

Building Fire Safety Committee

Terms of Reference

Executive Summary

The City of Burnside is one of Adelaide's oldest residential areas, and is well known for its tree lined streets, period architecture and plentiful reserves and gardens within our 30 square kilometre area.

Located in the south eastern corner of Adelaide, the City of Burnside covers 28 suburbs and has a residential population of 41,000 people. Offering a wide range of community facilities and a diverse mix of shopping and retail outlets, the City of Burnside is one of Adelaide's most pleasant places to live or visit.

The City of Burnside is substantially made up of residential properties. Commercial properties including shops, restaurants, offices and cafes line the major roads and highways with a mix of accommodation premises – bed and breakfast, aged care facilities, apartments – cinemas, sporting clubs and facilities and local convenience stores scattered through the suburbs.

Section 71, of the Development Act 1993, sets out Council's power to establish a Building Fire Safety Committee. The Burnside Building Fire Safety Committee is a stand-alone committee, which serves the Burnside Council area.

The Membership of the Committee must be made up of the following:

- A person who holds prescribed qualifications in building surveying (a Building Surveyor)
- A person nominated by the Chief Officer of the South Australian Metropolitan Fire Service and/or Chief Officer of the Country Fire Service (SAMFS Representative and CFS Representative)
- A person with expertise in the area of fire safety (a technical expert)
- Any person the Council considers appropriate to nominate (Council representative).

The Building Fire Safety Committee is assigned the responsibilities to:

- Develop appropriate building fire safety inspection policies;
- Scrutinize the fire safety of buildings that have been identified as having inadequate fire safety provisions;
- Issue Notices of Fire Safety Defect to building owners, which identify fire safety deficiencies that need to be upgraded to an extent that provides a reasonable level of safety for the occupants;
- Forwarding information on Section 71 fire safety notices to council administration for Section 7 enquiries;
- Where appropriate, negotiate a cost effective performance solution with a building owner to reduce fire safety risks to an acceptable level;
- Issue Notices of Building Work Required, which schedule prescribed building work that must be carried out in order to raise the building fire safety to a reasonable level of safety;
- Initiate enforcement or other action to ensure a building owner complies with a Notice of Building Work Required; and
- Revoke or vary fire safety notices when appropriate.

As a statutory function controlled under the Development Act, 1993, Councils are required to ensure the ongoing safety of building occupiers and users of buildings within their Council boundaries. Section 71 of the Act establishes the power for Councils to investigate whether building owners are maintaining proper levels of fire safety in their buildings for the protection of the occupiers, being residents, workers, visitors or customers.

Definitions

Technical Expert – the Planning SA “Guide to Council Building Fire Safety Committees” defines the technical expert, or ‘person with expertise in the area of fire safety’ as having significant practical and technical knowledge and experience in the principles of building fire safety”. It further suggests that ‘a person with qualifications in building, who has training in the principles of building fire safety relative to the size and complexity would be suitable’.

SAMFS – South Australian Metropolitan Fire Service

CFS – South Australian Country Fire Service

Building Surveyor – a person holding prescribed qualifications and accreditation, in Building Surveying, as set out in the Development Regulations, 1993.

1.0 Requirements for a Building Fire Safety Committee/Legislation

Section 71, of the Development Act 1993, sets out Council's power to establish a Building Fire Safety Committee. The Burnside Building Fire Safety Committee is a stand alone committee which serves the Burnside Council area.

The Council through the Committee should appoint appropriate members to the Committee and their membership must be as setout below.

Pursuant to Section 71, Members of the Building Fire Safety Committee are empowered to enter and inspect any building for the purpose of determining whether the fire safety of a building is adequate, at any reasonable time.

The Committee can serve a First Notice on the Building Owner of a building if it is deemed that the level of fire safety is inadequate.

Following a First Notice served on a building, the building owner or a representative has a period of at least 2 months to respond to the Notice with a report, advising how they intend to address the deficiencies in fire safety. During the period of two months (or more as the case may be), the building owner or representative may make representations to the Committee.

The Committee is empowered under Section 71 to issue a Notice requiring emergency action to be undertaken if warranted without the need for a report.

The Committee, after receiving a report, or if no report is forthcoming must serve a Final Notice on the building owner requiring:

- the owner to seek development approval and, if granted, to carry out a programme of work or to take other measures to ensure that the fire safety of the building is adequate; or
- the owner to prohibit occupation or use of the building or a part of the building until the appropriate authority is satisfied that any fire hazard no longer exists; or
- require the owner to take such other action prescribed by the development regulations.

2.0 Membership of the Burnside Building Fire Safety Committee

The Membership of the Committee must be made up of the following:

- A person who holds prescribed qualifications in building surveying (a Building Surveyor)
- A person nominated by the Chief Officer of the South Australian Metropolitan Fire Service and/or Chief Officer of the Country Fire Service (SAMFS Representative and CFS Representative)
- A person with expertise in the area of fire safety (a technical expert)
- Any person the Council considers appropriate to nominate (Council representative).

The membership of the Committee can include Deputies and it is recommended that a deputy representative is appointed from the SAMFS and CFS.

The Committee shall include a Chairperson who should be either the Building Surveyor and/or the Technical Expert and preferably be a staff member of Council.

3.0 Conditions of Appointment

The maximum term of office of a member of the Building Fire Safety Committee is three (3) years, however members can be re-appointed if deemed appropriate.

Each member, excluding the Chairperson, of the Committee is appointed at the discretion of the Committee in accordance with the provisions of the Development Act. The Chairperson must be appointed by Council.

A member of the CFS and the SAMFS must be recommended to the Committee in writing by the appropriate fire service on the basis of their appropriate expertise in the field of building fire safety.

4.0 Responsibilities of the Chairperson

The role of the Building Fire Safety Committee Chairperson will include, but is not limited to:

- The conduct of the business of the Committee at meetings and during site inspections, ensuring appropriate meeting procedures are followed, including matters related to the Terms of Reference;
- Ensuring the Committee properly conducts its business as defined under the Development Act;
- Ensuring the Committee continues to monitor and maintain an appropriate level of fire safety as determined by the Building Fire Safety Committee Terms of Reference;
- Ensuring notices are served on buildings, which the Committee believes lack an appropriate level of fire safety.
- Initiating enforcement or other action to ensure the building owner complies with a Final Notice;
- Ensuring information is provided on Section 71 fire safety notices to Council administration in relation to Section 7 enquires;
- Ensuring annual reports are submitted to Council on the progress of the Building Fire Safety Committee; and
- The conduct of any appeals against a First or Final Notice.

5.0 Responsibilities of the Members

The role of Building Fire Safety Committee Members will include, but is not limited to:

- Undertaking inspections in accordance with these Terms of Reference with a high level of professionalism;
- Providing advice to clients on building fire safety upgrade requirements;
- Providing advice and recommendations to the Chairperson of the Building Fire Safety Committee;
- Assisting the Chairperson in serving Notices on buildings that the Committee believes lack an appropriate level of fire safety. The Committee Members shall assist the Chairperson in revoking or varying notices as appropriate;
- Assisting in providing reports to Council and the CEO on the work undertaken by the Building Fire Safety Committee on a regular basis;
- Maintaining appropriate skills and qualifications for the position held on the Building Fire Safety Committee; and
- Where appropriate, the Committee Members shall assist the Chairperson in negotiating cost effective performance solutions with the building owner to reduce fire safety risks to an acceptable level.

6.0 Meeting Policies and Procedures

6.1 Where and How Often it Will Meet

The Building Fire Safety Committee will meet at the Burnside Council Offices (401 Greenhill Road, Tasmore) on a maximum two monthly basis, at a time convenient to the majority of the Committee Members.

6.2 How many Members Constitute a Quorum

The Quorum of a member will be a minimum of 2 members of the Committee but must include the Building Surveyor and/or technical expert as well as the SAMFS or CFS representative as required by the matters to be discussed.

6.3 Who will Chair the Meetings

The Chairperson, or in the absence of the Chairperson, a person appointed by the Committee.

6.4 Who will act as the Minute Secretary

If in attendance the Council representative will be responsible for the minutes and agenda of the meeting, otherwise the Chairperson will delegate the responsibility to a member of the Committee.

6.5 How Records are to be Kept, Filed and Stored

All matters for the Committee will be recorded and stored in the Councils Application system (Proclaim) and also through the Records Management System (Dataworks).

Minutes of all Committee meetings will be saved electronically in the Records Management System in a folder for Building Fire Safety Committee matters and a copy of the minutes will be stored on the site specific file.

At the completion of the Building Fire Safety Committee matter the entire file will be scanned in the Records Management System and the file will be stored in accordance with Council's records management strategy.

6.6 What Types/Classes of Buildings are to be Investigated

All matters of building fire safety will be investigated in accordance with the Risk Analysis (Section 10), with priority being put on areas of risk such as places where a large number of people reside (such as Boarding Houses), places where a large number of people congregate or meet on a regular basis (such as clubrooms).

The Building Fire Safety Committee will inspect buildings following the criteria set out below:

- If the South Australian Metropolitan Fire Service, or South Australian Country Fire Service requests an inspection to be carried out;
- If a complaint is received;
- Advice is received from a Development Officer of Council that the fire safety is deficient;
- The class of building fits the priorities of the Building Fire Safety Committee, including:
 - Hotels/Motels
 - Supportive Residential Facilities
 - Residential Flat Buildings
 - Large Shopping Complexes
 - Class 9b Building
 - Class 6, 7, 8 buildings

6.7 Who the Council has appointed as Authorised Officers to Undertake Inspections

All members appointed by Council to the Building Fire Safety Committee are authorised under Section 71 to undertake an inspection for the Building Fire Safety Committee.

Other authorised Council officers who hold the prescribed qualifications may inspect premises to determine the level of fire safety but must report to the Building Fire Safety Committee for determination of the relevant action required.

6.8 Procedures for Building Fire Safety Committee Inspections

The procedure for undertaking BFSC inspections will occur in accordance with the details set out in Section 7.0

6.9 Appropriate Formats for Fire Safety Notices

Fire Safety Notice will be issued in the format recommended by Planning SA (as amended from time to time).

6.10 Procedures for Issuing, Varying and Revoking Notices

The procedure for issuing, varying and revoking notices will occur in accordance with the details set out in Section 8.0

6.11 Procedures for Prosecutions/Appeals

All enforcement matters will be directed by the Manager Development and Policy.

7.0 Inspection Procedures

Members appointed to the Building Fire Safety Committee are authorised under Section 71 of the Development Act, 1993 to exercise powers under the Section. These members have powers under this section to enter and inspect any building, at any reasonable time for the purpose of determining whether the fire safety of the building is adequate.

The Burnside Building Fire Safety Committee will generally arrange an appropriate time with the Building Owner to inspect the premises, with the owner or delegate. In cases where a matter requires an urgent inspection or pre-arranged inspections are not appropriate, the Committee or its delegate will visit the site, identify themselves to the person in charge on site and undertake the required inspection.

Numerous follow up inspections may be required to be undertaken by the Committee and except in extreme circumstances the Committee will arrange these inspections with the Building Owner or delegate.

Members of the Building Fire Safety Committee will record inspections undertaken at the time of the inspection. Notes from these inspections will be included on the property file related to the matter, to ensure there is an adequate record of the process followed.

All inspections undertaken on behalf of the Building Fire Safety Committee must be undertaken with a member or representative of the City of Burnside. No members are endorsed to inspect premises without the prior approval of the Building Fire Safety Committee Chairperson.

8.0 Process for Serving Notices

After an inspection is undertaken by the Burnside Building Fire Safety Committee, the Committee will meet to determine if the building has an appropriate level of fire safety. If the Committee determines the level of safety is appropriate the Committee will advise the Building Owner and thank them for their assistance

If the Committee determines the level of safety is not appropriate the Committee is required to issue a First Notice, which offers the Building Owner a number of options to be implemented.

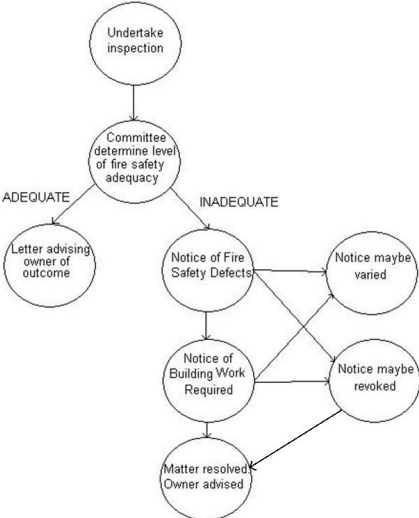


Diagram A – Flowchart of Serving a Notice under Section 71 of the Development Act, 1993

8.1 Notice of Fire Safety Defect (First Notice)

The Notice of Fire Safety Defect is issued to alert the building owner that the buildings fire safety is considered inadequate, and that certain work needs to be undertaken to rectify the situation.

The Burnside Building Fire Safety Committee has three options under a notice of Fire Safety Defect:

- Require the building owner to report to the Building Fire Safety Committee on building work or other measures necessary to ensure that the fire safety of the building is adequate; or
- Require the owner to carry out a program of work, or other measures to overcome any fire hazard; or
- Require evacuation of the building or part of a building until the Building Fire Safety Committee is satisfied that the fire hazard no longer exists.

The Notice of Fire Safety Defect must stipulate a period of time in which the owner can make representation to the Committee on the fire safety of the building. This period must be not less than 2 months.

The Notice of Fire Safety Defect may include a schedule that lists all building work and measures the Committee considers should be carried out to make the fire safety of the building or structure adequate.

The Notice of Fire Safety Defect must inform the building owner of their right to appeal, within 14 days, to the Environment, Resources and Development Court.

In the event that the Building Fire Safety Committee determines that an emergency situation exists and that it will require a building or part thereof to be evacuated the Chairperson of the Committee shall inform the General Manager Planning & Infrastructure of the Committee's decision and the reasons for the decision as soon as practical.

At the completion of the period specified in the Notice of Fire Safety Defect the Committee may issue a "Notice of Building Work Required".

An example of the Burnside Building Fire Safety Committee "Notice of Fire Safety Defect" is attached in Appendix A.

8.2 Notice of Building Work Required

A Notice of Building Work Required is issued to require a building owner to undertake appropriate upgrading work to rectify matters identified in a Notice of Fire Safety Defect.

The Burnside Building Fire Safety Committee has two options under a Notice of Building Work Required:

- Require the building owner to seek development authorization to carry out a program of work or other measures to make the fire safety of the building or structure adequate; or
- Prohibit occupation of the building, or part of the building, until the Building Fire Safety Committee is satisfied that the fire hazard no longer exists;
- Any action prescribed by the Development Regulations 1993

In addition, a schedule detailing the building work required to be undertaken must be attached. The Notice must stipulate a period of time in which the works are to be completed. The Notice must also inform the Building Owner of their right of appeal, within 14 days, to the Environment, Resources and Development Court.

In the event that the Building Fire Safety Committee determines that it will require a building to be evacuated the Chairperson of the Committee shall inform the General Manager Planning & Infrastructure of the Committee's decision and the reasons for the decision as soon as practical.

An example of the Burnside Building Fire Safety Committee "Notice of Building Work Required" is attached in Appendix B.

8.3 Staged Works

The Burnside Building Fire Safety Committee may allow the owner the opportunity to undertake the fire safety rectification works in stages, provided the agreed program of work eliminates or minimizes the risks threatening life safety of occupants as a first priority.

9.0 Reporting Mechanisms

The Burnside Building Fire Safety Committee shall provide a report to Council on an annual basis on the Committee's activities, including the types of notices issued, the outcomes of these notices, the number of inspections undertaken, and any outstanding matters that the committee is currently pursuing.

10.0 Risk Analysis

The Risk Analysis for the Building Fire Safety Committee has been developed with the processes set out in AS4360: 2004 "Risk Management" in mind.

The Risk Analysis has also been developed with regard to industry best practice, the Building Code of Australia, and the experience of the current Committee members in dealing with building fire safety issues.

The Risk Analysis considers risks in areas such as overnight accommodations of unrelated people; buildings with a large number of people congregating during operating hours and buildings with special needs to evacuate in an emergency, such as Supportive Residential Facilities (SRF's). These Supportive Residential Facilities are also required to be inspected on a regular basis for the requirements of their licensing, in terms of Building Safety, issued by the Eastern Health Authority.

The Building Fire Safety Committee will inspect buildings following the criteria set out below:

- If the South Australian Metropolitan Fire Service, of South Australian Country Fire Service requests an inspection to be carried out;
- If a complaint is received;
- Advice is received from a Development Officer of Council that the fire safety is deficient;

- The class of building fits the priorities of the Building Fire Safety Committee (priorities set out below):
 - Hotels/Motels
 - Supportive Residential Facilities
 - Residential Flat Buildings
 - Large Shopping Complexes
 - Class 9b Building
 - Class 6, 7, 8 buildings

The Burnside Building Fire Safety Committee will attempt to undertake inspections within the constraints of resourcing issues.

11.0 Conflict of Interest

Under the Development Act 1993, a member of a 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 must not take part in any deliberations or decisions of the Building Fire Safety Committee in relation to that matter.

Further Information

Further information on Building Fire Safety Committee's can be obtained from Planning SA (www.planning.sa.gov.au), as well as the Development Act, 1993.

Planning SA's "Guide to Council Building Fire Safety Committees" (Draft February 2001). The Guide details the setup of Building Fire Safety Committees, processes involved in undertaking inspections, serving of notice and rectifying matters of fire safety defects.