

RURAL CITY OF MURRAY BRIDGE BUILDING FIRE SAFETY COMMITTEE
Terms of Reference

Endorsed by Council on 9 November 2020, item 167.2

1. ESTABLISHMENT

- 1.1 Pursuant to Section 157(17) of the *Planning, Development & Infrastructure Act 2016*, the Council has established a body to be known as the Rural City of Murray Bridge Building Fire Safety Committee ("**Building Fire Safety Committee**").
- 1.2 The Building Fire Safety Committee is established for the purposes of acting as the "appropriate authority" (as that term defined in the *Planning, Development & Infrastructure Act 2016* ("**the PDI Act**"), in respect to all building fire safety matters arising under the PDI Act (including those commenced under Section 71 of the *Development Act 1993* and which are treated as having been commenced under the PDI Act by virtue of Section 15 of the *Acts Interpretation Act, 1915*).
- 1.3 The first meeting of the Building Fire Safety Committee shall not be held until on or after the 'designated day' on which the planning reforms come into effect in the Rural City of Murray Bridge.

2. ROLE OF THE COMMITTEE

- 2.1 Local Government plays an important role in protecting the ongoing safety of building occupiers and users through the provisions of the *Development Act 1993*, including the establishment and implementation of a Building Fire Safety Committee.

Section 157 of the PDI Act establishes the power for an appropriate authority to investigate whether building owners are maintaining proper levels of fire safety in their buildings for the protection of all occupiers, whether they be residents and workers who use them regularly, or clients and visitors who only use them occasionally.

An 'authorised officer' under the *Development Act* from Council can inspect existing buildings to check if the fire safety is adequate. In addition, a Building Fire Safety Committee as an 'appropriate authority' under the Act, can take action to require the owner to upgrade the fire safety of the building to an appropriate level.

3. MEMBERSHIP

Appointment of Members

- 3.1 In accordance with Section 157(17)(a) of the PDI Act the membership of the Building Fire Safety Committee shall comprise:
 - (i) A person who holds prescribed qualifications in building surveying appointed by the council or councils; and
 - (ii) An authorized officer under Part 3 Division 5 or section 86 of the *Fire and Emergency Services Act 2005* who, depending on the location of the council area or areas, has been approved by the Chief Officer of the relevant fire authority to participate as a member of the appropriate authority; and

- (iii) A person with expertise in the area of fire safety appointed by the council or councils; and
 - (iv) If so determined by the council or councils – a person selected by the council or councils.
- 3.2 The Building Fire Safety Committee will be constituted by four (4) Members, with proxy / deputy members available where a sitting member is unavailable.
- 3.3 When appointing Building Fire Safety Committee Members, the Council may have regard to the following:
- 3.3.1 the qualifications, knowledge and experience of the candidate and / or nominee with respect to Building Fire Safety matters;
 - 3.3.2 the provisions of Section 157 of the PDI Act; and
 - 3.3.3 such other matters as the Council considers relevant.

Appointment of Deputy / Proxy Members

- 3.4 Pursuant to Section 157(17)(d) of the Act the Council may appoint Deputy / Proxy Members.
- 3.5 Deputy / Proxy Members are to be appointed where they meet the membership requirements outlined in Clause 3.1 of these Terms of Reference.
- 3.6 The Council shall have regard to the same considerations as outlined in Clause 3.3 of these Terms of Reference when appointing Deputy / Proxy Members.
- 3.7 Unless the context otherwise requires, a reference to a Building Fire Safety Committee Member in this document includes a Deputy / Proxy Member.

Presiding Member and Acting Presiding Member

- 3.8 The Building Fire Safety Committee shall appoint a Member to be the Presiding Member of the Building Fire Safety Committee for such term as determined by the Building Fire Safety Committee.
- 3.9 The Presiding Member will preside at any Building Fire Safety Committee meeting at which he or she is present.
- 3.10 In the event that the Presiding Member is not present at a meeting (or part thereof) an Acting Presiding Member will be appointed by those Building Fire Safety Committee Members who are present at the meeting.
- 3.11 Should the situation in clause 3.10 eventuate, a Council representative will call for a nomination from a Member to act as Presiding Member. A mover and seconder will be required to support the nomination and a vote of all members to appoint the Acting Presiding Member will be undertaken. A majority vote is required to give effect to the nomination.

Term of Appointment

- 3.12 Subject to Clause 6, Members will be appointed for a term as determined by the Council.

- 3.13 A Building Fire Safety Committee Member is eligible for reappointment for a further term, or further terms, upon the expiry of his or her current term.
- 3.14 A Building Fire Safety Committee Member whose term of office has expired may nevertheless continue to act as a Member until the vacancy is filled or for a period of six months from the expiry of the Member's term of office, whichever occurs first.

4. VACANCY IN MEMBERSHIP

- 4.1 In the event of a vacancy arising in the office of a Building Fire Safety Committee Member, the Council may appoint a person to be a Building Fire Safety Committee Member for the balance of the original Building Fire Safety Committee Member's term of office as soon as is reasonably practicable in the same manner as the original Building Fire Safety Committee Member was appointed. Alternatively, the Council may permit a Deputy / Proxy Member to act in that position until the expiry of the original Member's term of office.
- 4.2 The office of a Member may become vacant if the Member:
- 4.2.1 Dies; or
 - 4.2.2 Completes a term of office and is not reappointed; or
 - 4.2.3 Resigns by written notice addressed to the Council ~~or councils~~; or
 - 4.2.4 Is removed from office by the Council ~~or councils~~ for any reasonable cause.

5. CONDITIONS OF APPOINTMENT

- 5.1 At all times, Building Fire Safety Committee Members must act honestly, lawfully, in good faith, and in accordance with any applicable code of conduct.

6. REMOVAL FROM OFFICE

- 6.1 A Building Fire Safety Committee Member will automatically lose office (in accordance with Section 157(17)(c)(iv)) where:
- 6.1.1 the Building Fire Safety Committee Member has become bankrupt or has applied to take the benefit of a law for the relief of insolvent debtors;
 - 6.1.2 the Building Fire Safety Committee Member has been convicted of an indictable offence punishable by imprisonment.
- 6.2 Subject to Clause 3, the Council may by resolution remove a Building Fire Safety Committee Member from office (in accordance with Section 157(17)(c)(iv)) where, in the opinion of the Council, the behaviour of the Building Fire Safety Committee Member amounts to:
- 6.2.1 a breach of a condition of his or her appointment as a Building Fire Safety Committee Member;
 - 6.2.2 misconduct;
 - 6.2.3 a breach of any legislative obligation or duty of a Building Fire Safety Committee Member;

- 6.2.4 neglect of duty in attending to the role and responsibilities as a Building Fire Safety Committee Member;
- 6.2.5 a failure to carry out satisfactorily the duties of his or her office;
- 6.2.6 a breach of fiduciary duty that arises by virtue of his or her office;
- 6.2.7 inability to carry out satisfactorily the duties of his or her office.
- 6.2.8 except in relation to Deputy / Proxy Members, a failure without reasonable excuse to attend three consecutive Building Fire Safety Committee meetings without the Building Fire Safety Committee previously having resolved to grant a leave of absence to the Building Fire Safety Committee Member; or
- 6.2.9 in relation to a Deputy / Proxy Member, a failure without reasonable excuse on three consecutive occasions to attend a meeting of the Building Fire Safety Committee when requested to do so; or
- 6.3 The removal of the Building Fire Safety Committee Member pursuant to clause 6.2 will take effect upon the Council passing a resolution to remove the Building Fire Safety Committee Member from office (unless the Council resolves otherwise), and such resolution will be confirmed in writing to the Building Fire Safety Committee Member within 7 days of being passed.
- 6.4 Prior to resolving to remove a Building Fire Safety Committee Member from office pursuant to clause 6.2, the Council must:
 - 6.4.1 give written notice to the Building Fire Safety Committee Member of:
 - 6.4.1.1 its intention to remove the Building Fire Safety Committee Member from office pursuant to clause 6.2; and
 - 6.4.1.2 the alleged behaviour of the Building Fire Safety Committee Member falling within clause 6.2 or reason the Council considers it appropriate to remove the Building Fire Safety Committee Member,
 - not less than 7 days before the meeting of the Council at which the matter is to be considered.
 - 6.4.2 give the Building Fire Safety Committee Member an opportunity to make submissions to the Council on its intention to remove the Building Fire Safety Committee Member from office either orally at the Council meeting at which the matter is to be considered, or in writing by such date as the Council reasonably determines; and
 - 6.4.3 have due regard to the Building Fire Safety Member's submission in determining whether to remove the Building Fire Safety Committee Member from office.

7. RESPONSIBILITY

- 7.1 The Building Fire Safety Committee is charged with the responsibility for all matters arising under Section 157 of the PDI Act which are of a building fire safety nature.

8. QUORUM

- 8.1 A quorum for a meeting of the Building Fire Safety Committee shall comprise two Members. One of those Members must be a person nominated by the Chief Officer of the Metropolitan Fire Service (including a Deputy or Proxy Member) or the person nominated by the Chief Officer of the South Australian Country Fire Service (including a Deputy or Proxy Member).

9. DECISION MAKING

- 9.1 All decisions of the Building Fire Safety Committee shall be made on the basis of a majority decision of the Members present.
- 9.2 Each Member of the Building Fire Safety Committee present at a meeting must, subject to that person having an interest in the matter, vote on a question arising for a decision at that meeting.

10. MEETINGS

- 10.1 The Building Fire Safety Committee shall meet at the Rural City of Murray Bridge Council Offices located at 2 Seventh Street, Murray Bridge, or at other such place as the Building Fire Safety Committee may from time to time determine.
- 10.2 The Building Fire Safety Committee shall meet on a day and at a time nominated by the Presiding Member with a minimum of two ordinary meeting each calendar year.
- 10.3 The following provisions apply to the call of meetings:
- 10.3.1 In the case of an ordinary meeting of the Building Fire Safety Committee, the Presiding Member must give each member of the Building Fire Safety Committee notice of a meeting at least three (3) clear days before the date of the meeting;
- 10.3.2 In the case of a special meeting of the Building Fire Safety Committee, the Presiding Member must give each Member of the Building Fire Safety Committee notice of a meeting at least twenty four (24) hours before the commencement of the meeting;
- 10.3.3 Notice may be given to a Member of the Building Fire Safety Committee:
- 10.3.3.1 Personally; or
- 10.3.3.2 By posting it in an envelope addressed to the person at their usual or last known place of residence or business; or
- 10.3.3.3 By email transmission to an email address known to be used by the person.

11. SITE INSPECTIONS

- 11.1 Formal site inspections of the Building Fire Safety Committee to sites which are the subject of past, current or future matters for consideration may be arranged upon the request of the Presiding Member or any other Member of the Building Fire Safety Committee.

- 11.2 Notification of site visits should be provided to building owners / occupiers at least one clear business day in advance of the inspection.

12. INTERESTS

- 12.1 A Member of the Building Fire Safety Committee who has a personal interest or a direct or indirect pecuniary interest in any matter before the Building Fire Safety Committee (other than a direct interest which exists in common with a substantial class of persons) must not take part in any decisions of the Building Fire Safety Committee in relation to that matter.

13. MINUTES

- 13.1 The Presiding Member of the Building Fire Safety Committee must keep or arrange to be kept, minutes of every meeting of the Building Fire Safety Committee. The minutes of the proceedings and meetings of the Building Fire Safety Committee must include:
- 13.1.1 The names of the members present;
 - 13.1.2 In relation to each member present, if the member was not present for the entire meeting, the time at which the person entered or left the meeting;
 - 13.1.3 Its motion or amendments, and the names of the mover and seconder;
 - 13.1.4 Whether a motion or amendment is carried or lost;
 - 13.1.5 Any disclosure of interest made by a member;
 - 13.1.6 Any other matter required to be included in the minutes by direction of the Council.
- 13.2 The agendas and minutes of the Building Fire Safety Committee will not be published. Copies may be obtainable through the Freedom of Information process.

14. OTHER MATTERS

- 14.1 To the extent that these Terms of Reference are silent, the Building Fire Safety Committee may determine its own meeting procedures while at all times acting in accordance with the relevant provisions of the PDI Act.