigade Operating Procedures

(1) The Local Government is to ensure that there is an appropriate structure through which the organisation of bush fire brigades is maintained.

(2) The Chief Executive Officer is to establish and implement Bush Fire Brigade Operating Procedures.

(3) The Local Government may make other applicable rules, policies and procedures as determined necessary by the Local Government.

Division 2—Bush Fire Brigade Operating Procedures and Policies

3.2 Application of the Bush Fire Brigade Operating Procedures, Policies and Local Law

- (1) The Bush Fire Brigade Operating Procedures govern the operation of a bush fire brigade.
- (2) A bush fire brigade and each brigade member is to comply with the Bush Fire Brigade Operating Procedures, policies and the provisions of this local law.

3.3 Variation of Procedures and Policies

- (1) The Chief Executive Officer, in consultation with the Chief Bush Fire Control Officer may vary the Bush Fire Brigade Operating Procedures and their application to all bush fire brigades.
- (2) The Chief Executive Officer is to notify all bush fire brigades of any variation to the Bush Fire Brigade Operating Procedures as soon as practicable

3.4 Brigades to be supplied with Act, Procedures and Policies

The Chief Executive Officer is to supply each bush fire brigade with a copy of the Act, the Regulations, this local law, Bush Fire Brigade Operating Procedures and any other policies, which may be relevant to the performance of the brigade's functions, and any amendments, which are made thereto from time to time.

Division 3—Chief Bush Fire Control Officer

3.5 Managerial Role of Chief Bush Fire Control Officer

Subject to any directions by the Local Government, the Chief Bush Fire Control Officer has primary managerial responsibility for the organisation and maintenance of bush fire brigades.

3.6 Duties of Chief Bush Fire Control Officer

The duties of the Chief Bush Fire Control Officer include—

- (i) provide leadership to volunteer bush fire brigades;
- (ii) monitor bush fire brigades' resourcing, equipment (including protective clothing) and training levels and report thereon with recommendations at least once a year to the Local Government or as directed by the Chief Executive Officer;
- (iii) liaise with the Local Government concerning fire prevention/suppression matters generally and directions to be issued by the Local Government to Bush Fire Control Officers (including those who issue permits to burn) bush fire brigades or brigade officers; and
- (iv) ensure that bush fire brigades are registered and that lists of brigade members are maintained.

In this clause—

Chief Bush Fire Control Officer includes the Deputy Chief Bush Fire Control Officer/s appointed by the Local Government.

3.7 Chief Bush Fire Control Officer may attend meetings

The Chief Bush Fire Control Officer or the Deputy Chief Bush Fire Control Officer/s may attend as a non-voting representative of the Local Government at any meeting of a bush fire brigade.

PART 4—ADMINISTRATION OF BUSH FIRE BRIGADES

Division 1—Bush fire brigade membership

4.1 Types of Membership of Bush Fire Brigade

The types of membership of a bush fire brigade shall be in accordance with the definitions contained in the Bush Fire Brigade Operating Procedures.

4.2 Brigade Membership

- (1) The appointment, determination, dismissal and management of bush fire brigade membership are governed by the Bush Fire Brigade Operating Procedures.
- (2) Applications for membership, including registration of bush fire brigade members, is to be in accordance with the Bush Fire Brigade Operating Procedures.
- (3) Membership of the bush fire brigade terminates if the member—
 - (i) dies;
 - (ii) gives written notice of resignation to the Secretary;
 - (iii) does not maintain local brigade currency training in line with Bush Fire Brigade Operating Procedures;
 - (iv) becomes permanently incapacitated;
 - (v) is dismissed by the Chief Bushfire Control Officer; in accordance with the Bushfire Brigade Operating Procedures.
- (4) The Chief Bushfire Control Officer may terminate the membership of any brigade member, who is determined to be, or considered to be, unfit to serve as a member of a bush fire brigade.
 - (a) A member being considered unfit to serve is to be determined and defined in accordance with the Bush Fire Brigade Operating Procedures and must follow processes of natural justice and procedural fairness as set in the Bush Fire Brigade Operating Procedures.
- (5) Membership of a member of a bush fire brigade may be suspended at any time if, in the opinion of the Captain of the Brigade (with such opinion formed only after discussion with the Chief Bush Fire Control Officer), circumstances warrant suspending the member.

- (a) A decision made to suspend is to be determined in accordance with the Bush Fire Brigade Operating Procedures and must follow processes of natural justice and procedural fairness as set in the Bush Fire Brigade Operating Procedures.

(6) Upon the expiry of the period of suspension the Brigade Captain may, following discussion with the Chief Bush Fire Control Officer—

- (i) extend the period of suspension;
- (ii) terminate the membership; or
- (iii) reinstate the membership.

Any decision made is to be determined in accordance with the Bush Fire Brigade Operating Procedures, and must follow processes of natural justice and procedural fairness as set in the Bush Fire Brigade Operating Procedures.

(7) The resignation or dismissal of a member under clause 4.2(2) or 4.2(3) does not affect any liability of the brigade member arising prior to the date of resignation or dismissal.

4.3 Grievance

(1) Grievances shall be managed in accordance with the Bush Fire Brigade Operating Procedures and the Grievance policy.

(2) In respect to grievance complaints or submissions, where the complaint relates to or is made against the Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer/s or a Brigade Captain, the matter may be referred to an independent investigator as determined by the Chief Executive Officer.

(3) The Chief Executive Officer of the Local Government shall be the final decision making authority in regards to the grievances associated with membership and code of conduct of Bush Fire Brigades.

Division 2—Administration

4.4 Record Keeping and Reporting

(1) The Local Government shall maintain records containing brigade member's details, brigade assets, vehicles and equipment and information and records of all matters relating to the operations, management, training of the brigade members, and the authorisation of the brigade officers, members and of the brigade.

(2) No later than 30 August in each year, the bush fire brigade is to provide the following reports for the preceding financial year to the Chief Executive Officer—

- (i) Equipment/asset register detailing the nature, quantity and quality of all protective clothing, equipment and appliances of the bush fire brigade;
- (ii) An independently audited statement of finances; and
- (iii) A gift/donations register.

(3) Any other record keeping and reporting requirements for bush fire brigades shall be in accordance with the Bush Fire Operating Procedures.

Division 3 –Meetings of bush fire brigades

4.5 Conduct of brigade meetings

(1) All bush fire brigade meetings are to be conducted in accordance with the Bush Fire Brigade Operating Procedures.

(2) In this clause, a reference to a bush fire brigade meeting means an—

- (i) Annual general meeting of a bush fire brigade to be held in July of each year;
- (ii) Ordinary meeting of a bush fire brigade; or
- (iii) Special meeting of a bush fire brigade.

Part 5—Equipment of bush fire brigades

5.1 Maintenance of equipment

The maintenance, replacement and upkeep of all bush fire brigade protective clothing, equipment and appliances is to be in accordance with the Bush Fire Operating Procedures.

Part 6—Funding of bush fire brigades

6.1 Funding under the Local Government Grant Scheme or equivalent

(1) Requests by the Local Government for funding under the Local Government Grant Scheme or its equivalent shall be in accordance with the Local Government Grant Scheme Manual and the Bush Fire Brigade Operating procedures.

(2) Expenditure of funds under the Local Government Grant Scheme or its equivalent shall be managed by the Local Government in accordance with the Local Government Grant Scheme Manual and the Bush Fire Brigade Operating procedures.

6.2 Funding under Local Government budget

(1) Where an item is not eligible or is not otherwise able to be funded through the Local Government Grant Scheme or its equivalent a bush fire brigade may submit a request to the Local Government for funding from the Local Government budget.

(2) A request for funding under clause (1) must be received in writing no later than 31 January for consideration in the forthcoming Local Government budget for the following financial year.

(3) The Local Government may approve or refuse an application for funding made under clause (1) depending upon the assessment of budget priorities for the financial year in question.

6.3 Management and expenditure of bush fire brigade funds

The management and expenditure of bush fire brigade funds shall be in accordance with the Bush Fire Brigade Operating procedures.

Dated 20th of August 2021

The Common Seal of the Shire of Serpentine Jarrahdale was affixed on by authority of a resolution of the Council in the presence of-

Cr MICHELLE RICH, Shire President.
PAUL MARTIN, Chief Executive Officer.