

## SECTION 355 COMMITTEE POLICY

<b>Responsible Department:</b>	Corporate and Commercial Services
<b>Responsible Section:</b>	Governance and Risk
<b>Responsible Officer:</b>	Manager Governance and Risk

### Objective

To set a framework for the establishment and function of Council's section 355 Committees.

### Introduction

Section 355 of the *Local Government Act 1993* (NSW) permits Council to establish a Committee of Council to exercise Council's functions. Section 377 of the Act permits Council to delegate which functions, if any, those Committees may exercise. These Committees are known as Section 355 Committees.

Section 355 Committees are a means by which Council can utilise community members into having an active role in managing some of Council's facilities or services.

### Policy

#### 1. Establishment of section 355 Committees

- 1.1. Council may establish section 355 Committees following:
  - (a) A community request;
  - (b) Councillor motion; or
  - (c) A recommendation by the General Manager or their delegate.

##### Community Request

- 1.2. A community group may make a written application to Council for the establishment of a Section 355 Committee.
- 1.3. The written application should, at a minimum, contain the following information:
  - (a) The proposed name of the Committee;
  - (b) The proposed membership or composition of the Committee
  - (c) The facility or services that the Committee will operate;
  - (d) The proposed functions of Council that the Committee will assume in relation to that facility or those services;
  - (e) Facts, matters, and reasons justifying the creation of the Committee and delegation of functions to it.
- 1.4. Following a community request, the General Manager will ensure that a report is brought to Council attaching the application, making a recommendation as to whether or not the Committee should be formed.
- 1.5. The report should also attach proposed terms of reference to be adopted, including delegation under s377, in the event that Council resolves to form the Committee and delegate functions to it.

### **Councillor Motion**

- 1.6. Where a Councillor lodges a Notice of Motion to form a Section 355 Committee, Council will consider that motion and deal with it in the usual manner.
- 1.7. Without limiting the ability of Councillors to lodge Notices of Motion with content of their choose, such
- 1.8. Where a Councillor lodges a Notice of Motion to form a Section 355 Committee, Council may resolve to require the General Manager to report to Council on the matters contained in 1.10 below.

### **Recommendation from General Manager or Delegate**

- 1.9. The General Manager, or their delegate, may propose that Council establish a section 355 Committee.
- 1.10. A proposal from the General Manager or their delegate will take the form of a staff report to an Ordinary Council Meeting.
- 1.11. The General Manager shall ensure that such a report contains, at a minimum, the following information:
  - (a) The proposed name of the Committee;
  - (b) The proposed membership or composition of the Committee
  - (c) The facility or services that the Committee will operate;
  - (d) The proposed functions of Council that the Committee will assume in relation to that facility or those services;
  - (e) Facts, matters, and reasons justifying the creation of the Committee and delegation of functions to it.
  - (f) The proposed terms of reference for the Committee, encompassing the matters above.

### **Determination to establish section 355 Committee**

- 1.12. Where Council decides to establish a section 355 Committee, it will do so by resolution.

## **2. Terms of Reference**

- 2.1. Each section 355 Committee will have terms of reference, which govern their composition, procedures, and operation.
- 2.2. Terms of reference for section 355 Committees shall, at a minimum, include:
  - (a) The name of the Committee;
  - (b) The functions delegated to the Committee and the Committee's responsibility;
  - (c) Limitations on functions delegated to the Committee;
  - (d) The composition of the Committee;
  - (e) The process for selection of Committee members;
  - (f) The responsibility of Committee members;
  - (g) The Committee's operating procedures
  - (h) A statement to the effect that the members of the Committee will be bound by Narrabri Shire Council's Code of Conduct.

## **3. Commencement and dissolution of Committees**

- 3.1. Committees and their delegated functions will commence on the latter of:
  - (a) The date of the resolution to establish the Committee and delegate the functions; or
  - (b) Some other date set by the resolution or the Committee's terms of reference.
- 3.2. Committees shall cease to exist on the passage of a resolution of Council to that effect.
- 3.3. Upon the dissolution of the Committee, all of the functions delegated to the Committee will revert back to Council.

## 4. Membership of Committees

- 4.1. Members of the Committee will be appointed by Council resolution in accordance with the terms of reference of the Committee.
- 4.2. Committee membership will commence on the latter of:
  - (a) The date of the resolution to appoint a member to the Committee by Council; or
  - (b) Some other date set by the resolution or the Committee's terms of reference.
- 4.3. Committee membership will terminate on the earlier of the following:
  - (a) The expiration of six months following an Ordinary Council Election;
  - (b) The death of the member;
  - (c) If the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or make an assignment of his or her remuneration for their benefit;
  - (d) If the member becomes a mentally incapacitated person;
  - (e) If the member resigns membership by notice in writing to the Committee;
  - (f) If the member is absent for more than three consecutive meetings without leave of the Committee;
  - (g) If the member ceases to be a member of the organisation which he/she represents, (representatives of organisations will be given preference) unless the Committee otherwise resolves;
  - (h) While serving a sentence of imprisonment, whether in full time custody or otherwise, except a sentence imposed for a failure to pay a fine;
  - (i) Council passes a resolution to remove the member from the Committee;
  - (j) If the member holds office of profit under the Committee, without prior approval of council;
  - (k) If the member fails to disclose a pecuniary interest in a matter with which the Committee is concerned and takes part in the consideration, discussion or votes on a question relating to the matter;
  - (l) If the member fails to comply with council's code of conduct; or
  - (m) Four years from the date of appointment.

## 5. Finance

- 5.1. Section 355 Committees are subject to the same financial policies and procedures as internal operational sections of Council.

### Control

- 5.2. The General Manager may direct section 355 Committees to process their financial records through Council's financial system.

### Procurement

- 5.3. Section 355 Committees are to comply with Council's policies and procedures for procurement, particularly in terms of the governance requirements imposed depending on value of goods.

### Accounting

- 5.4. Committees will comply with the below accounting procedures:
  - (a) A cheque account must be opened at a branch of a recognised bank or credit union with an office in Narrabri Local Government Area. The account will be in the name of the Committee.
  - (b) If Council provides a budget to the Committee, a balance of equal to the budget approved to the Committee will be made available for expenditure by the Committee (ie a bank account float). Note this delegation is available to the Committee as a whole and approval for expenditure needs to be noted in the meeting minutes.

- (c) If Council provides a budget to the Committee, Council will provide Committees with the delegation to approve financial transactions to the value of Council's determination.
- (d) Money received by the Committee must be banked as soon as reasonably practicable or within one week of receipt.
- (e) The Committee may draw on its account for such sums as it may require in the performance of its function.
- (f) Under no circumstances will the account be overdrawn.
- (g) Information on income and expenditure must be kept either electronically (preferable) or hard copy. An excel spreadsheet or suitable accounting software should be used. Or if the accounts must be kept manually, a suitable cashbook, receipt book, bank deposit book and petty cash will be maintained and kept up to date.
- (h) Receipting: Preferably, payments are accepted via direct deposit into the Committee's bank account. Where cash or cheque are received, receipts, in the name of the Committee, will be issued for charges and other monies received and duplicates of receipts will be retained for audit.
- (i) Purchasing: Payment should be made by EFT (electronic funds transfer), or only when necessary, can be made by cheque. In every case evidence of the need for the payment Tax Invoice is required to be obtained and attached to payment records. A credit card receipt is not a Tax Invoice, please ensure receipts say 'Tax Invoice' and clearly show any GST charged.
- (j) The Committee may authorise its Chairperson, treasurer and one other person to sign on its behalf on the basis that two authorisers/ signatories are required on each payment.
- (k) Records will be made available for inspection whenever required by an inspector of local government accounts, Council's auditor, Councillors, or an authorised officer of Council.
- (l) It is recommended the financial report summarising the income and expenditure and including a bank reconciliation be reported (where available), to each ordinary meeting of the Committee.
- (m) A quarterly report of the financial affairs must be provided to Council in line with GST reporting. At each quarter this report should include profit and loss statement, balance sheet and BAS and needs to be received by Council in the second week of the following month. (See Section 5.6 re GST)
- (n) The Committee will be entitled to spend the monies raised in the management of the facility under their control. These monies can only be expended strictly in accordance with conditions imposed in these Guidelines, by the Council, and their delegations, and only upon the facility of the Council for which the Committee has been constituted.
- (o) In the event that the Committee receives a financial contribution from Council, this payment will be made in the form of a grant and appropriate evidence of expenditure documentation will be required by Council.
- (p) An annual Profit and Loss Statement for the Committee must be submitted to Council within 30 days from the end of the financial year.

### **Out of Pocket Expenses**

- 5.5. A Committee member cannot incur out of pocket expenses without the Committee's prior approval.
- 5.6. Committee members seeking reimbursement of out of pocket expenses under this policy must present invoices and receipts for those expenses to the Committee before reimbursement is to occur.

## **6. Review**

- 6.1. This policy will be reviewed within 12 months of an Ordinary Council Election or from time-to-time on an as-needs basis.

## References

- *Local Government Act 1993* (NSW)
- *Local Government (General) Regulation 2021* (NSW).

## History

Minute Number	Meeting Date	Description of Change
41/2015	February 17, 2015	Adopted
164/2017	August 15, 2017	Reviewed
	September 2, 2021	Rebranded
336/2022	October 18, 2022	Endorsed for Public Exhibition
362/2022	November 22, 2022	Adopted