



# The New Brigade Constitution for NSW Rural Fire Brigades

## 1 NAME

- 1.1 The name of the Brigade is the **Mt Wilson / Mt Irvine Rural Fire Brigade**
- 1.2 The Brigade is referred to in this New Brigade Constitution as "**the Brigade**".

## 2 DEFINITIONS

- 2.1 In this Constitution the following words and expressions shall have the meanings assigned to them, unless the context otherwise requires:
  - 2.1.1 "Act" means the Rural Fires Act 1997 (NSW) as amended from time to time;
  - 2.1.2 "appropriate disciplinary authority" means the appropriate disciplinary authority defined by Regulation 3 of the Regulations.
  - 2.1.3 "Brigade Register" means the register of members of the Brigade maintained pursuant to the provisions of section 20(1) of the Act;
  - 2.1.4 "Constitution" means The New Brigade Constitution
  - 2.1.5 "member" means a member of the Brigade;
  - 2.1.6 "Regulations" means the regulations made under the Act;
  - 2.1.7 "Public Fund" means the fund established and maintained pursuant to clause 15
  - 2.1.8 "district manager" means the manager of the rural fire district, zone or team in which the Brigade is located.
  - 2.1.9 "Service Standards" means the Service Standards issued by the Commissioner pursuant to section 13 of the Act.

## 3 COMMENCEMENT

- 3.1 This Brigade Constitution was adopted by the Brigade on 11<sup>th</sup> May 2012

## 4 OBJECTIVES

- 4.1 The objectives of the Brigade are to:
  - 4.1.1 prevent, mitigate and suppress bush and other fires;
  - 4.1.2 protect persons from dangers to their safety and health and property from destruction or damage, arising from fires
  - 4.1.3 assist other emergency services organizations at incidents and emergencies under the control of those organizations
  - 4.1.4 undertake community education in relation to fire safety and prevention
  - 4.1.5 assist other community groups and organisations in the promotion of their objectives
  - 4.1.6 promote the objectives of the Act and the NSW Rural Fire Service
  - 4.1.7 raise funds to support the objectives of the Brigade

## 5 MEMBERSHIP

- 5.1 The persons who are listed on the brigade register are the members of the Brigade.
- 5.2 **Application for Membership**  
*Service Standard 2.1.6 Service Membership*
  - 5.2.1 Any person wishing to join the Brigade must:
    - 5.2.1.1 apply in writing to the Brigade using the form prescribed by the Service Standards; and
    - 5.2.1.2 agree in writing that they will:
      - a. be bound by the provisions of this Constitution; and
      - b. comply with the provisions of the Service Standards.
    - 5.2.1.3 In the case where no form is prescribed by the Service Standards the person will fill a form as determined by the executive committee.
- 5.3 **Member Classification**
  - 5.3.1 Members are classified as:
    - a. probationary members

- b. ordinary members
  - c. life members
  - d. junior members
- 5.3.2 Probationary Members are persons who:
- a. are not less than 16 years of age; and
  - b. whose application for membership has been accepted by resolution of the Executive Committee.
- 5.3.3 Ordinary Members are persons who:
- a. are not less than 16 years of age;
  - b. have satisfactorily completed a probationary period of at least six months and
  - c. either:
    - achieved the minimum level of competency set by the Service Standards and approved by the district manager; or
    - been accepted by the executive committee as a member who will undertake a support role; and
  - d. been confirmed as an ordinary member by a resolution of the executive committee
- 5.3.4 Life Members are persons who:
- a. in the opinion of the Brigade, have given meritorious service to the NSW Rural Fire Service; and
  - b. have been elected as a Life Member at a General Meeting by resolution of not less than three-quarters of the Members present and voting at the meeting.
- 5.3.4.1 A Life Member may not vote or hold office in the Brigade unless the Life Member is a person who would otherwise be classified as an Ordinary Member of the Brigade.
- 5.3.5 Junior Members are persons who are:
- a. over the age of 11 years;
  - b. less than 16 years of age;
  - c. who have obtained the written consent of their parent or guardian to join the Brigade; and
  - d. whose application for membership has been accepted by resolution at an executive committee meeting.
- 5.3.5.1 Junior Members:
- a. must not participate in fire fighting or other emergency operations; and
  - b. must at all times be supervised by a Field Officer; and
  - c. may not vote or hold office in the Brigade.
- 5.4 Termination of Membership**
- 5.4.1 A person ceases to be a Member if his or her name is removed from the Brigade Register by the district manager.
- 5.4.2 The executive committee may apply to the district manager for the removal of a member's name from the brigade register pursuant to the provisions of clause 8(2)(d) of the Regulations if:
- a. the member is given at least 21 days notice in writing that a motion to expel the person will be put at a meeting of the Brigade;
  - b. the person is given an opportunity to address the meeting at which the motion is put; and
  - c. the motion is carried by no less than two-thirds of the members present and voting.
- 5.5 Suspension of a Member**
- 5.5.1 The Brigade may suspend the membership of a member if:
- a. each member of the Brigade is given at least 21 days notice in writing that a motion to suspend the person will be put at a meeting of the Brigade;
  - b. the person is given an opportunity to address the meeting at which the motion is put; and

- c. the motion is carried by not less than two-thirds of the members present and voting.
- 5.5.2 A member whose membership has been suspended pursuant to subclause 5.5.1 shall:
  - a. have no voting rights; and
  - b. not be entitled to hold any office in the Brigade for the period that is specified in the motion.
- 5.6 **Resignation of Member**
- 5.6.1 A member may resign from the Brigade by notice in writing to the executive committee
- 5.7 **Membership of other Brigades**
- 5.7.1 A member must not, without the consent of the district manager, be a member of another rural fire brigade in the same rural fire district as the Brigade.

## 6 MEETINGS OF MEMBERS

### 6.1 Brigade's Annual General Meeting

- 6.1.1 The Annual General Meeting of the Brigade must be held no later than 30 June in each year or such other date as may be determined by the district manager.
- 6.1.2 The secretary must give at least 21 days notice of the date, time, place and agenda of the Annual General Meeting to each member.
- 6.1.3 This information will be delivered to members in writing
- 6.1.4 The quorum for the annual general meeting is 5% of the ordinary members who have paid the annual subscription calculated at the time of the meeting. In calculating the quorum, only ordinary members who are present at the meeting can be counted.
- 6.1.5 At the Annual General Meeting the members must:
  - a. confirm the minutes of the previous Annual General Meeting
  - b. be given a report of the Brigade's activities during the previous 12 months by the captain;
  - c. be given a statement of the Brigade's accounts by the treasurer and the auditor's report for the year;
  - d. elect the field officers for the ensuing term, in accordance with clause 7.1.1 being:
    - Captain
    - Senior Deputy Captain
    - Deputy Captains
  - e. elect the administrative officers for the coming year; being:
    - President
    - Vice-President
    - Secretary
    - Treasurer
    - Any other officers as determined by the Brigade
  - f. appoint an auditor for the coming year;
  - g. decide whether to set an annual subscription in accordance with clause 9.2;
  - h. consideration of any motion to amend this Constitution
  - i. any other business of which proper notice has been given

### 6.2 General Meetings of the Brigade

- 6.2.1 A General Meeting of the Brigade may be called at any time by the executive committee.
- 6.2.2 The Secretary must call a General Meeting within 21 days of the receipt of a request to do so signed by five or more Members.
- 6.2.3 The Brigade must hold such minimum number of General Meetings as is determined by the district manager from time to time.
- 6.2.4 Notice of Meetings
- 6.2.4.1 Subject to the provisions of clause 6.2.5 the Secretary must give each Member at least seven days notice in writing of the date, time, place and agenda of any General Meeting.
- 6.2.5 The Executive Committee may:
  - a. prepare a schedule of General Meetings for the forthcoming 12 months;

- b. distribute the schedule of General Meetings to Members in writing; and
  - c. place a copy of the schedule of General Meetings on a notice board at the Brigade's fire station in which case the schedule will constitute notice of each General Meeting.
- 6.2.6 Provided notice has been given of a General Meeting in accordance with the provisions of this Constitution, the failure on the part of any Member to receive such notice will not affect the validity of any meeting of Members or of the decisions made at that meeting.
- 6.2.7 The quorum for a General Meeting is 5% ordinary members.
- 6.3 Chair**
- 6.3.1 The President shall be entitled to chair all meetings of members.
- 6.3.2 If the President is absent, the Vice-President shall be entitled to chair the meeting or, in the absence of the Vice-President, the meeting shall be chaired by a member elected by the meeting for that purpose.
- 6.4 Brigade Meeting Records**
- 6.4.1 The minutes of all annual general meetings, general meetings and executive committee meetings must be kept in writing.
- 6.4.2 Minutes of brigade meetings and executive committee meetings must be kept for all committee meetings.
- 6.4.3 Minutes of Brigade meetings and executive committee meetings must include:
  - a. the type of meeting;
  - b. the time date and location of the meeting;
  - c. the members present, apologies and guests;
  - d. approval of all tabled correspondence, documents and reports; and
  - e. tasks delegated to individuals;
- 6.4.4 The minutes of Brigade and executive committee meetings, copies of correspondence and other brigade records are to be stored by the secretary or in the brigade station or some other place agreed to by the Brigade.
- 6.5 Voting at Meetings**
- 6.5.1 Unless otherwise specified in this Constitution all questions will be decided by a majority vote of those members present and entitled to vote.
- 6.5.2 The chairperson of a meeting has both a deliberative and casting vote other than in an election.
- 6.5.3 In the event of a dispute as to whether a member is entitled to vote the matter must be referred to the executive committee for determination.
- 6.5.4 Voting in an election can be a show of hands, unless one voting member expresses a desire to conduct the voting by secret ballot, in which case the voting must be by secret ballot.
- 6.5.5 Elections must be conducted using the "first past the post" method
- 6.5.6 A member who is unable to attend the Annual General Meeting may appoint a proxy to vote on his or her behalf by way of a written notice delivered to the Secretary or Returning Officer prior to the commencement of the meeting provided that no member may exercise more than 2 proxy votes.
- 6.5.7 Probationary and junior members can not vote at any meeting or in any election.
- 6.5.8 Only members who are ordinary members who meet all the following criteria:
  - a. regularly participate in the Brigades' activities; by regularly participating in training sessions, meetings, hazard reductions, working bees, fire fighting and other operations
  - b. are available to attend fire calls; and
  - c. if the Brigade has set an annual subscription, have paid that subscription may vote in an election of field officers.
- 6.5.9 All members who meet the criteria of 6.5.8c are entitled to vote for the election of Administrative Officers

## **7 OFFICE BEARERS**

### **7.1 Election of Field and Administrative Officers:**

- 7.1.1 At the annual general meeting the members must elect the following field officers:  
Captain;  
Senior deputy captain; and  
such number of Deputy Captains as the Brigade may determine from time to time  
Brigade field officers will hold office for one (1) year
- 7.1.2 The seniority of the Deputy Captains is determined by the Captain or the Senior Deputy Captain after their election
- 7.1.3 At the Annual General Meeting the members must elect the following administrative officers:  
President  
Vice-president  
Secretary  
Treasurer.
- 7.1.4 Nominations for the election of field and administrative officers must be:  
a. in writing;  
b. signed by at least two members; and  
c. delivered to the secretary prior to the commencement of the annual general meeting or such other time as specified by the executive committee when notice of the annual general meeting is given.
- 7.1.5 If no written nominations for a position have been received in accordance with clause 7.1.4, the returning officer must, with the consent of the meeting, accept verbal nominations for the position provided that any such nomination has a support of at least two members and has the consent of the nominee.
- 7.1.6 A person is not eligible for election as a field officer unless they have the level of competency prescribed by the Service Standards or the district manager
- 7.1.7 The secretary must inform the district manager in writing of the names of the members elected as field and administrative officers within seven days of the annual general meeting.
- 7.1.8 Field officers elected by the Brigade do not take office until they are appointed by the district manager in accordance with the provisions of the Act.
- 7.1.9 Administrative officers take office immediately after their election
- 7.1.10 The district manager may revoke or suspend the appointment of a person as a field officer in accordance with the provisions of the Service Standards.

*Refer to Service Standard 2.1.4 Appointment of Brigade and Group Officers.*

### **7.2 A casual vacancy**

- 7.2.1 A field or administrative officer position becomes vacant if:  
a. the person resigns from the position;  
b. the person ceases to be a member of the Brigade;  
c. the appropriate disciplinary authority suspends the person from membership of the Brigade;

Refer to definition of appropriate disciplinary authority in Service Standard 1.1.2 Discipline.

- 7.2.2 the person is stood down in accordance with the Service Standards;

Refer to Service Standard 2.1.6 Service Membership.

- 7.2.3 in the case of a field officer, the district manager:

- a. demotes the person;  
b. disqualifies the person from holding rank in the Brigade; or  
c. revokes or suspends the persons appointment as an officer;  
following a recommendation from the appropriate disciplinary authority;

*Refer to Service Standard 2.1.6 Service Membership and Service Standard 2.1.4 Appointment of Brigade and Group Officers.*

- 7.2.4 A field or administrative officer may be removed from his or her position if:
- 7.2.4.1 each member is sent a notice stating:
- a. that a motion to remove the member from the position will be considered at a general meeting;
  - b. the wording of the motion; and
  - c. the date, time and place of that meeting
  - d. at least 21 days before the meeting;
- 7.2.4.2 the person is allowed to address the meeting;
- 7.2.4.3 not less than two-thirds of the members who are present at the meeting and are eligible to vote on the motion vote in favour of removing the member from the office; and
- 7.2.4.4 if the position is a field officer position, the district manager revokes the member's appointment as a field officer.
- 7.2.4.5 Only members who are entitled to vote in the election for field officers may vote on a motion to remove a field officer from office
- 7.2.4.6 In the event of a casual vacancy, the Brigade must decide as soon as possible whether:
- a. an election is to be held to fill the casual vacancy; or
  - b. the position should be left vacant until the next annual general meeting.
- 7.2.4.7 If the Brigade decides that the position should be left vacant until the next annual general meeting and:
- a. the casual vacancy is for a field officer, each of the remaining field officers will 'step up' to fill the vacant position; or
  - b. if the casual vacancy is for an administrative officer, the Brigade must decide who will carry out the duties of that position until it is filled.
- 7.2.4.8 If the captain's position becomes vacant and the Brigade is unwilling or unable to elect another person to that position, the district manager may appoint a suitably qualified member of the RFS to that position until the next annual general meeting or for a shorter period.
- 7.2.5 If the Brigade decides to hold an election to fill a casual vacancy:
- a. the election must take place at a general meeting of the Brigade; and
  - b. the president or secretary must notify members at least 21 days prior to a general meeting, of the date, time and place and that the election will be held at that meeting.

## **8 EXECUTIVE COMMITTEE**

### **8.1 Membership of Executive Committee**

8.1.1 The Executive Committee shall consist of the:

- President;
- Vice-president;
- Secretary;
- Treasurer; and
- Captain; and
- others as determined by the Executive Committee and elected by the annual general meeting from time to time.

8.1.2 The executive committee may co-opt additional members from time to time provided that such additional members:

- a. may not vote; and
- b. must not be counted in determining if a quorum is present.

### **8.2 Duties of the Executive Committee**

8.2.1 The executive committee shall manage the affairs of the Brigade between general meetings.

8.2.2 The executive committee is subject to the control of the Brigade in a general meeting.

### **8.3 Executive Committee Meetings**

- 8.3.1 The executive committee must meet as often as needed and may regulate its meetings as it considers fit.
- 8.3.2 The quorum for a meeting of the executive committee shall be 30% of its members. At each meeting the president or vice-president and the captain or senior deputy captain must be present.
- 8.3.3 Decisions of the executive committee may be conducted by email or teleconference if a quorum of members participate in the discussion and any decisions agreed by a majority are minuted in the proceedings of the next face to face meeting.
- 8.4 **Duties of Office Bearers**
- 8.4.1 The President shall:
  - a. Preside at all meetings of the Brigade and the executive committee and
  - b. Be an ex-officio member of all sub-committees that may be appointed.
- 8.4.2 The Vice-president shall:
  - a. Assist the President in the discharge of his or her duties and
  - b. Preside at all meetings of the Brigade and executive committee in the absence of the President
- 8.4.3 The Secretary shall:
  - a. Attend whenever possible and take minutes of the proceedings of all meetings of the Brigade and the executive committee and keep those minutes of meetings in a book which is open for inspection by all members at any reasonable time.
  - b. Prepare and circulate notices of meetings of the Brigade
  - c. Receive all correspondence directed to the Brigade and prepare and sign all outward correspondence as the secretary may be directed by the Brigade or executive committee from time to time
  - d. Keep and maintain a register of the members of the Brigade in accordance with the requirements of the Service Standards and
  - e. Perform other duties as the executive committee may prescribe from time to time
- 8.4.4 The Treasurer shall:
  - a. Collect and receive all moneys on behalf of the Brigade and deposit all such moneys in an account in the name of the Brigade at a financial institution approved by the executive committee
  - b. Make payment of all accounts when authorised to do so by the executive committee
  - c. Maintain to the satisfaction of the executive committee a proper system of accounts for all moneys received and disbursed on behalf of the Brigade and of all property, assets and liabilities of the Brigade
  - d. Keep all vouchers for all moneys expended by the Brigade and all records and vouchers in respect of moneys received by the Brigade
  - e. Prepare periodical financial statements for presentation to the Brigade from time to time
  - f. Arrange for an audit of the financial records of the Brigade to be conducted by the auditor appointed by the Brigade at least once in every year
  - g. Perform such other duties as the executive committee may prescribe from time to time

## **9 FINANCE**

### **9.1 Not for profit**

The assets and income of the Brigade may only be used to carry out its objectives and no part may be distributed directly or indirectly to the members except as bona fide compensation for:

- a. expenses incurred on behalf of the Brigade; or
- b. services rendered to the Brigade.

### **9.2 Brigade's Annual Subscription**

- 9.2.1 The annual subscription is such sum as may from time to time be determined by resolution of the Annual General Meeting.
- 9.2.2 Any annual subscription is due on the day following the annual general meeting.
- 9.2.3 A Member who has failed to pay any annual subscription that has been determined in accordance with the provisions of clause 9.2.2 shall not be entitled to vote at any meeting or be eligible to be elected to any office.

### 9.3 **Management of Brigade Funds**

- 9.3.1 All moneys received by the Brigade:
  - a. as donations; or
  - b. through any fund raising activitiesmust be used solely for the purpose of promoting the objectives of the Brigade.
- 9.3.2 All money received by the Brigade must be deposited as soon as practicable into the relevant Brigade account, subject to clause 15.
- 9.3.3 All cheques issued by the Brigade must be signed by at least two of the following office bearers: the treasurer, the president, the vice-president or the secretary
- 9.3.4 Any fundraising activities undertaken by the Brigade must be conducted in accordance with any guidelines for fundraising by charitable organisations published from time to time by the New South Wales Department of Gaming and Racing.

Refer to Service Standard 1.1.16 Fundraising Activities.

### 9.4 **Brigades Financial Year**

- 9.4.1 The Brigade's financial year will be from 1 April to 31 March or shall end on the day determined by the district manager

### 9.5 **Brigade's Auditor**

- 9.5.1 The Brigade must appoint an auditor at the annual general meeting.
- 9.5.2 The auditor must not be a member.
- 9.5.3 The auditor must conduct an audit of the Brigade's financial records at the end of each financial year and send a written report to the treasurer to be provided to the members at the annual general meeting.
- 9.5.4 A copy of the treasurer's statement and the auditors' report presented to the annual general meeting must be sent to the district manager within seven days of the annual general meeting.

## 10 **NOTICES**

- 10.1 Any notice, agenda or other document which must be sent to a member, by the secretary or the district manager may be sent by e-mail, facsimile, post or may be delivered by hand.

## 11 **INTERPRETATION AND AMENDMENT OF THIS CONSTITUTION**

### 11.1 **Interpretation of Constitution**

- 11.1.1 Issues relating to the interpretation of this Constitution which arise at a meeting of the Brigade must be decided in the first instance by a ruling of the chairperson of the meeting.
- 11.1.2 If a motion of a dissent is carried to the ruling of the chairperson, the matter must be adjourned and the question referred to the district manager for determination.

### 11.2 **Review and amendment of Constitution**

- a. The members of the Brigade must review this Constitution annually to determine whether it should be amended.
- b. In determining whether the Constitution should be amended, consideration must be given to any relevant Service Standard.
- c. Any proposal to amend this Constitution must be consistent with the provisions of the Act, the Regulations and the Service Standards.
- d. A motion for the amendment of this Constitution must not be considered unless each member of the Brigade is given at least twenty one days' notice in writing



that the amendment will be considered at the annual general meeting or a general meeting.

- e. A motion amending this Constitution must be carried by no less than two-thirds of the members present and voting.
- f. No amendment to this Constitution will take effect unless it is approved by the district manager

## 12 BRIGADE RULES

12.1 The Brigade shall have the power to make rules consistent with

- a. this Constitution
- b. the Service Standards and
- c. any district standing operating procedure

12.2 Rules made in accordance with this provision do not form part of the Constitution.

## 13 DISBANDMENT OF BRIGADE

13.1 If:

- a. the Brigade is disbanded and/or the Public fund is wound up. Or
- b. the Public Fund has been endorsed as a deductible gift recipient for the operation of the fund and the Public Fund ceases to be so endorsed;

any property remaining after the payment of all expenses and liabilities and/or any surplus assets of the Public Fund must be transferred to one or more rural fire brigades or funds, authorities or institutions with similar aims and purposes to those of the Brigade, that are deductible gift recipients

## 14 DISCIPLINARY ACTION

14.1 Disciplinary action may be taken against an officer or member of the Brigade by a district disciplinary panel established in accordance with the provisions of the relevant Service Standard: Service Standard 1.1.2 Discipline or another appropriate disciplinary authority.

## 15 PUBLIC FUND

15.1 The Brigade shall establish a fund called the 'Mt Wilson/Mt Irvine RFB Fire and Emergency Public Fund' (**'Public Fund'**) which is to be governed by the rules set out in this clause 15.

15.2 The object of the Public Fund is to solicit and receive gifts from the public solely for the purpose of supporting the volunteer-based fire and emergency service activities of the Brigade:

15.3 The Brigade must maintain the Public Fund as a 'gift fund' for the sole purpose of supporting the volunteer-based fire and emergency service activities of the Brigade and to receive and record all of the following:

- a. gifts of money or property for that purpose;
- b. deductible contributions described in item 7 and 8 of the table in section 30-15 of the Income Tax Assessment Act 1997 in relation to a fund-raising event held for that purpose; and
- c. money received because of such gifts or contributions.

The Public Fund shall not receive any other money or property

15.4 The Brigade must establish and maintain a separate bank account into which all gifts, or deductible contributions, of money or sale of gifted property for the sole purpose of supporting the volunteer-based fire and emergency service activities of the Brigade must be paid. This bank account shall not receive any other money or property.

15.5 The Brigade shall invite the public to make gifts of money or property to the Public Fund for the volunteer-based fire and emergency service activities of the Brigade

15.6 All receipts for gifts must do all of the following:

- a. be issued in the name of the 'Mt Wilson/Mt Irvine RFB Volunteer Fire and Emergency Public Fund'
  - b. state that the receipt is for a gift
  - c. state the Australian Business Number of the Brigade
- 15.7 A committee of management of no fewer than three persons will be appointed by the Brigade to administer the Public Fund. A majority of the members of the committee of management are required to be persons having a degree of responsibility to the general community by reason of their occupation or standing in the community
- 15.8 The Public Fund shall operate on a non-profit basis. No portion of the assets or income of the Public Fund will be distributed directly or indirectly to members of the Brigade or the Public Fund's management committee apart from bona fide compensation for services rendered or expenses incurred on behalf of the Public Fund.
- 15.9 The Brigade must only use the Public Fund for the sole purpose of supporting the volunteer-based fire and emergency service activities of the Brigade. The Public Fund must be used only in accordance with this Constitution and any relevant Service Standard
- 15.10 The Brigade must notify the Australian Taxation Office, in writing, if it is no longer entitled to be endorsed for the operation of the Public Fund, or if any changes that would affect its entitlement to endorsement.