

BUSH FIRES ACT 1954

The Municipality of the Shire of Pingelly

By-law Relating to Fire Control Matters

In pursuance of the power conferred upon it by the above mentioned Act, the Council of the abovementioned Municipality hereby records having resolved on the 18th day of May 1995 to make and submit for confirmation by the Governor the following by-law.

PART 1—PRELIMINARY

Arrangement

1. This by-law is arranged as follows—
 - Part 1—Preliminary
 - Part 2—Fire Control
 - Part 3—Fire Control Officers
 - Part 4—Brigades
 - Part 5—General
 - Part 6—Penalties
 - Schedules

Definitions

2. "Act" means the Bush Fires Act 1954.
"Clerk" means the Shire Clerk of the Shire of Pingelly
"Council" means the Council of the Shire of Pingelly.
"Bush Fire Brigade" means Bush Fire Brigades for the time being registered in a register kept pursuant to s.41 of the Act.
"Excluded Area" means as area of rural land not exceeding 30 hectares, where it is physically impossible to install firebreak, or where in the owner's or occupier's opinion, the installation of firebreaks would be detrimental to the conservation of remnant or natural vegetation or the establishment of re-afforested areas.
"Farming Land" means all land within the Shire of Pingelly zoned 'Farming' under the Town Planning Scheme No. 2.
"Firebreak" means ground from which all inflammable material has been removed and on which no inflammable material is permitted during the firebreak period.
"Firebreak Period" means the time between 1st November and 15th April in the following year.
"Inflammable Material" means bush (as defined by the Bush Fires Act 1954), timber, boxes, cartons, paper, and the like inflammable materials, rubbish and any combustible matter, but does not include buildings, standing trees or growing bushes or plants in gardens or lawns.
"Regulations" means Regulations made under the Bush Fires Act 1954.
"Rural Residential Land" means all land within the Shire of Pingelly zoned 'Rural Residential' under the Town Planning Scheme No. 2.
"Townsite Land" means all land within the townsite of Pingelly not zoned as 'Rural Residential' under the Town Planning Scheme No. 2.

PART 2—FIRE CONTROL

Requirement for Fire Control Measures

3. All owners and occupiers of land within the Shire of Pingelly are hereby required to take, provide and maintain fire control measures during the firebreak period.

Farming Land

4. On farming land other than excluded areas, the owner or occupier shall—
- (a) clear firebreaks not less than two metres wide—
 - (i) inside all external boundaries of the land,
 - (ii) within fifteen metres of the perimeter of all buildings and remove all inflammable material from within the two metres of all such buildings, and
 - (iii) so as to divide the land into areas not exceeding 400 hectares,
 - (b) remove all inflammable material for a continuous distance of 5 metres immediately surrounding every haystack, hayshed, stationary pump or engine, and
 - (c) remove all inflammable material for a continuous distance of 15 metres, or to the external boundary of the land whichever is nearer, from around fuel depots.

Excluded Areas

All excluded areas remain the owner's or occupier's responsibility and any variation as permitted by clause 4 of this By-law does not render null and void any duty otherwise required by law.

Townsite Land

On townsite land, where a property or adjoining properties having the same ownership control and are used as a single holding, the owner or occupier, shall—

- (a) provide and maintain firebreaks not less than 2 metres in width inside all external boundaries of the land, or
- (b) clear by burning, all inflammable material likely to be conducive to the outbreak, spread or extension of a fire from the whole of the land, or
- (c) have all inflammable material likely to be conducive to the outbreak, spread or extension of fire removed, and the grass maintained to a height not greater than 10 cms.

Rural Residential Land

On rural residential land, where a property or adjoining properties having the same ownership or control and are used as a single holding, the owner or occupier shall comply with the requirements of—

- (a) farming land where the holding exceeds 10 ha in area, or
- (b) townsite land, where the holding does not exceed 10 ha in area.

Firebreaks on road reserves

Firebreaks are not permitted on a road reserve.

Fire Fighting Units

During any period when harvesting operations are being conducted there shall be provided in the same paddock or within 50 metres of that paddock, an operational independent mobile fire fighting unit having an engine driven pump and a water capacity of not less than 450 litres; the tank of the unit shall be kept full of water at all times during harvesting, and the responsibility to supply the unit is that of the landholder.

Clover Harvesting

10. Harvesting bans include the harvesting of clover.

Boyagin Rock Picnic Area

11. No wood fires are permitted in the Boyagin Rock Picnic Area (Reserve No. 29413) between 1st November each year and 29th March following.

Variation to Requirements

12. If it is considered impracticable to clear firebreaks or remove inflammable material from the land as required, application may be made in writing to the Council or its duly authorised officer for permission to put in place alternative fire hazard reduction measures, however, if permission is not granted, the requirements of this Part shall be complied with.

PART 3—FIRE CONTROL OFFICERS

Appointment

13. The Council shall appoint a Chief Bush Fire Control Officer, a Deputy Chief Bush Fire Control Officer and other Fire Control Officers as is deemed necessary, and may determine and restrict the powers of the Fire Control Officers, and may prescribe an area over which the Fire Control Officer shall have jurisdiction.

Training

14. Council shall not appoint or reappoint a person as a Fire Control Officer, or Dual Fire Control Officer, unless he/she has completed a Fire Control Officer's training course, certified by the Bush Fires Board, within the previous five years, and proof of satisfactory completion of the course is required.

Protective Clothing

15. Council may, either at cost price or at its own expense, supply its Bush Fire Control Officers with such protective clothing and attire as it deems appropriate, for use in connection with the Fire Control Officer's duties under the Act.

Notification of Harvest Bans

16. The Chief Bush Fire Control Officer, Deputy Chief Bush Fire Control Officer, Shire Clerk and Assistant Shire Clerk are authorised to issue and advise, as required, any harvesting bans.

Variation to Burning Periods

17. Under section 17 (10) of the Bush Fires Act, the Shire President and Chief Bush Fire Control Officer, jointly, are authorised to exercise Council's powers and duties of subsections (7) & (8).

PART 4—BRIGADES

Establishment of Brigades

18. (a) Council may by resolution organise, establish, name, maintain and equip a bush fire brigade in accordance with the provisions of the Act and Regulations, and this by-law.
(b) A bush fire brigade may be established for the whole of the Municipality or for a specified area.

Operation of Brigades

19. The operation of a Brigade shall be in accordance with the First Schedule to these bylaws.

Appointment of Officers

20. The Council shall be notified annually of the names of officers appointed in the form of the Second Schedule to these by-laws.

Membership of Brigades

21. (a) The membership of a Bush Fire Brigade shall consist of enrolled fire fighting members.
- (b) Fire fighting members shall be those persons, being members of either sex and being fifteen (15) years of age and over who are willing to render service when possible at any bush fire and who sign an undertaking in the form contained in the Third Schedule to these by-laws.
- (c) The enrolment of such persons as fire fighting members may be revoked by Council.

Finance

22. The expenditure incurred by the Council in the purchase of equipment, payment of service and generally for the purposes of this Act shall be a charge on the ordinary revenue of the Council, and the Shire Clerk shall direct that a record of expenditure incurred under the Act be kept.

Chain of Command

23. The chain of command within a brigade area, is as follows—
 - Chief Bush Fire Control Officer
 - Deputy Chief Bush Fire Control Officer
 - Fire Control Officer
 - Brigade Captain
 - 1st Lieutenant
 - 2nd Lieutenant, etc, if any
 - Brigade members

PART 6—PENALTIES

Penalty

24. The penalty for failing to comply with Part 2 of these By-laws is a fine not exceeding \$1,000 and a person in default is also liable whether prosecuted or not to pay the costs of performing the work directed in this notice if it is not carried out by the owner and/or occupier by the date required by this notice.

First Schedule
RULES FOR BRIGADES

1. Objectives

The objectives of a Brigade shall be to come together and maintain a efficient bush fire fighting organisation that is ready and equipped to—

- (a) organise preventive measures;
- (b) check and extinguish bush fires;
- (c) prevent loss of human life;
- (d) minimise losses to livestock and property; and
- (e) advise the Shire on matters relating to the detection, suppression and prevention of bush fires in the brigade area.

2. Brigade Area

The area of a Brigade shall be the land within the boundaries as approved by the Council.

3. Membership

Subject to clause 21 of this By-law, all residents within the area are entitled to become members. A register of members shall be kept showing each member's name, address, and date of commencement of membership.

4. Fees

Membership fees, if any, for the ensuing twelve months shall be determined at the annual meeting.

5. Funds

The funds of the brigade shall be used solely for the purposes of promoting the objectives of the Brigade.

6. Financial Year

The financial year of a Brigade shall commence on the 1st of July and end on the 30th of June the following year.

7. Banking

The funds of a Brigade shall be placed in a bank account and shall be drawn on only by cheques signed jointly by any two of the Captain, Secretary or Treasurer.

8. Annual Meeting

At least seven days written notice of the meeting shall be given by the Secretary to members of the annual meeting, which is to be held in July or August each year.

The business of the annual meeting is to include—

- election of new officers
- consider the Captain's report on the year's activities
- adopt the annual financial statements
- deal with general business

9. Ordinary Meetings

Ordinary meetings may be called at any time by the Captain, for the purpose of—

- organising and checking of equipment
- requisitioning new or replacement equipment
- organising field excursions, training sessions, hazard reduction programs, preparation of fire breaks etc
- establishing new procedures
- deal with general business

10. Special Meetings

The Secretary shall call a special meeting when five or more members so request in writing.

The Secretary shall, at least seven days prior to the date thereof, notify all members in writing of the holding of all special meetings.

11. Office Bearers

The committee of the Brigade shall consist of the Captain, Secretary, Treasurer and lieutenants of the Brigade.

These office bearers shall be elected at the annual meeting of the Brigade, and shall hold office until the next annual meeting, and shall be eligible for re-election at such meeting.

Any office bearer may be removed from office by resolution of 60% of the members present at a special meeting called for such purpose.

The committee shall have power to appoint a member to fill the vacancy in any office created for election to any office at such meetings.

12. Management

The management of the Brigade is delegated to the Brigade committee, which shall meet for the despatch of business, adjourn and otherwise regulate its meeting as it thinks fit.

The Brigade committee shall meet at any time when duly summoned by the Captain or Secretary.

13. Brigade Officers

At the annual general meeting the brigade shall elect a Captain, Secretary, Treasurer and Lieutenants (in order of seniority) as may be determined. The meeting may also elect the Equipment, First Aid and other officers. These officers should hold office until the next annual general meeting, at which they shall be eligible for re-election, or until a successor has been appointed.

Should any these offices become vacant before the expiration of the financial year, the vacancy shall be filled at a special general meeting of members called for the purpose, and the officer elected to fill the vacancy shall hold office for the unexpired portion of the term for which the officer whom he/she succeeds was appointed.

14. Audit

At every annual meeting some competent person (or persons) not being a member of the Brigade committee is to be elected as Auditor for the ensuing year. The auditor should audit the accounts of the Brigade not less than seven days before the annual general meeting and shall certify to their correctness or otherwise and present a report at each annual meeting.

15. Duties of Officers

The Captain shall preside at all meetings. In the absence of the Captain, the meeting may elect another person to chair the meeting. The Captain shall have full control over the members whilst engaged in fire fighting, and shall issue instructions as to the methods to be adopted. The Captain is responsible for the custody and maintenance in good order and condition of all equipment and appliances acquired by the Council for the purpose of the Brigade.

The Lieutenants, in the absence of the Captain and in order of seniority, shall perform the duties and exercise the powers and authorities of the Captain.

The Secretary shall be in attendance at all meetings and keep a correct minute and account of the proceedings of the Brigade in a book which shall be open for inspection by members at any reasonable time; shall answer all correspondence and keep a record of same; and, shall send out all necessary notices of meetings. He/she may receive subscriptions, donations and other monies on behalf of the Brigade, and shall remit same to the Honorary Treasurer upon receipt. He/she shall assist the Honorary Treasurer in preparation of the annual balance sheet, and attend auditors meetings to explain accounts. He/she shall keep a record of all fires and members attending and ensure fire reports are completed and processed. The Treasurer shall receive donations and deposits, and deposit all monies to the credit of the Brigade's bank account. He/she shall pay accounts as authorised by the Brigade committee, keep a record of all monies received and payments made, prepare a balance sheet, and be the custodian of all monies of the Brigade. He/she shall regularly inform the Secretary of the names of those members who have paid their membership fees.

16. Disputes

Any disagreement between Brigade members should be referred to either the Captain or the Committee. Where the matter is of sufficient importance that it is considered that the interest of the Brigade as a whole is involved, then the matter should be referred to the annual meeting, an ordinary meeting or a special meeting of the Brigade.

Ultimately, the Council is the final authority on matters affecting the Brigades within the Shire, and may resolve any dispute not finalised.

Second Schedule
FORM 12
BUSH FIRES ACT 1954
Regulation 41
Shire of Pingelly Register of Bush Fire Brigades

Bush Fire Brigade:

Registration Date:

Captain:

Lieutenants: 1.

 2.

 3.

Secretary:

Treasurer:

Signature: (Shire Clerk)

Third Schedule
FORM OF ENROLMENT—FIRE FIGHTING MEMBERS
Application / Declaration

I hereby make application to be enrolled as a fire fighting member of a Bush Fire Brigade.

Name of Brigade:

Applicant's Name:

My private address is:

My business address is:

I can be contacted by Telephone No.:

Facsimile:

I hold a current Drivers Licence No.:

Classes:

I declare that I am over fifteen (15) years of age, and in good health.

On enrolment as a fire fighting member, I hereby undertake-

1. To promote the objects of the Brigade as far as shall be in my power.
2. To be governed by the provisions of the Act and Regulations, and by the By-laws and Policies of the Shire, as may be made from time to time.
3. To use my best endeavour to give assistance in fire fighting measures when called upon such occasions to obey all orders and instructions issued by duly authorised officers of the Brigade or Council.
4. To accept that my membership may be terminated at any time by the Brigade or Council, if my behaviour or actions are considered not to be in the best interest of the Brigade or Council.

Applicant's signature Date

Please list here any fire fighting equipment owned by you.

1.....

2.....

3.....

Fourth Schedule
AUTHORITY AND POWERS OF BRIGADE OFFICERS

For the purpose of extinguishing or preventing the spread of a bush fire, the Captain (or if absent, the next most senior office or member of any Bush Fire Brigade present), after consulting with the occupier if he/she be present may exercise the following powers—

- (a) Control and direction of the brigade and any persons who voluntarily place their services at his/her disposal.
- (b) Either alone or with others under his/her direction to enter any land or premises which may be on fire, he/she may take any action which he/she thinks is necessary to protect lives and property and may cause fences to be pulled down and any inflammable material to be burnt or removed.

He/she may enter or direct the entering of any land or premises or take water from any source other than from a school or domestic supply tank. If a Bush Fire Control Officer is not present the brigade officer may exercise any of a Fire Control Officer's powers which he/she considers necessary.

- (c) He/she may enter a building which is on fire and take any steps he/she considers necessary to control the fire. He/she cannot exercise this power in an area in which there is a fire brigade formed under the Fire Brigades Act.

If the fire is burning in or near any State Forest or on Crown Land, these powers may be exercised by a Forest Officer who is present and who is entitled to take supreme control of all operations.

Captains, lieutenants, members and persons assisting a Bush Fire Brigade are not liable for any loss or damage caused in good faith when fighting a fire, (s. 63 of the Act).

The powers given are very wide and it is important to emphasise that when exercised these should be undertaken in a reasonable and responsible manner.

Dated this 6th day of July 1995.

The Common Seal of the Shire of Pingelly was hereto affixed in the presence of—

R. F. O'BRIEN, President.
N. MITCHELL, Shire Clerk.

Recommended—

R. L. WIESE, Minister for Emergency Services.

Approved by His Excellency the Governor in Executive Council this 23rd day of October 1995.

J. PRITCHARD, Clerk of the Council.