



Terms of Reference

Bush Fire Advisory Committee (BFAC)



Shire of
Serpentine
Jarrahdale

sjshire.wa.gov.au

Ordinary Council Meeting - 15 February 2021

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Table of Contents

Amendment Record	3
Delegates	4
1. Name	5
2. District / Area of Control	5
3. Vision / Purpose	5
4. Statute	5
5. Establishment	6
6. Objectives	7
7. Membership	7
7.1 General	7
7.2 Tenure of Membership	7
8. Delegated Authority	8
9. Committee	8
9.1 Chairperson	8
9.2 Secretariat	9
9.3 Standing Ex-Officio Members	9
10. Meetings	9
10.1 Annual General Meeting	9
10.2 Committee Meetings	9
10.3 Quorum	9
10.4 Voting	9
10.5 Reports to the Bush Fire Advisory Committee	10
10.6 Sub-Committees	10
10.7 Minutes	10
10.8 Who Acts if No Presiding Member	11
10.9 Members Interests to be Disclosed	11
Approval and Amendment History	15

**Amendment Record**

Recommendations for change to this document can be instigated by one of the following:

- A direction from Council;
- Submission by agenda item through the Bush Fire Advisory Committee and adoption by Council;
- Changes to legislation

Recommendations for changes to be forwarded to:

Director Development Services
Shire of Serpentine Jarrahdale
6 Paterson Street
MUNDIJONG WA 6123

Or alternatively email to: info@sjshire.wa.gov.au

All amendments must be approved by Council and entered in the Amendment Register below.

AMENDMENT		DETAILS OF AMENDMENT	AMENDED BY (INITIALS)
NO.	DATE		
1	June 2014	Document created - DRAFT	KM
2	August 2014	Endorsed version BFAC resolution 5.1/06/14	KM
3	November 2017	Amended	GF
4	February 2018	Voting membership amended	GF



Delegates

Delegated Voting Membership

- 2 x Councillors
- 1 x Chief Bush Fire Control Officer
- 6 x Brigade Captains / or an office bearer of the Brigade as nominated by the Captain

Ex Officio Members and Observers

- 1 x Department of Fire and Emergency Services District Officer
- 1 x Department of Parks and Wildlife
- 3 x Deputy Bush Fire Control Officers
- 1 x [Manager Coordinator](#) ESG

Shire Officers

- 1 x [Director Development Services](#) [Chief Executive Officer / Representative](#)
- 1 x Manager Rangers and Emergency Services
- ~~2~~ 1 x Emergency Services [Technical Officers](#) [Coordinator](#)

**Bush Fire Advisory Committee (BFAC)****1. Name**

The name of the Committee is the Shire of Serpentine Jarrahdale **Bush Fire Advisory Committee (BFAC)**.

2. District / Area of Control

The district shall have the application as deemed in the *Local Government Act 1995*, **district** means an area of the State that is declared to be a district under section 2.1 of the *Local Government Act 1995*, this being the whole of the Shire of Serpentine Jarrahdale.

3. Vision / Purpose

To advise the Shire of Serpentine Jarrahdale in regards to:

1. Matters relating to previously controlled and extinguishing of bush fires.
2. The planning layout of Fire Breaks in the district.
3. Prosecutions for breaches of the BFAC.
4. Formation of Brigades.
5. Co-ordination and Co-operations between Brigades and Agents.

4. Statute***Bush Fires Act 1954******Section 67 – Advisory committees***

1. *A Local Government may at any time appoint such persons as it thinks fit as a Bush Fire Advisory Committee for the purpose of advising the Local Government regarding all matters relating to the prevention, controlling and extinguishing of bush fires, the planning of the layout of firebreaks in the district, prosecutions for breaches of this Act, the formation of bush fire brigades and the grouping thereof under group brigade officers, the ensuring of co-operation and co-ordination of bush fire brigades in their efforts and activities, and any other matter relating to bush fire control whether of the same kind, as, or a different kind from, those specified in this subsection.*
2. *A committee appointed under this section shall include a member of the Council of the Local Government nominated by it for that purpose as a member of the committee, and the committee shall elect one of their number to be Chairman thereof.*
3. *In respect to a committee so appointed, the Local Government shall fix the quorum for the transaction of business at meetings of the committee and may:-*
 - a. *make rules for the guidance of the committee;*



Continued

10.1.14 attachment 2

Terms of Reference Bush Fire Advisory Committee (BFAC)



Bush Fire Advisory Committee (BFAC)

- b. *accept the resignation in writing of, or remove, any member of the committee appoint a person to fill that vacancy.*
 - c. *where for any reason a vacancy occurs in the office of a member of the committee, appoint a person to fill that vacancy.*
4. *A committee appointed under this section:-*
- a. *may from time to time meet and adjourn as the committee thinks fit;*
 - b. *shall not transact business at a meeting unless the quorum fixed by the Local Government is present;*
 - c. *is answerable to the Local Government and shall, as and when required by the Local Government, report fully on its activities.*

Local Government Act 1995

Section 5.12 – Presiding members and deputies, election of

- (1) *The members of a committee are to elect a presiding member from amongst themselves in accordance with Schedule 2.3, Division 1 as if the references in that Schedule –*
 - (a) *To “office” were references to “office of presiding member”; and*
 - (b) *To “council” were references to “committee”; and*
 - (c) *To “councillors” were references to “committee members”.*
- (2) *The members of a committee may elect a deputy presiding member from amongst themselves but any such election is to be in accordance with Schedule 2.3, Division 2 as if the references in that Schedule –*
 - (a) *To “office” were references to “office of deputy presiding member”; and*
 - (b) *To “council” were references to “committee”; and*
 - (c) *To “councillors” were references to “committee members”; and*
 - (d) *To “mayor or president” were references to “presiding member”.*

Shire of Serpentine Jarrahdale Standing Orders Local Law 2002 (As Amended)

In accordance with Council’s Standing Orders Local Law 2002 (As Amended), formal Committees of Council are to be compliant with the provisions of the Standing Orders Local Law as far as this does not conflict with any other written Law.

While recognising that the Bush Fire Advisory Committee is a Committee formed pursuant to section 67 of the Bushfire Act 1954, the Chairman is to follow Standing Orders as far as is practicable to ensure proper meeting procedures are followed.

5. Establishment

Last reviewed November 2017.



Continued



6. Objectives

The Bush Fire Advisory Committee will be responsible for the reporting to and making recommendations to Council on:

- The financial affairs of the Brigade/s.
- The general management of the affairs of the Brigade/s.
- The planning, setting of standards and works programs for fire prevention within the Local Government area of responsibility.
- Activities of Bush Fire Brigade/s.
- Subject to any direction of the Advisory Committee as a whole:
 - a) Ensuring that the equipment in the possession or control of the Brigade/s in the Local Government area is inspected on a regular basis.
 - b) Making representation and recommendations to Local Government in relation to the fire fighting equipment that should be reviewed in accordance with the Risk to Resource documentation as submitted to DFES.
 - c) Taking steps to ensure the appropriate distribution of fire equipment amongst brigade/s in the Local Government Area of Responsibility.
 - d) Co-ordinating training within the Brigade/s in the Shire to ensure they work together efficiently.
 - e) Overseeing the preparation and maintenance of an Incident Response Plan for the bushfire district and ensuring that a communication plan is developed and functions across the Local Government area.
 - f) Selecting members of the Committee to represent the Local Government area on a regional basis.
 - g) Carrying out other functions assigned to the committee by the Council.

7. Membership

7.1 General

Council will appoint two elected members to the Committee.

Observers and ex officio members cannot vote on any matter and shall not be permitted to speak on any matter unless invited to do so by the Chairperson. Observers are to sit back from the meeting table.

7.2 Tenure of Membership

Local Government Act 1995



5.11. Tenure of committee membership

- (1) *Where a person is appointed as a member of a committee under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the person no longer holds the office by virtue of which the person became a member, or is no longer the CEO, or the CEO's representative, as the case may be;*
 - (b) *the person resigns from membership of the committee;*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*

whichever happens first.

- (2) *Where a person is appointed as a member of a committee other than under section 5.10(4) or (5), the person's membership of the committee continues until —*
- (a) *the term of the person's appointment as a committee member expires;*
 - (b) *the local government removes the person from the office of committee member or the office of committee member otherwise becomes vacant;*
 - (c) *the committee is disbanded; or*
 - (d) *the next ordinary elections day,*

whichever happens first.

8. Delegated Authority

The Committee does not have executive powers or authority to implement actions in areas over which the CEO has legislative responsibility and does not have any delegated financial responsibility. The Committee does not have any management functions and cannot involve itself in management processes or procedures.

The Committee is to report to Council and provide appropriate advice and recommendations on matters relevant to its terms of reference in order to facilitate informed decision-making by Council in relation to the legislative functions and duties of the local government that have not been delegated to the CEO.

9. Committee

9.1 Chairperson

At the first ordinary meeting of the Committee held after Council elections the positions of Chairperson and Deputy Chairperson shall be engaged by the following:



Continued

10.1.14 attachment 2

Terms of Reference Bush Fire Advisory Committee (BFAC)



- As direct by Council authority; or
- Voting by the delegates

9.2 Secretariat

Emergency Services Technical Officer will fulfil this administrative, non-voting role.

9.3 Standing Ex-Officio Members

The Committee may invite ex-officio members as necessary.

10. Meetings

10.1 Annual General Meeting

Nil

10.2 Committee Meetings

The Committee shall meet biannually or as required (minimum 2 meetings per annum). In addition, four operational meetings to be held between the Brigades and the Chief Bush Fire Control Officer to consider progress on operational matters.

Extra meetings of the Committee may be convened:

- a) By the Chairperson.
- b) By written notice to all Committee members, such notice being signed by at least four members of the Committee, giving not less than seven (7) days notice and stating purpose of the meeting.
- c) By the Council

10.3 Quorum

Quorum is five (5) persons.

10.4 Voting

Local Government Act 1995

S 5.21 - Voting

- (1) *Each council member and each member of a committee who is present at a meeting of the council or committee is entitled to one vote.*

**Bush Fire Advisory Committee (BFAC)**

- (2) *Subject to section 5.67, each council member and each member of a committee to which a local government power or duty has been delegated who is present at a meeting of the council or committee is to vote.*
- (3) *If the votes of members present at a council or a committee meeting are equally divided, the person presiding is to cast a second vote.*
- (4) *If a member of a council or a committee specifically requests that there be recorded —*
 - (a) *his or her vote; or*
 - (b) *the vote of all members present, on a matter voted on at a meeting of the council or the committee, the person presiding is to cause the vote or votes, as the case may be, to be recorded in the minutes.*
- (5) *A person who fails to comply with subsection (2) or (3) commits an offence.*

[Section 5.21 amended by No. 49 of 2004 s.43.]

10.5 Reports to the Bush Fire Advisory Committee

Each Fire Brigade Captain on the Committee shall submit a report of the Brigade's training activities, vehicle and equipment status, and general business, to each meeting of the Bush Fire Advisory Committee.

The Officer responsible shall report on all matters relevant to the Committee.

10.6 Sub-Committees

The Local Government Bush Fire Advisory Committee may form sub-committees, to provide advice and recommendations on specific areas of the Committee's responsibilities. The Advisory Committee shall determine membership and terms of reference of such sub-committees.

10.7 Minutes

In accordance with the *Local Government Act* Section 5.22 and 5.25, and *Local Government (Administration) Regulations 1996*.

The person presiding at a meeting is to ensure that the Minutes are kept of the meetings proceedings.

Recommendations arising from the Minutes requiring a Council decision shall be presented to Council at the next Ordinary Council Meeting or earliest available Council meeting if it is not possible to present the Minutes to the next Ordinary Council Meeting.



10.8 Who Acts if No Presiding Member

In the event that the Deputy Chairperson is unavailable, then in accordance with the *Local Government Act 1995* Section 5.14.

5.14. Who acts if no presiding member

If, in relation to the presiding member of a committee —

- (a) the office of presiding member and the office of deputy presiding member are vacant; or*
- (b) the presiding member and the deputy presiding member, if any, are not available or are unable or unwilling to perform the functions of presiding member,*

then the committee members present at the meeting are to choose one of themselves to preside at the meeting.

10.9 Members Interests to be Disclosed

Members of the Bush Fire Advisory Committee are required to declare their financial interests and complete a Declaration form where relevant, using the principles detailed in the *Local Government Act* Section 5.65-5.70 with respect to disclosure of financial, impartiality or proximity interests ('CEO' in the LGA text means the 'Chairperson' in the committee sense).

5.65. Members' interests in matters to be discussed at meetings to be disclosed

- (1) A member who has an interest in any matter to be discussed at a council or committee meeting that will be attended by the member must disclose the nature of the interest —*
 - (a) in a written notice given to the CEO before the meeting; or*
 - (b) at the meeting immediately before the matter is discussed.*

Penalty: \$10,000 or imprisonment for 2 years.

- (2) It is a defence to a prosecution under this section if the member proves that he or she did not know —*
 - (a) that he or she had an interest in the matter; or*
 - (b) that the matter in which he or she had an interest would be discussed at the meeting.*
- (3) This section does not apply to a person who is a member of a committee referred to in section 5.9(2)(f).*



5.9. Types of committees

- (1) *In this section — “other person” means a person who is not a council member or an employee.*
- (2) *A committee is to comprise —*
 - (f) *other persons only.*

5.66. Meeting to be informed of disclosures

If a member has disclosed an interest in a written notice given to the CEO before a meeting then —

- (a) *before the meeting the CEO is to cause the notice to be given to the person who is to preside at the meeting; and*
- (b) *at the meeting the person presiding is to bring the notice and its contents to the attention of the persons present immediately before the matters to which the disclosure relates are discussed.*

[Section 5.66 amended by No. 1 of 1998 s.16; No. 64 of 1998 s.33.]

5.67. Disclosing members not to participate in meetings

A member who makes a disclosure under section 5.65 must not —

- (a) *preside at the part of the meeting relating to the matter; or*
- (b) *participate in, or be present during, any discussion or decision making procedure relating to the matter, unless, and to the extent that, the disclosing member is allowed to do so under section 5.68 or 5.69.*

Penalty: \$10,000 or imprisonment for 2 years.

5.68. Councils and committees may allow members disclosing interests to participate etc. in meetings

- (1) *If a member has disclosed, under section 5.65, an interest in a matter, the members present at the meeting who are entitled to vote on the matter —*
 - (a) *may allow the disclosing member to be present during any discussion or decision making procedure relating to the matter; and*
 - (b) *may allow, to the extent decided by those members, the disclosing member to preside at the meeting (if otherwise qualified to preside) or to participate in discussions and the decision making procedures relating to the matter if —*
 - (i) *the disclosing member also discloses the extent of the interest; and*



- (ii) *those members decide that the interest —*
 - (I) *is so trivial or insignificant as to be unlikely to influence the disclosing member's conduct in relation to the matter; or*
 - (II) *is common to a significant number of electors or ratepayers.*
- (2) *A decision under this section is to be recorded in the minutes of the meeting relating to the matter together with the extent of any participation allowed by the council or committee.*
- (3) *This section does not prevent the disclosing member from discussing, or participating in the decision making process on, the question of whether an application should be made to the Minister under section 5.69.*

5.69. Minister may allow members disclosing interests to participate etc. in meetings

- (1) *If a member has disclosed, under section 5.65, an interest in a matter, the council or the CEO may apply to the Minister to allow the disclosing member to participate in the part of the meeting, and any subsequent meeting, relating to the matter.*
- (2) *An application made under subsection (1) is to include —*
 - (a) *details of the nature of the interest disclosed and the extent of the interest; and*
 - (b) *any other information required by the Minister for the purposes of the application.*
- (3) *On an application under this section the Minister may allow, on any condition determined by the Minister, the disclosing member to preside at the meeting, and at any subsequent meeting, (if otherwise qualified to preside) or to participate in discussions or the decision making procedures relating to the matter if —*
 - (a) *there would not otherwise be a sufficient number of members to deal with the matter; or*
 - (b) *the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.*
- (4) *A person must not contravene a condition imposed by the Minister under this section.*

Penalty: \$10,000 or imprisonment for 2 years.

[Section 5.69 amended by No. 49 of 2004 s. 53.]



Continued

10.1.14 attachment 2

Terms of Reference Bush Fire Advisory Committee (BFAC)



5.69A. Minister may exempt committee members from disclosure requirements

- (1) *A council or a CEO may apply to the Minister to exempt the members of a committee from some or all of the provisions of this Subdivision relating to the disclosure of interests by committee members.*
- (2) *An application under subsection (1) is to include —*
 - (a) *the name of the committee, details of the function of the committee and the reasons why the exemption is sought; and*
 - (b) *any other information required by the Minister for the purposes of the application.*
- (3) *On an application under this section the Minister may grant the exemption, on any conditions determined by the Minister, if the Minister is of the opinion that it is in the interests of the electors or ratepayers to do so.*
- (4) *A person must not contravene a condition imposed by the Minister under this section.*

Penalty: \$10,000 or imprisonment for 2 years.

[Section 5.69A inserted by No. 64 of 1998 s. 34(1).]

5.70. Employees to disclose interests relating to advice or reports

- (1) *In this section —*

employee includes a person who, under a contract for services with the local government, provides advice or a report on a matter.
- (2) *An employee who has an interest in any matter in respect of which the employee is providing advice or a report directly to the council or a committee must disclose the nature of the interest when giving the advice or report.*
- (3) *An employee who discloses an interest under this section must, if required to do so by the council or committee, as the case may be, disclose the extent of the interest.*

Penalty: \$10,000 or imprisonment for 2 years.

**5.71. Employees to disclose interests relating to delegated functions**

If, under Division 4, an employee has been delegated a power or duty relating to a matter and the employee has an interest in the matter, the employee must not exercise the power or discharge the duty and —

- (a) in the case of the CEO, must disclose to the mayor or president the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter; and*
- (b) in the case of any other employee, must disclose to the CEO the nature of the interest as soon as practicable after becoming aware that he or she has the interest in the matter.*

Penalty: \$10,000 or imprisonment for 2 years.

Approval and Amendment History

Reviewed/Modified	Reference	Date	Comment	Reviewed By
Adopted	OCM155/11/17	27/11/2017	Ordinary Council Meeting	
Reviewed				
Reviewed				