



# Service Standard 1.3.2A

## Powers of Officers

### (Jervis Bay Territory)

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**Date of Issue** 19 March 2013

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## 1. Purpose

- 1.1** The Commonwealth Government's Rural Fires Ordinance 2001 and Rural Fires Ordinance 2004 (No 1) apply the *Rural Fires Act 1997* and Rural Fires Regulation 2008 to the Jervis Bay Territory, and provides for the NSW RFS to supply fire management services in the Jervis Bay Territory.
- 1.2** Section 22 of the *Rural Fires Act 1997* (the Act) provides that an officer of a rural fire brigade or group of rural fire brigades of a rank designated by the Commissioner may, for the purpose of:
- (a)** controlling or suppressing a fire; or
  - (b)** protecting persons, property or the environment from an existing or imminent danger arising out of:
    - i. a fire;
    - ii. an incident; or
    - iii. other emergency,
- exercise any function conferred on the officer by or under the Act; or take any other action that is reasonably necessary or incidental to the effective exercise of such a function.
- 1.3** The Commissioner has determined that an officer of a rural fire brigade or group of rural fire brigades of the rank of Deputy Captain or above may exercise any function conferred on the officer or take any action authorised by or under the Act.
- 1.4** Sections 23 to 32 of the Act list some of the ways in which the functions referred to in section 22 may be exercised. These provisions do not limit the generality of section 22.
- 1.5** Subsection 22(2) of the Act provides that an officer may exercise a function or take any action authorised by subsection 22(1) with such other persons as the officer considers necessary for the purpose.

## 2. Policy

### **Powers of officers of a rural fire brigade and groups of rural fire brigades**

**2.1** An officer of or above the rank of Deputy Captain ("Officer") may, for the purpose of:

- (a)** controlling or suppressing a fire; or
- (b)** protecting persons, property or the environment from an existing or imminent danger arising out of:
  - i. a fire;
  - ii. an incident; or
  - iii. other emergency,

exercise any function conferred on the Officer by or under the Act; or take any other action that is reasonably necessary or incidental to the effective exercise of such a function.

**2.2** The following provisions are examples of the way in which the functions referred to in clause 2.1 of this Service Standard may be exercised. These examples are not exclusive nor are they intended to limit the generality of the powers conferred upon an Officer by the Act.

An Officer may:

- (a)** enter any premises for the purpose of exercising any function conferred or imposed on the Officer by or under the Act;
- (b)** cause to be closed any street or public place in the vicinity of a fire, incident or other emergency to traffic;
- (c)** if persons are, or property is, endangered or likely to be endangered by a fire, incident or other emergency:
  - i. pull down, cut and remove or cause to be pulled down, cut and removed, fences on any land;
  - ii. destroy, pull down or remove or cause to be destroyed, pulled down or removed any buildings or structures on any land;
  - iii. destroy or remove or cause to be destroyed or removed any living or dead vegetation on any land; and
  - iv. establish firebreaks on any land or cause firebreaks to be established on any land;
- (d)** for the purpose of controlling or suppressing a fire:
  - i. take and use, without any payment any water from any source on any land; or
  - ii. use, without any payment all or any water mains, water plugs, valves, pipes and works of water supply vested in or under the

management or control of any water supply authority, public authority or body;

- (e) light a fire for the purpose of back burning;
- (f) shut off or disconnect any supply of gas or electricity;
- (g) move or cause to be moved any vehicle, vessel or other object; or
- (h) remove or cause to be removed a person from any land or building or restrain a person from entering or re entering any land or building.

**2.3** Before taking any action in relation to land or property vested in, or under the control of the Rail Corporation of New South Wales, Transport Infrastructure Development Corporation or the Rail Infrastructure Corporation without the permission of the Authority or Corporation or from a person authorised by the Authority or Corporation to give such permission.

**2.4** Before taking action of the sort listed in clause 2.2 of this Service Standard an Officer must, if practicable:

- (a) ensure that the action is taken in a way that minimises damage to property;
- (b) consult with the owners or occupiers of the property before taking action; and
- (c) take into consideration environmental, heritage, cultural and historical conservation concerns.

**2.5** If practicable, action involving:

- (a) the closure of any street or public place or the imposition of access or traffic control; or
- (b) the removal or restraint of a person

should be taken by a member of the Australian Federal Police.

**2.6** If an Officer is of the opinion that a building or structure of any kind may have to be removed or destroyed the Officer should, if practicable:

- (a) isolate or cordon off the building or structure concerned;
- (b) obtain technical advice from an engineer or local authority as to whether or not the building or structure can be made temporarily safe or, if it must be removed or destroyed, the preferred method of removing or destroying the building;
- (c) remove or destroy only that part of the building or structure that is, in the Officer's opinion, necessary to render the area safe; and

- (d) utilise personnel with specialist engineering or demolition skills.
- 2.7** If practicable the owner of any vehicle, vessel or other object should be given the opportunity to move the vehicle, vessel or other object.
- 2.8** If an Officer is of the opinion it is necessary to disconnect the supply of any water, electricity, gas or other service the Officer must first:
- (a) determine whether the service can be safely disconnected without further endangering life and property and
  - (b) if practicable:
    - i. consult the authority responsible for the supply of the service or product in relation to the matter;
    - ii. utilise competent personnel to undertake the disconnection;
    - iii. advise those persons effected by the disconnection; and
    - iv. where possible minimise the extent to which services are disconnected.

### **Entry of Premises**

- 2.9** An Officer may enter any premises for the purpose of exercising any function conferred or imposed on the Officer under the Act if reasonable notice is given to the owner or occupier of an intention to enter.
- 2.10** An Officer may enter any premises for the purpose of exercising any function conferred or imposed on the Officer under the Act without notice:
- (a) with the consent of the owner or occupier;
  - (b) if the part of the premises on which entry is made is open to the public; or
  - (c) if entry is required urgently and the case is one in which the Commissioner has authorised in writing (either generally or in a particular case) entry without notice.
- 2.11** The Commissioner has authorised Officers to enter any premises without notice where it is necessary for the purpose of:
- (a) controlling or suppressing a fire;
  - (b) protecting persons, property or the environment from an existing or imminent danger arising out of:
    - i. a fire;
    - ii. an incident; or
    - iii. other emergency;
  - (c) determining if there is a fire on or near the premises; or

(d) investigating the cause and origin of a fire.

**2.12** Specific authorisation to enter any premises may be given by the Commissioner or the Commissioner's delegate if the circumstances fall outside the guidelines set out in clause 2.11 of this Standard but the situation otherwise requires urgent entry.

**2.13** The Commissioner has authorised Officers to use reasonable force for the purpose of gaining entry to premises in circumstances where, in the opinion of the Officer, one or more of the following circumstances exist:

- (a) it is necessary for the purpose of controlling or suppressing a fire;
- (b) it is necessary for the purpose of protecting persons, property or the environment from existing or imminent danger arising out of:
  - i. a fire;
  - ii. an incident; or
  - iii. other emergency;
- (c) it is necessary for the purpose of determining if there is a fire on or near the premises; or
- (d) it is necessary for the purpose of investigating the cause and origin of a fire,

and the Officer is of the opinion that it is necessary to use force to gain entry to the premises.

**2.14** Specific authorisation may be given by the Commissioner to use force to enter any premises if the circumstances fall outside the guidelines set out in clause 2.13 but the situation otherwise requires the use of force.

**2.15** If the owner or occupier of any premises:

- (a) actively prevents access; and
- (b) a member of the Australian Federal Police is not present;

force should only be used if the Officer is of the opinion that delay may place a person's safety at risk.

**2.16** If an Officer or other person authorised to enter premises uses force to do so that person must, as soon as practicable, inform the Commissioner by way of the chain of command. In normal circumstances this obligation will be discharged by reporting the incident to the relevant Fire Control Officer or Fire Control Centre.

**2.17** When entering premises or taking action on premises an Officer must be in possession of an authority which satisfies the requirements of section 32 of the Act.

*Note:* Premises is defined in the Act to include both buildings and land but does not include "managed land".

**2.18** An officer may direct a member of the Service to:

- (a)** exercise any function conferred upon an officer of a rural fire brigade or group of rural fire brigades by or under the Act, or
- (b)** take any action that is reasonably necessary or incidental to the effective exercise of such a function.

for the purpose of protecting persons, property or the environment from an existing or imminent danger arising out of a fire, incident or other emergency notwithstanding the fact that the officer is not physically present at the place where the function is to be exercised.

The officer may give the direction by radio, telephone or any other form of communication.

**2.19** Where such a direction is given by an officer, he or she must endeavor to ensure an officer attends the scene where the function is to be exercised as soon as is practicable after the direction has been given.

### **3. Who is responsible for implementing this Standard?**

- Director Regional and Infrastructure Services

### **4. Links**

- *Rural Fires Act 1997*
- *Rural Fires Ordinance (Cth) 2001*
- *Rural Fires Ordinance (Cth) 2004 (No 1)*
- *Service Level Agreement for Management of the Rural Fire Service for the Jervis Bay Territory*
- SS 1.3.2A Powers of Officers (Jervis Bay Territory)
- SS 1.1.7 Code of Conduct and Ethics
- SS 1.3.1 Delegations and Authorisations
- OP 1.2.3 Working in the Rail Corridor
- SS 1.3.2 Powers of Officers
- SS 1.2.1 NSW RFS Ranking and Rank Insignia

### **5. Amendments**

- Updated to reflect introduction of Officer levels as a result of the 2012 Rank Review

19 March 2013



**NSW  
Rural Fire Service**

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**AUTHORITY TO ENTER PREMISES WITHOUT NOTICE  
PURSUANT TO THE PROVISIONS OF SECTION 29  
OF THE RURAL FIRES ACT 1997**

Pursuant to section 29 of the *Rural Fires Act 1997* I, Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby authorise any officer of the rank of Deputy Captain or above to enter any premises without notice for the purpose of:

1. Controlling or suppressing a fire;
2. Protecting persons, property or the environment from an existing or imminent danger arising out of:
  - (a) a fire;
  - (b) an incident; or
  - (c) other emergency;
3. Determining if there is a fire on or near the premises; or
4. Investigating the cause and origin of a fire.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this       <sup>th</sup> day of March 2013



## NSW Rural Fire Service

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### **AUTHORITY TO USE FORCE TO ENTER PREMISES PURSUANT TO THE PROVISIONS OF SECTION 31 OF THE RURAL FIRES ACT 1997**

In accordance with section 31 of the *Rural Fires Act 1997*, I, Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby authorise any officer of the rank of Deputy Captain or above to use reasonable force for the purpose of gaining entry to premises where, in the opinion of the officer, one or more of the following circumstances exist:

1. It is necessary for the purpose of controlling or suppressing a fire;
2. It is necessary for the purpose of protecting persons, property or the environment from an existing or imminent danger arising out of:
  - (a) a fire;
  - (b) an incident; or
  - (c) other emergency;
3. It is necessary for the purpose of determining if there is a fire on or near the premises; or
4. It is necessary for the purpose of investigating the cause and origin of a fire
5. and the officer is of the opinion that is necessary to use force to gain entry to the premises.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this       <sup>th</sup> day of March 2013





## NSW Rural Fire Service

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### DETERMINATION PURSUANT TO SECTION 22 OF THE RURAL FIRES ACT 1997

In accordance with section 22 of the *Rural Fires Act 1997*, I Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby determine that for the purpose of controlling or suppressing a fire or protecting persons or property from an existing or imminent danger arising out of a fire, incident or other emergency, an officer of a rural fire brigade or group of rural fire brigades of the rank of Deputy Captain or above, may:

1. exercise any function conferred on the officer by or under the *Rural Fires Act 1997*, or
2. take any other action that is reasonably necessary or incidental to the effective exercise of such a function.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this      <sup>th</sup> day of March 2013



## NSW Rural Fire Service

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### DETERMINATION PURSUANT TO SECTION 12 OF THE RURAL FIRES ACT 1997 IN RELATION TO RANKING

In accordance with section 12 of the *Rural Fires Act 1997* I, Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby:

1. Determine that the ranks of members of the Territory Rural Fire Service are to be, in descending order of seniority:
  - Superintendent
  - Inspector
  - Group Captain/Officer Level 3
  - Deputy Group Captain/Officer Level 2
  - Officer Level 1
  - Captain
  - Senior Deputy Captain
  - Deputy Captain
  - Firefighter
2. Designate the persons holding the rank of or above that of Deputy Captain to be Officers for the purpose of the Rural Fires Act 1997.
3. Determine that the persons appointed as the Fire Control Officer for the Jervis Bay Territory and as Deputy Fire Control Officers for the Jervis Bay Territory shall bear the rank of Superintendent and Inspector respectively:
4. Determine that the rank insignia to be worn by ranked members of the Territory Rural Fire Service will be identical to the rank insignia worn by members of the NSW Rural Fire Service of the same rank.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this           <sup>th</sup> day of March 2013



## NSW Rural Fire Service

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### **APPOINTMENT OF FIRE CONTROL OFFICER AND DEPUTY FIRE CONTROL OFFICERS FOR THE JERVIS BAY TERRITORY**

Pursuant to section 10 of the *Rural Fires Act 1997*, Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby appoint:

1. The Fire Control Officer for the Jervis Bay Territory; and
2. The Deputy Fire Control Officers for the Jervis Bay Territory

to hold that office for so long as the person that is so appointed holds office as the Fire Control Officer or as a Deputy Control Fire Officer as the case may be for the Shoalhaven Rural Fire District.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this       <sup>th</sup> day of March 2013



## NSW Rural Fire Service

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### **AUTHORITY TO ENTER LAND PURSUANT TO THE PROVISIONS OF SECTION 74D OF THE RURAL FIRES ACT 1997**

Pursuant to section 74D of the *Rural Fires Act 1997*, I, Shane Fitzsimmons AFSM, Commissioner of the NSW Rural Fire Service, hereby authorise:

1. fire control officers;
2. deputy fire control officers; and
3. members of the staff of the Service who are assigned to a rural fire district to work in the community safety function,

to enter during the day time any part of land (other than a dwelling-house) that is the subject of a bushfire hazard complaint where, in the opinion of the person so authorised, it is necessary to inspect the land in order to form an opinion as to whether a bushfire hazard exists on the land.

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Shane Fitzsimmons AFSM  
**Commissioner**

**DATED** this      <sup>th</sup> day of March 2013