



# The New Brigade Constitution For NSW Rural Fire Brigades

## 1 NAME

1.1 The name of the Brigade is **The Oaks V.R.F.B.**

1.2 The Brigade is referred to in this New Brigade Constitution as "**the Brigade**".

## 2 DEFINITIONS

2.1 In this New Brigade Constitution, the following words and expressions have the meanings set out below:

- "**Act**" means the *Rural Fires Act 1997 (NSW)*;
- "**appropriate disciplinary authority**" means the appropriate disciplinary authority defined by Regulation 3 of the Regulations;
- "**bank**" means all financial institutions, including banks, credit unions, etc;
- "**brigade account**" means all brigade bank accounts, which also includes any other bank account established for the support of volunteer brigades;
- "**brigade register**" means the register of members of the Brigade kept in accordance with section 20(1) of the Act;
- "**brigade rule**" means a brigade rule made under clause 12 of this Constitution;
- "**Constitution**" means The New Brigade Constitution;
- "**deductible gift recipient**" means a fund, authority or institution to which gifts are income tax deductible under applicable Commonwealth income tax law, including Division 30 of the *Income Tax Assessment Act 1997*;
- "**donation**" means any thing or monies voluntarily given to the Brigade without compensation;
- "**gift**" means any thing or monies voluntarily given to the Brigade without compensation;

- **“gift fund”** means the fund established and maintained pursuant to clause 9.6.2;
- **"district manager"** means the manager of the rural fire district, zone or team in which the Brigade is located;
- **"member"** means a member of the Brigade;
- **“principal purpose”** means the aims of the Brigade referred to in clause 4;
- **"Regulations"** means the regulations made under the Act;
- **“the RFS”** means the NSW Rural Fire Service;
- **"Service Standards"** means the Service Standards issued by the Commissioner pursuant to section 13 of the Act;
- **“Subscription”** means a membership fee paid to the Brigade for a specified period of time.

### **3 COMMENCEMENT**

- 3.1** This Brigade Constitution was adopted by the Brigade on **12/11/2009**

### **4 AIMS**

- 4.1** The aims of the Brigade are to:

- (a) Assist the RFS and its members in carrying out the functions conferred on them by the *Rural Fires Act, 1997*; and
- (b) To do anything necessary for or incidental to that aim.

### **5 MEMBERSHIP**

- 5.1** The persons who are listed on the brigade register are the members of the Brigade.

**5.2** **Joining the Brigade?**

A person who wants to join the Brigade must follow the procedure set out in *Service Standard 2.1.6 Service Membership*.

## 5.3 Member Classification

5.3.1 Members are classified as:

- (a) probationary members; or
- (b) ordinary members
- (c) honorary
- (d) life
- (e) junior members – as set by Service Standards
- (f) **Associate members (see Brigade Rules)**

5.3.2 A probationary member is a person:

- (a) Whose application for probationary membership has been accepted at a meeting of the executive committee; and
- (b) Who has not yet been accepted as an ordinary member by the Brigade?

5.3.3 A probationary member who has achieved the minimum level of competency set by the Service Standards or the district manager may take part in all brigade activities, including attending incidents.

5.3.4 A probationary member who has achieved the minimum level of competency set by the Service Standards or the district manager may be elected as a field officer.

5.3.5 A probationary member may be elected as an administrative officer.

5.3.6 An ordinary member is a person who has:

- (a) satisfactorily completed a probationary period of at least six months; and
- (b) either:
  - (i) achieved the minimum level of competency set by the Service Standards or the district manager; or
  - (ii) been accepted by the Brigade as a member who will undertake a support role; and
- (c) Been accepted as an ordinary member at a general meeting of the Brigade.

5.3.7 The Brigade may delegate the power to accept a person as a probationary or ordinary member to the captain.

## 5.4 Termination of Membership

A member ceases to be a member if their name is taken off the brigade register for one of the reasons set out in [Service Standard 1.1.21](#)

## 5.5 Dual Membership

**5.5.1** A member may not be a member of another rural fire brigade in the same rural fire district or zone as the Brigade unless they have written permission from the district manager.

**5.5.2** A member may be a member of another brigade in another rural fire district or zone.

**5.5.3** A member may not hold office as a field officer in more than one brigade unless they have written permission from the district manager or district managers.

# 6 MEETINGS OF MEMBERS

## 6.1 Brigade's Annual General Meeting

**6.1.1** The annual general meeting of the Brigade must be held by the date set jointly by the captain and the district manager.

**6.1.2** The secretary must advise each member of the date, time, place and agenda of the annual general meeting at least 21 days before the meeting.

**6.1.3** Notifications can be made by email, letter, sms (as per details provided by the member to the Secretary &/or the RFS) or Brigade Website.

**6.1.4** Provided notice has been given of the annual 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.

**6.1.5** The quorum for the annual general meeting is **30%** of the ordinary members calculated at the time of the meeting.

In calculating the quorum, only ordinary members who are present at the meeting can be counted.

**6.1.6** At the annual general meeting the members must:

**(a)** be given a report of the Brigade's activities during the previous 12 months by the captain;

**(b)** be given a statement of the Brigade's accounts by the treasurer and the auditor's report for the year;

- (c) elect the field officers for the ensuing term, in accordance with clause 7.1.1;
- (d) elect the administrative officers for the coming year;
- (e) appoint an auditor for the coming year;
- (f) decide whether to set an annual subscription in accordance with clause 9.2;
- (g) Deal with any other business which was included in the annual general meeting notice given to the members.

## **6.2 General Meetings of the Brigade**

- 6.2.1** The captain may call a general meeting of the Brigade at any time.
- 6.2.2** The secretary must call a general meeting of the Brigade within 21 days after being asked to do so by at least five members.
- 6.2.3** Subject to the provisions of clause 6.2.3 (b) the secretary must send each member written notice of the date, time, place and agenda of the general meeting at least 14 days before the meeting by email, letter, sms (as per details provided by the member to the secretary &/or the RFS) or the Brigade Website
- 6.2.3(b)** The schedule of AGM/general /executive meetings dates will be set down in the Brigade Annual Calender and supplied to each member
- 6.2.4** 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.
- 6.2.5** The quorum for a general meeting is **10%** of the ordinary members calculated at the time of the meeting.

In calculating the quorum, only ordinary members who are present at the meeting can be counted.

## **6.3 Chairing a Meeting of the Brigade**

- 6.3.1** Normally, the president chairs all meetings of the Brigade.
- 6.3.2** If the president is not at the meeting or if he or she does not want to chair the meeting, the members who are at the meeting must elect a person who is at the meeting to chair the meeting.
- 6.3.3** The person who is chairing a meeting may:
  - (a) vote on any motion; and
  - (b) if the vote is tied, vote a second time to break a deadlock,

Provided that, if the person who is chairing the meeting is not a member, they may only vote to break a deadlock and not on the motion.

This provision does not apply if there is a tied vote in an election.

#### **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:

- the type of meeting;
- the time date and location of the meeting;
- the members present, apologies and guests;
- approval of all tabled correspondence, documents and reports; and
- 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 Members Voting**

**6.5.1** Probationary and junior members can not vote at any meeting or in any election.

**6.5.2** Only members who are ordinary members who meet all the following criteria:

- (a)** regularly participate in the Brigades' activities (refer to TOVRFB Brigade Rules);
- (b)** are available to attend fire calls (refer to TOVRFB Brigade Rules); and
- (c)** if the Brigade has set an annual subscription, have paid that subscription

May vote in an election of field officers.

**6.5.3** If there is a dispute as to whether a member is entitled to vote in the election of field officers, that dispute must be decided by the district manager before the election.

#### **6.6 Member Leave of Absence**

If a member requires a leave of absence for a period of greater than twelve

months, that member is required to put that request in writing to the attention of the Captain. Whilst that member is deemed to be on leave that member is ineligible to vote.

## **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 when it is required:

- (a)** captain;
- (b)** senior deputy captain; and
- (c)** as many deputy captains as the Brigade decides at the annual general meeting.
- (d)** Brigade field officers will hold office for one (1) year and are eligible for re-election at the end of their term of office.

**7.1.2** The seniority of the deputy captains will be determined by the Captain and Sen. Dep. Capt.

**7.1.3** At the annual general meeting the members must elect the following administrative officers:

- (a) President
- (b) Vice-President
- (c) Secretary
- (d) Treasurer

**7.1.4** A member may be elected as both a field and administrative officer.

**7.1.5** A member may be elected as both secretary and treasurer.

**7.1.6** A member is not eligible for nomination as a field officer unless they have achieved the minimum level of competency set by the Service Standards or the district manager.

**7.1.7** (a) Nominations for the election of field and administrative officers must be:

- (i)** in writing;
- (ii)** signed by at least two members; and
- (iii)** 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.

**(iv)** By secret ballot

(b) If no written nominations for a position have been received in

accordance with clause 7.1.7, 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 is accepted by the nominee.

- 7.1.8** Voting in an election will be counted by the first past the post voting system
- 7.1.9** A member who is unable to attend the annual general meeting may appoint another member to vote on his or her behalf by advising the secretary or returning officer of the name of that other member in writing before the meeting starts.
- 7.1.10** A member may not vote on behalf of more than two (2) other members.
- 7.1.11** If two or more candidates receive the same number of votes in an election there must be a second ballot. If two or more candidates receive the same number of votes in the second ballot the election must be decided by placing the names of those candidates who received the same number of votes in a hat and drawing the name of the person to be elected.
- 7.1.12** 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.
- 7.1.13** 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.
- Administrative officers take office at the conclusion of the meeting at which they have been elected.
- 7.1.14** 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 Vacant Positions**

- 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](#).*

(d) the person is stood down in accordance with the Service Standards;

*Refer to Service Standard 2.1.6 Service Membership.*

(e) in the case of a field officer, the regional manager :

A. (i) demote the person;

(ii) disqualifies the person from holding rank in the Brigade; or

(iii) Revokes or suspends the person's appointment as an officer;

following a recommendation from the appropriate disciplinary authority; or

B. the district manager revokes or suspends the person's appointment as an officer in accordance with the Service Standards.

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

C. The person is removed from the position in accordance with clause 7.2.2 of this Constitution.

**7.2.2** A field or administrative officer may be removed from his or her position if:

(a) each member is sent a notice stating:

(i) that a motion to remove the member from the position will be considered at a general meeting;

(ii) the wording of the motion; and

(iii) the date, time and place of that meeting

at least 21 days before the meeting;

(b) the person is allowed to address the meeting;

(c) 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

(d) if the position is a field officer position, the district manager revokes the member's appointment as a field officer.

**7.2.3** Only members who are entitled to vote in an election for field officers may vote on a motion to remove a field officer from office.

- 7.2.4** 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.
- 7.2.5** 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.
- 7.2.6** 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.
- 7.2.7** 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 Members of the Executive Committee**

The members of the executive committee are the:

- (a) President;
- (b) Captain
- (c) Sen. Dep. Capt.
- (d) Secretary
- (e) Treasurer
- (f) Two ordinary members
- (g) Vice-President

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

- 8.2.1** The executive committee manages the Brigade other than in relation to operational activities.

**8.2.2** The executive committee must manage the Brigade in accordance with any directions of general meetings of the Brigade.

### **8.3 Executive Committee Meetings**

**8.3.1** The executive committee must meet as often as needed.

**8.3.2** The quorum for an executive committee meeting is **51%** of its members calculated at the time of the meeting.

In calculating the quorum, only members of the executive who are present at the meeting can be counted.

## **9 FINANCE**

### **9.1 Not for profit**

The assets and income of the Brigade may only be used to carry out its aims 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 Brigade must decide at each annual general meeting if it will collect an annual subscription and, the amount of that annual subscription.

**9.2.2** Any annual subscription is due on the day following the annual general meeting.

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

**9.3.1** All money received by the Brigade must be deposited into the Brigade's account.

**9.3.2** All cheques issued by the Brigade must be signed by at least two office bearers, those being the Captain, Treasurer, and Secretary.

**9.3.3** All Brigade fund raising activities must comply with any guidelines for fundraising by charitable organisations issued by the New South Wales Department of Gaming and Racing and any relevant Service Standard.

*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.

## **9.5 Brigade's Auditor**

**9.5.1** The Brigade must appoint an auditor at the annual general meeting.

**9.5.2** The auditor may be a member of the Brigade other than the treasurer.

**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.

## **9.6 Donations**

**9.6.1** The provisions of this clause apply only if the Brigade wishes to accept tax deductible donations.

**9.6.2** The Brigade must establish and maintain a separate bank account (the "**gift fund**") into which all gifts, or deductible contributions, of money or sale of gifted property for the principal purpose of the Brigade must be paid.

**9.6.3** All money received by the Brigade as gifts or deductible contributions for the principal purpose of the Brigade, are to be deposited into the gift fund. This includes, but is not limited to:

- (a)** all gifts, donations and contributions received;
- (b)** investment returns from money or property that continues to be part of the gift fund;
- (c)** sale of gifted property; and
- (d)** all amounts that may be credited to the gift fund in accordance with applicable income tax law and the rulings, guidelines, practices and procedures of the Commissioner of Taxation.

**9.6.4** Amounts that are not allowed by income tax law to be credited to the gift fund must not be credited to the gift fund.

**9.6.5** The Brigade must only use the gift fund to carry out the principal purpose of the Brigade. The gift fund must be used only in accordance with this Constitution and any relevant Service Standard.

**9.6.6** The Brigade must notify the Australian Taxation Office in writing of any changes to the rules of the gift fund.

**9.6.7** The Brigade must issue receipts for any gifts it receives.

**9.6.8** The receipt issued by the Brigade must state:

- (a) the Brigade's name;
- (b) the Australian Business Number ("**ABN**") of the RFS or of the Brigade if it has been issued with an ABN; and
- (c) the fact that the receipt is for a gift.

## **10 NOTICES**

**10.1** Any notice, agenda or other document which must be sent to a member, 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**

- (a) 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.
- (b) 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 Brigade must review this Constitution annually to determine whether it should be amended.
- (b) In determining whether the Constitution should be amended the members must take into account 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 is given at least 21 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 who are present at the meeting and who vote on the motion.
- (f) No amendment to this Constitution will take effect until it is approved by the district manager.

## **12 BRIGADE RULES**

**12.1** The Brigade may make brigade rules provided that they are consistent with:

- (a) this Constitution;
- (b) the Service Standards; and
- (c) any district standard operating procedure.

**12.2** The brigade rules do not form part of this Constitution.

**12.3** A copy of any motion to make or amend a brigade rule must be sent to each member at least 21 days before the meeting at which the motion will be considered.

**12.4** A motion to make or amend a brigade rule must be passed by at least two thirds of the members who are present at the meeting and who vote on the motion.

A copy of the any new or amended brigade rule must be sent to the district manager within 21 days of the motion being passed.

**12.5** The district manager may disallow a brigade rule if it is inconsistent with:

- (a) this Constitution;
- (b) the Service Standards; or
- (c) any district Standard Operating Procedure

provided that any decision to disallow the rule is made within 21 days of it being received by the district manager.

## **13 DISBANDMENT**

**13.1** If:

- (a) the Brigade is disbanded and/or the gift fund is wound up; or
- (b) the Brigade has been endorsed for taxation purposes, the Brigade ceases to be endorsed as a deductible gift recipient;

Any property remaining after the payment of all expenses and liabilities and/or any surplus assets of the gift 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.

**13.2** In deciding which rural fire brigade or brigades or funds, authorities or institutions with similar aims and purposes that are deductible gift recipients to which the remaining property should be transferred the Brigade must take into account the requirements of the Service Standards.

**13.3** If at the time of disbandment, no rural fire brigade is endorsed by the Commissioner of Taxation as a deductible gift recipient, any property remaining must be transferred to another fund, authority or institution that is endorsed as a deductible gift recipient.

**13.4** No payment or transfer may be made by the Brigade in the circumstances mentioned in clause 13.1 or 13.3 otherwise than in accordance with this clause.

#### **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 Service Standard 1.1.2 Discipline or another appropriate disciplinary authority.