

# **ACT BUSHFIRE COUNCIL TERMS OF REFERENCE**

**April 2016**



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## 1 Purpose of Terms of Reference

The Bushfire Council has been established by Chapter 6 Section 127 of the *Emergencies Act 2004*.

The purpose of this Terms of Reference (TOR) is to provide guidance on the role, functions and responsibilities of the ACT Bushfire Council.

## 2 Role and Functions of the ACT Bushfire Council

### 2.1 Advice

The ACT Bushfire Council has the function of advising the Minister about matters relating to bushfires. If the Commissioner asks for the Bushfire Council's advice before exercising a function relating to bushfires, the Council also has the function of advising the Commissioner about the exercise of the function.

The ACT Bushfire Council will provide advice to the Minister on matters relating to bushfire management in the ACT including:

- a) The level of preparedness;
- b) Prevention activities;
- c) The response capability of fire services; and
- d) The implementation of recommendations from the inquiries into the 2003 Canberra bushfires, and other major bushfire events

The advice will be prepared annually, and provided to the Minister prior to the commencement of the bushfire season for that year.

### 2.2 Strategic Bushfire Management Plan (SBMP)

Section 72 of the *Emergencies Act 2004* requires the ACT Emergency Services Commissioner to prepare, and give the Minister, a draft Strategic Bushfire Management Plan (SBMP) for the ACT.

In preparing the draft plan, the Commissioner must consult with the ACT Conservator and ACT Bushfire Council; and consider the impact of the plan on any land management agreements, land managers and plans of management.

After considering the draft plan, the Minister must make a SBMP for the ACT. The plan is a disallowable instrument and must be notified, and presented to the Legislative Assembly, under the Legislation Act.

The Commissioner must, in consultation with the Bushfire Council, monitor the scope and effectiveness of the plan. The Commissioner, in consultation with the Bushfire Council, may recommend amendments of the plan to the Minister. The Minister must, in consultation with the Bushfire Council, comprehensively review the SBMP at intervals of not more than 5 years.

The ACT Bushfire Council will monitor and review implementation of the actions established within the SBMP. Audit reports will be prepared annually to document compliance with actions identified in

the SBMP. Audit reports will include an outline of the audit procedures, any necessary discussion of findings, and conclusions about level of compliance with the SBMP.

Strategy: The ACT Bushfire Council will provide oversight and review of bushfire management in the ACT			
No.	Actions to achieve the strategy	Priority	Responsibility
1	<p>The ACT Bushfire Council will monitor and review implementation of actions established under this Plan.</p> <p>Audit reports will be prepared annually to document compliance with actions identified in this Plan. Audit reports will include an outline of the audit procedure, any necessary discussion of findings, and conclusions about level of compliance with this Plan.</p>	High	ACT Bushfire Council
2	<p>The ACT Bushfire Council will provide advice to the Minister on matters relating to bushfire management in the ACT, including:</p> <ul style="list-style-type: none"> <li>• the level of preparedness;</li> <li>• prevention activities;</li> <li>• the response capability of fire services; and</li> <li>• the implementation of recommendations from the inquiries into the 2003 Canberra bushfires, and other major bushfire events.</li> </ul> <p>This advice will be prepared annually, and provided to the Minister prior to the commencement of the bushfire season for that year.</p>	High	ACT Bushfire Council

### **2.3 Assessment of resources and capabilities**

After the Minister makes the SBMP, the Commissioner must conduct an assessment, based on the plan, of available resources and capabilities for bushfire prevention and preparedness. The Commissioner must give the assessment to the Bushfire Council and the Minister.

### **2.4 Appointment of Rural Fire Service Chief Officer**

As per section 30 of the Emergencies Act 2004, the Director-General of Justice and Community Safety Directorate will consult with the Bushfire Council before appointing public servants to be the Chief Officer and Deputy Chief Officer of the ACT Rural Fire Service.

*(Note: The Review into the Emergencies Act 2004 has recommended Government reconsider this requirement)*

## 2.5 Number of Rural Fire Brigades

As per section 54 of the *Emergencies Act 2004*, the Chief Officer Rural Fire Service will consult with the Bushfire Council in determining the number of brigades.

## 2.6 Declaration of Bushfire Season

The bushfire season is usually the period from the beginning of October in a year to the end of March in the next year. However, the Commissioner may declare a different date to be the beginning or end of a particular season. Before making such a declaration the Commissioner must consult with the Bushfire Council.

# 3 Council's Strategic Areas of Focus

## 3.1 Annual business plan

The Council should prepare a business plan during October to December each year for the following year.

The business plan should include strategic issues that align to meeting the objectives of the SBMP. Where the strategic planning or activities of ACT Government agencies is being undertaken that impacts on fire management in the ACT, the Bushfire Council may request advice and presentations from those agencies or entities.

The annual Business Plan will be provided to the Minister and Commissioner following its acceptance by the Council.

The business plan will be accompanied by a schedule which defines the major topics that will be discussed at meetings during that year. This schedule will be flexible where major topics need to be moved, on agreement between the Council and the relevant stakeholders.

The Commissioner will circulate this Plan to relevant business units to assist in coordinating the presentations to Council.

The annual operating budget for Council will cover the remuneration expenses of Council Members in holding 11 meetings and associated field visits.

## 3.2 Review of Bushfire Operational Plans

Each year TAMS will present the Bushfire Operational Plan for the coming year in order for Council to provide feedback to the Commissioner prior to approval.

ESA will present BOPs from other land managers for consideration by Council.

### **3.3 Work on Significant Issues**

Where Council identifies a significant issue that it wishes Council to explore, Council will seek endorsement from the Minister for this work, and in doing so; define the scope, timing and budget required for the activity.

The ESA Commissioner may seek Council's advice on other strategic issues not listed in the Business Plan.

### **3.4 Sub-Committees**

The Bushfire Council may form sub-committees from time to time to address an activity or issue.

## **4 Reporting to the Minister**

The Bushfire Council must prepare, prior to the bushfire season, an annual report to the Minister for Police and Emergency Services on the state of preparedness of the ACT to bushfires including the status of actions of the SBMP.

## **5 Support to Council**

### **5.1 Logistical Support for Council**

The ESA, on behalf of the Director General Justice and Community Safety Directorate, must provide administrative support and facilities for the Bushfire Council. This support is provided by ESA.

ESA provides secretarial and logistical support for the Bushfire Council which can include:

- a) A minute taker for Bushfire Council meetings and minutes are kept
- b) Providing and booking a room for meetings
- c) Organising field trips
- d) Ensuring meeting attendance is kept
- e) Circulation of key reports and information to ensure that Council is kept well informed of local and national matters related to bushfire management
- f) Ensuring records of remuneration are kept and payments are made
- g) Drafting agenda papers to facilitate efficient consideration of items listed on the annual business plan
- h) Distribute reports of audits of actions listed in the SBMP and activities listed in Bushfire Operational Plans

## 5.2 ESA Commissioner

The ACT ESA Commissioner must prepare, and give the Minister, a draft Strategic SBMP for the ACT. In preparing the draft plan, the Commissioner must consult with the Bushfire Council; and consider the impact of the plan on any land management agreements and land managers.

The Bushfire Council has the function of advising the Minister about matters relating to bushfires. If the Commissioner asks for the Bushfire Council's advice before exercising a function relating to bushfires, the council also has the function of advising the Commissioner about the exercise of the function.

## 5.3 ACT Rural Fire Service

The ACT RFS will provide advice on strategic bushfire issues, based on the requirements contained within the SBMP.

## 5.4 Seeking Advice on Other Strategic Matters

Where ACT Government agencies' strategic planning is being undertaken that impacts on fire management in the ACT, the BFC may seek advice from those agencies.

## 5.5 Keeping Council Informed on Fire Matters

ACT RFS, ACT F&R and TAMS Parks and Conservation Service are responsible for providing updates to the Council each meeting regarding the status of a range of bushfire matters in the ACT.

Bushfire Council is a member of the ESA Operations Review Group (ESORG). This forum allows Bushfire Council to be informed on interagency arrangements within ESA, including the CONOPS for Bush & Grass Fires in the ACT.

Where the Bushfire Council are deliberating on topics, ACTRFS, ACTF&R or TAMS PCS (depending on issue and subject matter expert) will endeavour to provide written reports to the Council prior to topics being discussed.

## 6 Relationships with stakeholders

The ACT Bushfire Council has relationships with the following stakeholders:

- a) Minister for Police and Emergency Services;
  - To provide advice to the Minister in accordance with the relevant legislation
  - To seek clearance from the Minister's Office for the public release of information (i.e. reports and media releases).
- b) Emergency Services Agency Commissioner;
  - Commissioner to seek advice from Council (see 4.2)
- c) Emergency Services Agency;
  - Council can draw on monthly written briefings from the Fire and Rescue; or seek briefings from media and other relevant parts of ESA to inform its deliberations



- d) ACT Rural Fire Service;
  - RFS to provide monthly written reports to Council
- e) ACT RFS Volunteer Brigades;
  - Council to monitor issues in Brigades and bring these to Council meetings where not satisfactorily resolved through direct Brigade contact with RFS
- f) Parks and Conservation Service with the TAMS Directorate;
  - Written monthly reports to Council to be provided by PCS;
- g) ESDD (Conservation Planning and Research);
  - Updates on relevant issues to be sought from ESDD as required;
- h) Other professional and non-government organisations that provide advice on bushfire activities;
  - Council may seek reports on AFAC work; CRC research agendas, or BOM for seasonal preparedness reports;
- i) the ACT Community;
  - keep the ACT Community informed about Council deliberations through the release of meeting minutes and other reports egg 10 year report (subject to Ministerial approval on a case by case basis);
- j) Media.
  - Subject to Ministerial approval, provide expert opinion from Council via the Chair/Deputy Chair, on bushfire matters;

## 7 ACT Bushfire Council Meetings

### 7.1 Timing/Frequency

The Bushfire Council is to meet at the times and places the council chairperson decides. The Bushfire Council chairperson must ensure that members have reasonable notice of meetings. The Bushfire Council chairperson must ensure that, as far as practicable, the council meets at least every 2 months.

The preferred timing for Bushfire Council meetings is every month (except January). This schedule should be followed unless exceptional circumstances cause the chairperson to remove a scheduled meeting or run an out-of-schedule meeting.

### 7.2 Agenda and Call for Items

A call for items will be made 10 days prior to each meeting of the Bushfire Council, and an agenda authorised by the chair will be circulated one week prior to the meeting with relevant supporting documentation.

### 7.3 Attendance at Meetings and Apologies

The Bushfire Council chairperson presides at meetings of the council. The Bushfire Council may decide its own procedure in relation to anything for which a procedure is not provided under the *Emergencies Act 2004*. A meeting may be held by means of a method of communication, or a

combination of methods of communication that allows the Bushfire Council members taking part to hear what each other member says without being in each other's presence. A Bushfire Council member who takes part in a meeting is taken, for all purposes, to be present at the meeting.

#### **7.4 Quorum**

Business may be conducted at a Bushfire Council meeting only if at least four (4) members are present.

#### **7.5 Chairing and conduct of Meetings**

BFC meeting will be conducted by the chair. In the absence of the chair, the deputy-chair will conduct the meeting. In the event of both the chair and deputy-chair being absent, the members in attendance will elect a member present to conduct that meeting.

The Chief Officer(s) or their authorised representatives are expected to attend Council meetings to provide regular briefings.

Meeting procedures will be consistent with sound meeting practice and ensure that all members are given fair and equal opportunity to participate in the deliberations.

It is important that all representatives attending meetings communicate their views clearly and openly, whilst recognising that there are often a range of views on matters and differences of opinion should be respected.

The carriage of a motion which is proposed and seconded shall be determined by a majority of votes of the members present and voting. If the votes of Bushfire Council members on a question are equally divided, the decision of the chairperson is the decision of the Bushfire Council on the question. It is, however, desirable that members strive to achieve consensus on matters.

#### **7.6 Minutes**

The Bushfire Council must keep minutes of its proceedings. At a Bushfire Council meeting the chairperson must ensure that the Council considers the minutes of its last meeting.

The secretariat must produce a draft of the minutes within 7 days of the meeting and provide them to Council Members and agency representatives for review. Council members should endeavour to provide any amendments to the secretariat prior to the meeting.

ESA must publish the minutes of Bushfire Council meeting within 7 days minutes being confirmed.

## 7.7 Correspondence

All Bushfire Council correspondence will be maintained on a registered file held by ESA. This file will be made available to any BFC member at any time.

The mailing address of all correspondence will be:

Bushfire Council Chair  
GPO Box 158  
Canberra ACT 2601

Any electronic correspondence sent or received by council members will be cc'd to RFS for inclusion on the correspondence file.

## 7.8 Resolutions and actions arising

A resolution is a valid resolution of the Bushfire Council if—

- (a) it is passed at a meeting of the council; or
- (b) notice of the resolution is given under procedures decided by the council and all members agree, in writing, to the resolution.

## 7.9 Out of session business

Where business requires an urgent decision, or where a quorum could not be established at a meeting, items can be discussed out of session via electronic means. Where items are discussed out of session, a vote can be taken via email. A record of any out of session decision must be kept by the Chair or Secretariat and taken to the following Council meeting for ratification.

## 7.10 Field Trips

To ensure that BFC is fully informed on Fire Management issues, field trips will occur from time to time to allow for inspection of physical locations, works and other activities. These are conducted for both information and knowledge building for Council members. Payments and reimbursements for field trip activities will be determined on a case by case basis by the chair in consultation with the ESA.

## 7.11 Conferences, Workshops and Forums

To ensure that BFC is fully informed on Fire Management issues, attendance at conferences, workshops or forums will be approved by ESA from time to time. These are attended for both information and knowledge building for Council members. Payments and reimbursements for these activities will be determined on a case by case basis by the chair in consultation with the ESA and be in line with the determination of ACT Remuneration Tribunal Statement for Part-Time Public Office Holders.

## 7.12 Payments

Entitlements are per diem and as described in the ACT Remuneration Tribunal Statement and Determination 14 of 2011 Part-Time Holders of Public Office.

Council members will be paid the per diem rate for all meetings greater than 2 hours to account for reasonable travel and meeting preparation in line with the determination. In the event of a BFC meeting being less than 2 hours, the chair will determine the pro rata rate for that meeting in line with the determination.

Council members may also be entitled to receive remuneration for work undertaken over and above reasonable meeting preparation and reading time between ordinary council meetings if certain conditions are met. For example, a Council member may be nominated to prepare a draft report for Council's consideration. In these circumstances, the type of activity and estimation of effort required should be agreed by Council and endorsed by the ESA Commissioner through the Executive Officer. This ensures that the advice being prepared on behalf of Council is timely, cost effective and warranted.

## 8 Appointment of ACT Bushfire Council Members

### 8.1 Term of Appointment

The Police and Emergency Service Minister (Minister) must appoint the Bushfire Council members, and will not include the Commissioner or the Chief Officer of an emergency service. An appointment must be for a term of not longer than 4 years.

The Minister must try to ensure that the following people are among the members appointed:

- a) a person with skills or experience in fire sciences;
- b) a person with experience in land management;
- c) a person with experience in fighting fires in built-up areas;
- d) a person with experience in fighting fires in rural areas;
- e) a person with experience in indigenous land management;
- f) a person to represent the interests of rural lessees;
- g) a person with relevant skills or experience to represent the community's interest in the environment; and
- h) a person to represent the community's interests generally.

### 8.2 Membership Composition

The Bushfire Council shall consist of:

- a) A chairperson;
- b) A deputy chairperson; and
- c) At least 3, and not more than 10, other members.

The deputy chairperson acts in the position of chairperson in the following circumstances:

- (a) during all vacancies in the position; and
- (b) during all periods when the chairperson cannot for any reason exercise the functions of the position.

### 8.3 Resignation or removals

The Minister may end the appointment of a Bushfire Council member—

- (a) for misbehaviour; or
- (b) for physical or mental incapacity, if the incapacity affects the exercise of the member's functions; or
- (c) if the member –
  - (i) becomes bankrupt or personally insolvent; or
  - (ii) is absent, other than on leave approved by the Minister, from 3 consecutive meetings of the Bushfire Council; or
  - (iii) contravenes section 139 (Disclosure of interests by Bushfire Council members) without reasonable excuse; or
  - (iv) commits, in Australia or elsewhere, an offence punishable by imprisonment for at least 1 year; or
- (d) if the Minister is satisfied that the member's ability to function as a member is affected by an interest disclosed under section 139.

### 8.4 Filling of vacancies

If a vacancy is identified within the Bushfire Council, the ESA will undertake the appropriate recruitment process and documentation. This process has to be submitted via a Cabinet process in which Cabinet members are consulted with regard the proposed appointments by the Minister for Police and Emergency Services.

The Standing Committee on Justice and Community Safety of the ACT Legislative Assembly has to be consulted for those candidates who are non ACT Government Public Servants.

## 9 Responsibilities of Council members

### 9.1 Advisory Committee

The ACT Bushfire Council is an advisory committee, and members are there to provide expert advice and a range of viewpoints. Members are not appointed to Council to represent any specific body, and should not undertake deliberations from such a position.

### 9.2 Confidentiality

The Bushfire Council may discuss a wide range of issues many of which may be complex, sensitive or contentious. To enable members to make an informed decision on a particular matter, it may often be necessary to consider privileged information. Such information should be treated with the utmost confidentiality and kept within the confines of the Bushfire Council.

### 9.3 Standards of behaviour and Code of Conduct

The Bushfire Council will conduct its business in line with the ACT Government Boards and Committees Handbook and Section 9 of the ACT *Public Sector Management Act 1994*.

***(Note: The ACT Government Boards and Committees Handbook is currently being updated by the ACT Government and a revised version is expected to be released in early 2016)***

Committee members need to be aware that when having contact with the media as an individual that comments made are not construed as being on behalf of the Council or representing the views of the council or the ESA/RFS.

Media releases or engagements are to be cleared through the Minister's Office and the spokesperson is to be the Chair or Deputy Chair, or a delegated person of the Council as agreed through a Council resolution and the Minister's Office.

Any document (correspondence, reports) developed by the Council cannot be released publicly (i.e. published through a website) until the documentation has been provided to the Minister; the Minister has responded to the documentation; and as part of this response, the Minister has agreed for the information to be publicly released.

### 8.4 Disclosure of conflict of interest

A Bushfire Council member who has a relevant interest in an issue being considered, or about to be considered, by the council must, as soon as practicable after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the council. A relevant interest means a direct or indirect financial interest in the issue or if the interest could conflict with the proper exercise of the Bushfire Council's members functions in relation to the council's consideration of the issue.

The disclosure must be recorded in the Bushfire Council's minutes and, unless the council otherwise decides, the member must not—

- (a) be present when the council considers the issue; or
- (b) take part in a decision of the council on the issue.

### 8.5 Reporting of disclosure of interest

Within 14 days after the disclosure of an interest, the Bushfire Council chairperson must report to the Minister in writing about—

- (a) the disclosure; and
- (b) the nature of the interest disclosed; and

(c) any decision by the council.

The Bushfire Council chairperson must give the Minister, by 31 July each year, a statement that sets out the information given to the Minister that relate to disclosures made during the previous financial year. The Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 14 days after the day the Minister receives the statement.

## ACT GOVERNMENT BOARDS AND COMMITTEES CODE OF CONDUCT

Under the system of government that operates in the ACT, Ministers, Members of the Legislative Assembly, public servants and statutory officeholders carry out the main legislative and executive functions of government. At times, non-statutory office holders also provide assistance. Members of ACT Boards and Committees have a duty to discharge responsibilities entrusted by the ACT Government and the laws made under the Australian Constitution according to the highest standards of conduct. Board members may be required by the nature of public office to accept restriction on certain areas of their private conduct beyond those imposed on ordinary citizens.

The following Code of Conduct outlines principles that should be observed by all members of ACT Government Boards and Committees, and should be read in conjunction with the ACT Code of Ethics for public employees (Section 9 of the *Public Sector Management Act 1994*).

1. A board member should perform the duties of the office impartially, uninfluenced by fear or favour;
2. A board member should be frank and honest in official dealings with colleagues;
3. Conflicts of Interest:
  - a) A board member should avoid situations in which any private interest, whether pecuniary or otherwise, conflicts or might reasonably be thought to conflict with their public duty;
  - b) When a board member directly or indirectly possesses an interest which conflicts or might reasonably be thought to conflict with their public duty or improperly influence conduct in the discharge of responsibilities, the board member should disclose that interest according to the prescribed procedures. Should new or additional facts become material after an initial disclosure has been made, the board member should disclose the further information;
  - c) When the interests of members of the board members immediate family are involved, the interests should be disclosed to the extent that they are known. Members of the immediate family will ordinarily comprise only the spouse and dependent children, but may include other members of the household or family when their interests are closely connected with those of the board member; and
  - d) When a board member possesses an interest which conflicts or might reasonably be thought to conflict with the duties of their office and such interest is not prescribed as a qualification for that office, the member should forthwith divest themselves of that interest, secure their removal from the duties in question, or obtain the authorization of a superior or other board members to continue to discharge the duties. Transfer to a trustee or to a member of the board member's family is not a sufficient divestment for the purpose. If immediate divestment would cause significant hardship to the board member, possession of the interest should be disclosed to board members or the



minister and authorization obtained for temporary retention pending divestment.

4. A board member should not:
  - a) Use information obtained in the course of their official duties to directly or indirectly gain a pecuniary advantage for themselves or for any other person. In particular, a board member should scrupulously avoid investments or other transactions about which they have, or might reasonably be thought to have, early or confidential information which might confer on the member an unfair or improper advantage over other persons; and
  - b) Discuss or publicly disclose information gained in the course of their official duties without prior approval of the board or relevant minister.
5. A board member should not:
  - a) Solicit or accept from any person any remuneration or benefit for the discharge of their duties over and above the official remuneration;
  - b) Solicit or accept any benefit, advantage or promise of future advantage for themselves, their immediate family or any business concern or trust with which they are associated, from persons who are in, or see to be in, any contractual or special relationship with government; and
  - c) Except as may be permitted under the rules applicable to their position on the board, accept any gift, hospitality or concessional travel offered in connection with the discharge of their duties.
6. A board member should be scrupulous in their use of private property and services, and should not permit misuse of these by other persons.