SECTION 355 COMMITTEE POLICY

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1. INTRODUCTION

Under the *Local Government Act 1993 (NSW)*, Council is able to delegate some of its functions to a committee of Council. This delegation is used to appoint community people to manage Council facilities and services through a Section 355 Committee of Management. Section 355 of the *Local Government Act 1993 (NSW)* states:

How does a council exercise its functions?

A function of a council may, subject to this Chapter, be exercised:

1. By the council by means of the councillors or employees, by its agents or contractors, by financial provision, by the provision of goods, equipment, services, amenities or facilities or by any other means, or
2. By a committee of the council, or
3. Partly or jointly by the council and another person or persons, or
4. Jointly by the council and another council or councils (including by means of a Voluntary Regional Organisation of Councils of which the councils concerned are members), or
5. By a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).

Brewarrina Shire Council provides advice and direction on all matters associated with Section 355 Committees and members can seek Council's assistance in this crucial role. These management guidelines have been developed to assist Committee members in the initial establishment and ongoing operation of a Section 355 Committee.

Comprehensive guidance is provided on management responsibilities, functions and operation of a community committee. Upon formal approval of a Section 355 Committee by Council, its members are required to adopt and adhere to the conditions set out in this document.

Adherence will ensure committee members are aware of the responsibilities and adequately covered by insurance. Please note that unless otherwise noted, references to the Act refer to the *Local Government Act 1993 (NSW).*

1.1 Objectives

1. To ensure that Committee members implement governance and other procedures compliant with relevant legislation and Council's policies, procedures and Code of Conduct.
2. To provide a system for community representatives to be delegated care, control and management of community facilities and services.
3. To provide information on the appointment, operation and removal of a delegated Committee.

4. To minimise Council's risk exposure from the operation of Council committees.

1.2 Frequently Asked Questions

What is a 355 Committee?
A 355 Committee is a Council-approved committee of volunteers who accept the responsibility for the management of Council functions or a Council-owned community facility in their area.

What is Delegation of Function?
Under the *Local Government Act 1993 (NSW)* Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community people to manage its facilities or functions through a committee of management. It is important to note that the Committee of Management provides ***recommendations*** that go to Council for ***determination***.

What is a Community Facility?
A community facility is a multi-purpose building or facility located in areas where it is accessible by the local community. The space may be used for a range of community and recreational activities.

Why have Committees Managing Council Facilities?
Council works with the community, seeking advice on specific local issues and needs, to plan and construct facilities that will be of the best value to the community. The committees provide a mechanism by which interested persons can have an active role in the provision and management of Council facilities or services. This provides a two-fold benefit by giving protection to the Committee operating under the banner of Council, and by providing Council with assistance in the carrying out of its functions.

What is the Term of the Committee?
Unless otherwise stated as with a sunset **clause** the term of office for s.355 Committees is the same term as the Council (four years), with the addition of an extra three months after the General Election of Councillors which occurs every 4 years in September. General elections will occur in 2008, 2012 etc.

1.3 Rules Governing the Appointment of a Committee

The *Local Government Act 1993 (NSW)* provides that:

- Council may appoint (section 355 of the Act), in respect of any undertaking under the control of the Council, a Committee of local citizens and delegate to the Committee (section 377) the care, control and management of the work or activity, and the expenditure of such monies as the Council may vote.
- The Council may dissolve any such Committee at any time.
- Each such appointment and delegation is to be reviewed in the first twelve months of each term of office. Committees are able to be re-established.

- Any Committee appointed to manage a Council facility must manage the facility under guidelines set by Council and in accord with the O*ccupational Health and Safety Act 2000 (NSW)* and *Occupational Health and Safety Regulation 2001 (NSW).*

2. COMMITTEE PROCEDURE

2.1 Appointment of Committees and Members

Council must approve all members onto the Committee. Council is to be annually notified of the membership of the Committee (including office bearers) following the annual general meeting (AGM). A member will cease to hold office if he/she:

- Resigns, or Fails to attend three consecutive meetings of the Committee without reasonable excuse;
- Dies;
- Becomes bankrupt;
- Council passes a resolution to remove the member from the Committee;
- Fails to disclose any pecuniary interest in any matter with which the Committee is concerned and takes part in the consideration, discussions or votes on any question relating to the matter. Refer Section 442 of the *Local Government Act 1993 (NSW).*
- While holding that office, is convicted of an offence referred to part 4 of the *Crimes Act 1900 (NSW)*;
- Becomes a mentally incapacitated person.

If a vacancy should occur at any time, the Committee is asked to inform Council in writing regardless of whether or not it wishes to recommend a replacement. Any amendments to the Committee must be approved by the General Manager (within the subsequent twelve month period) under the delegated authority before being able to vote and take part in meetings of the Committee. Council reserves the right to appoint one of its members to each Committee.

2.2 Terms of Reference

Council in consultation with the Committee will develop Terms of Reference specific to the Committees purpose. The Terms of Reference will define;

- Committee Status
- Name of the Committee
- Committee Membership
- Term of Office
- Office Bearers
- Casual Vacancies
- Meeting Frequency
- Financial Management
- Committee Objectives and Scope

The Terms of Reference will be signed off by the Committee prior to being approved as a Council Section 355 Committee.

2.3 Committee Membership

The Committee membership including officer bearers is required to be endorsed by Council. All Committee members must make application (Expression of Interest) to be a registered approved volunteer of Council.

2.4 Committee Positions

A Chairperson and Secretary should be elected at the first meeting of the Committee following its appointment and annually thereafter. A Treasurer must also be appointed where the Committee will be handling funds. Other Office Bearing positions may be filled where Council or the Committee consider the positions warranted. All positions should be declared vacant and re-elected at each Annual General Meeting. For further information on office bearer roles and responsibilities, refer to *Appendix A*.

2.5 Reporting

Council requires the following information to be reported at a Committee's Annual General Meeting:

- Membership;
- Office Bearers Achievements including a Chairperson's report on the Committee's activities for the past twelve months;
- Presentation of audited financial statements by the Treasurer or Secretary;
- An outline of the Committee's proposed activities for the 12 months, that may also include seeking the community's approval of those plans; and
- The election of Office Bearers for the following 12 months. Note that the financial statements are required within two months after the 30th June each year.

2.6 Constitution

The Committee is to adopt its own written Constitution incorporating the guidelines as set by Council in addition to any other items necessary, including matters specific to itself.

2.7 Powers of Committees

Committees are appointed for the care, control and management of a particular Council facility or activity. The powers of committees are limited. For example, the Committee may not make decisions concerning the following:

1. Fixing of charges or fees (the Committee may submit recommendations for approval by Council in relation to the fixing of charges and fees for use of the facility under its control), including any policy for exemption from fees and charges. The Committee may recommend to Council that specific groups such as schools, preschools and playgroups be allowed subsidized use of the facility and must state the circumstances under which this is to occur.

2. Borrowing of any monies without the express written consent of Council.
3. The sale, lease or surrender of any land or other property vested in its care under the provisions of *Local Government Act 1993 (NSW)* (as amended).
4. The acceptance of tenders which are required to be called by Council. (The committee may invite and accept quotations for minor works, goods and services covered within the scope of its authority or as agreed with Council).
5. The payment or making of any profit, gain or gift, to or by its members as well as allowance or travelling expenses incurred whilst attending Committee meetings. (Travelling expenses incurred by members in the course of extraordinary duties, eg. Open hall, deliver key, respond to complaints and alarms, will be excluded from this condition).
6. The carrying out of any works on or to the facility including alterations, reconstructions or construction without the prior consent of Council. (Does not include minor maintenance works).
7. Unreasonably restricting access to the facility to any organisation or individual which agrees to comply with and adhere to the rules adopted for use of the facility.
8. Vote on monies for expenditure on the works, services or operations of Council.
9. The Section 355 Committee will also be subject to such limitations and conditions as may from time to time be imposed by law, specified by resolution of the Council or in writing by the General Manager to the Committee. The Committee will observe any Rules and Regulations made by the Council, in relation to the facility or activity under its management and control.
10. If at any time the Committee is deemed to be functioning outside the limits of its powers as described herein, all powers may be revoked by written notice to the Committee signed by the General Manager or his/her delegate.

2.8 Payment to Members

Council will not permit payments in the form of an honorarium to be made by a Committee to any of its members. The Committee may adopt payment for the reimbursement of out of pocket expenses.

2.9 Purchasing

There may be times when the Committee will need to make substantial purchases and as Committees act on behalf of Council; advantage may be taken of Council's purchasing system. To do this, substantial purchases should be made through Council's Director of Corporate and Community Services.

2.10 Employment of Persons

A Committee cannot enter into any agreement, which may be construed as an employer/employee relationship without prior Council approval. Each contractor engaged must comply with the *Occupational Health and Safety Act 2000 (NSW)* and *Occupational Health and Safety Regulation 2001 (NSW)* and Council's Risk Management policies. Before engaging Contractors, proof of evidence of their Public Liability cover and Workers Compensation insurance is mandatory. This proof must be in the form of Certificates of Currency.

2.11 Code of Conduct

Brewarrina Shire Council has adopted a Code of Conduct that is applicable to both elected Councillors and employed staff (Appendix C). This Code of Conduct sets out the principles to ensure the business of Council is carried out in an efficient, honest and impartial way.

Council's 355 Committees have the responsibility to ensure the following:

- Access is available to the entire community and is not denied because of ethnicity, gender, disability or religion.
- Priority of use should be given to non-profit making community groups and organisations.
- That the facility not be aligned with, or advocate or advertise for or on behalf of, any political party or person/s.

As Section 355 Committees are operating as a delegation of Council in the management of facilities/services it is important for Committees to be aware of these responsibilities and abide by this Code of Conduct. For further information on Code of Conduct, refer to *Appendix C*.

2.12 Conflict of Interest

A conflict of interest can arise when a member of the Committee has other involvements or interests which make it difficult for them to always remain impartial when involved in discussions and decision-makings. These can include:

- business or professional activities,
- employment or accountability to other people or organisations,
- membership of other community organisations or service providers, and/or
- ownership of property or other assets.

The conflict may lead to:

- financial benefit eg, sale of goods or privileged knowledge,
- political benefit eg. gaining or losing electoral support, and/or
- personal benefit eg. career advancement or increased standing in the community.

Example: A Committee member is the relative of person using the facility and there is some dispute regarding that person's use of the facility. The member would need to declare this interest.

If a member of a Committee has a direct or indirect pecuniary or non-pecuniary interest in any matters before the meeting, the member must disclose the nature of the interest and not take part in the discussion or voting. This interest must be recorded in the minutes to the meeting.

3. FINANCIAL MANAGEMENT

3.1 General

Extreme care must always be taken when dealing with financial matters as Council is required to comply with strict financial requirements of the *Local Government Act 1993 (NSW)* and *Local Government (General) Regulation 2005 (NSW).* It is therefore necessary for Committees to follow certain rules when handling money. The Director of Corporate and Community Services is responsible for controlling the financial affairs of Council and will offer advice and guidelines for the Committee to follow.

It is emphasised that any payment made by a Committee outside its authority may need to be recovered from Committee members.

3.2 Books of account Receipt Book

- A receipt must be issued for all monies received. The original receipt book should consist of pre-numbered receipts and duplicates, so that the original may be detached and the duplicates remain in the book.
- Used receipt books must be retained.
- Where an error is made in writing out a receipt both the original and duplicate should be cancelled and both copies retained the book.

Cash Book

- Each Committee must keep a cashbook, this may be either in hardcopy or electronic form.
- A cash book must show details of all monies received and payments made, to allow easy cross reference to the receipt book, the cheque book and the accounts paid.

Cheque Book

- All payments must be made by cheque except for any petty cash accounts.
- Full details of the payee, date and amount should be recorded on the cheque stub as well as in the cashbook.

3.3 Income - Receipting of Monies

- All monies received must be recorded in the cashbook and a receipt issued. The Committee is required to ensure that all monies due to it are received. Should the Committee be unable to recover any amounts, Council, through the Director of Corporate and Community Services, is to be notified of the details in writing so that Council staff may take any further action. This should occur no later than when the account is 60 days overdue.

3.4 Expenditure – Disbursements

To allow Committees to expend monies received by it, Council each year approves such allocation of funds for the care, control and management of the facility, service or event. Expenditure for any other purpose is not permitted without Council approval. All payments should be supported by accounts for goods and/or services received and are to be paid by a cheque and crossed “Not Negotiable”.

- All disbursements, with the exception of petty cash, must be made by cheque signed by any two office bearers comprising the Chairperson, Treasurer, and Secretary (or one other office bearer).
- All accounts should, where possible, be submitted to a Committee meeting for approval prior to payment being made and particulars recorded in the minutes.
- Where payment must be made before the next Committee meeting, the particulars must be recorded in the Minutes of the next Committee meeting to confirm such payment.
- All payments must be recorded separately in the cashbook. A Committee must only operate within the levels of the funds held at any one time, i.e. it cannot borrow money or arrange for a bank overdraft.

3.5 Banking

Before any Committee handles any money it must seek approval from the General Manager or his/her delegate to either;

1. Open a ledger account for the committee’s purpose within Council’s existing finance structure
2. Or open an account with cheque drawing facilities in the name of the Committee at an approved bank through which all transactions must be made.

All monies received by the Committee must be receipted by council or banked, in the form in which it was received, preferably at least weekly to aid reconciliation of the bank account with the cash and receipt books.

3.6 Petty Cash

A Committee may operate a petty cash account. The cash float must not exceed $150 at anytime. Only payments of less than $150.00 may be made from petty cash. All other payments must be made by cheque. Petty cash will normally be reserved for minor secretarial and treasury expenses. The Treasure must at all times keep petty cash in a locked container. Cash is not to be left unattended. All petty cash payments must be supported by receipts/dockets, which are to be placed in the petty cash container.

3.7 Goods and Services Tax

Council makes payment of any GST payable and retains any GST refundable by a Section 355 Committee. Treasurers are asked to obtain and keep all Tax Invoices in relation to all expenditures, as Council is only able to claim back applicable GST where these records are held. Each Committee is obliged to provide information for Business Activity Statements (BAS) as at 30th June each year for preparation of statements and audit of Committee books.

Information and guidance in relation to the requirement for GST can be obtained from Council's Director of Corporate and Community Services. A sample record sheet for GST or an electronic version of this record can be obtained.

3.8 Annual Statements of Income and Expenditure

The financial year of each Committee will be from 1st July to the 30th June each year. A fixed accounting period for all Committees is required to ensure that details are presented to Council, with their draft budget and fees for the next financial year. Within two months after the 30th June each year your Committee must prepare financial statements including:

- A statement showing all income received and payments made by the Committee during the financial year ended;
- A list of all assets under the Committee's control as at the end of each financial
- year, and any liabilities, such as Council loans for improvement works;
- Copies of bank statements received during the year;
- A bank reconciliation; and
- A certificate from the bank certifying the balance of funds held as at 30th June.

Before submission to Council, the statements must be audited, preferably by a qualified auditor appointed by the Committee or Council. If a qualified auditor is not available the person selected should be experienced and possess a sound knowledge of the principles of bookkeeping. This person should not be in an office-bearing position of the Committee.

A copy of the financial statements and attachments together with the auditor's certificate and any relevant comment made by the auditor must be submitted to Council. The audited accounts should be submitted to the Committee for formal adoption.

4. LEGAL AND INSURANCE ISSUES

4.1 Insurance issues

Industrial Special Risks – All Council facilities are covered for risks such as fire, theft and malicious damage. Management Committees should be aware of the excess applicable to these policies.

- Public Liability – The Committee is covered by the public liability policy of Council. This insurance does not preclude the Committee from due diligence and all Council policies must be adhered to.
- Personal Accident – Committee members are covered when injured whilst undertaking duties relating to their role in the Committee.

4.2 Legal Issues

It is important that Committees of Council be aware that they are acting on Council's behalf. Legally, the Committee is "Council" and any action which the Committee undertakes is Council's responsibility. Committees provide recommendations that go to Council for determination.

4.3 Records of Committee

Records of Council Committees should be kept in accordance with the *State Records Act 1998 (NSW)* and *General Disposal Authority – Local Government Records (GDA 10)*. In particular, the Committee needs to be aware of the importance of minutes because of their legal status and their liabilities to subpoena in court. Many records of Council Committees may need to be retained for a minimum period of 30 years. Further guidance can be obtained from Council's Executive Officer or Corporate Records Management Officer.

4.4 Pecuniary Interest

A Pecuniary Interest is one of financial benefit by a Committee person or other person with whom the person is associated (that is, spouse, de-facto partner or relative of a Committee person) from an interest that a Committee person has in a Council matter. It does not exist where the interest is so remote or insignificant that it could reasonably be regarded as unlikely to influence any decision. The obligation to disclose is a strict duty, and the person's motives for participation are irrelevant if an interest is said to exist.

Chapter 14 of the *Local Government Act 1993 (NSW)* includes a framework for the handling of alleged breaches of the pecuniary interest provision of the Act. The Act is about openness, accountability and transparency in decision-making by Councils and any Committees representing the Council. It is the responsibility of members of Section 355 Committees:

- to disclose to the meeting any pecuniary interest in a matter before the meeting, not to participate in the discussion of the matter before the Committee, in which the member has a pecuniary interest,

- not to vote on the matter before the Section 355 Committee meeting in which the member has a pecuniary interest. Example: A Committee member is associated with a cleaning business and the 355 Committee is seeking expressions of interest to have the hall floor repolished.

The member could gain financially if their associated business were to gain the contract so they need to declare their interest and take no part in the assessment of the expressions of interest or decision process

4.5 Disclosure of Pecuniary Interests

If a Committee member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting or the interest appears to create a conflict with the proper performance of the member's duties in relation to the consideration of the matter, the member must, as soon as possible after the relevant facts have come to the members knowledge, disclose the nature of the interest at the meeting.

A Committee must ensure that particulars of any disclosure made under this clause are recorded in the minutes. After a member of a Committee has disclosed the nature of an interest in any matter, the member must not:

1. Be present during any deliberation of the Committee with respect to the matter;
2. or take part in any decision of the Committee with respect to that matter. Please note that a member's absence has a direct impact on numbers for a quorum.

For the purposes of the making of a determination by a Committee as to whether the member has a direct or indirect pecuniary interest in a matter to which the disclosure relates, the member must not be present for the deliberation.

Further Information

There are basic procedures to follow that provide solid structures for operations – large or small. Many of these procedures are common to all kinds of Committees throughout the community, not just Management Committees. Committees need to be aware that accountability is required to Council, user groups and the general community. To facilitate this accountability, Committees are required to:

- Hold an Annual General Meeting and ensure that it is advertised,
- Provide reports and minutes to Council, and
- Ensure that affected persons are aware of Committee meeting details.

To assist the Committee the following appendices provide suggestions for good work practices:

Appendix A – Office Bearer Roles & Responsibilities

Appendix B – Meeting Procedures Guidelines

Appendix C – Code of Conduct

Appendix D – Template Meeting Agenda

Appendix E – Facility Management Guidelines

Should you require further information or direction, contact Council's Director of Corporate and Community Services.

APPENDICES

Appendix A: Constitution

Terms of Reference
Each Section 355 Committee will have adopted "Terms of Reference" that will be read in association with the constitution. The Terms of Reference will determine the purpose of the committee and nominate committee members.

Office Bearer Roles & Responsibilities
This appendix provides more detail on the roles, duties and responsibilities of specific office bearers, as well as the role of Committee members who are not office bearers.

Chairperson
Every Committee must have an appointed member as Chairperson. The key responsibility of a Chairperson is facilitating the operations of the Committee. The duties of a chairperson include:

- Providing coordination, guidance and leadership to ensure the successful functioning of the Committee,
- Representing the Committee in the public domain, and
- Ensuring administrative and other tasks from meetings are carried out.
- During meetings the Chairperson is responsible for ensuring:
- Meetings are correctly convened,
- A quorum is present for all decisions,
- Meeting decisions are properly minuted,
- The maintenance of order at the meetings, and
- The business of the meeting is conducted.

If the Chairperson is absent from any meeting, the Committee may temporarily appoint another of its members as the chairperson. The Chairperson may vote on any motion considered by the meeting and in the event of a tied vote; the chairperson may exercise a second or casting vote.

Secretary
The key responsibility of a Secretary is the administration of the Committee. Duties of the Secretary include:

- Taking and recording minutes of all meetings;
- Maintaining off all records and correspondence; Receiving all incoming correspondence and bringing it to t he attention of the Committee;
- Writing and dispatching all outwards correspondence required by the Committee;

- Keeping Committee members properly informed by sending them notices of meetings, agendas and copies of correspondence, reports etc. as required; and
- Liaising with the chairperson between meetings so that the business of the Committee is attended to and, in consultation with the chairperson, to call extraordinary meetings as required.

Treasurer

- The Treasurer is responsible for keeping the Committee's financial records in good order.
- The Treasurer's duties include:
- Maintaining a bank account in the name of the Committee (once approved by Council);
- Ensuring signatories to the account are the Chairperson, Treasurer and Secretary (or one other office bearer) with any two to sign;
- Recording and banking money received;
- Paying accounts as authorised by the Committee;
- Keeping all invoices, receipts, cheque butts, bank statements etc. for audit purposes;
- Reporting at each Committee meeting current details on bank balances, transactions since the previous report, the Committee's current financial position and any other information that the Committee may require; and
- Preparing an annual financial report, based on financial year.

Committee Members who are not Office Bearers
Non-office bearing members' duties include:

- Actively participating in Committee activities and business,
- Attending all Committee meetings and participating in decision making, and
- Bringing to the Committee's attention any identified problems or issues.

Non-Members as Office Bearers
Committees may find it useful to appoint someone who is not a Committee member, but has relevant skills, to undertake particular tasks such as bookkeeping and secretarial work. In some cases this will be a volunteer; in other cases the Committee may engage a local accountant or bank manager, to keep the books. Note that the Committee will require Council's approval.

Meeting Procedures Guidelines
Each Committee is free to decide its own meeting times, schedules and styles. The aim is to meet as often as is necessary for good management of your Committee or Council asset. As a minimum, one meeting must be held each quarter. Its level of activity will largely determine the business that a Committee deals with at the regular meeting. The basics that need to be covered include reports from the:

- Chairperson;
- Treasurer;
- Secretary
    - including a list of correspondence received and sent;
    - and Progress reports on any works being done.

A Committee can decide its meeting schedule at the start of each year, or determine at the end of each meeting when and where the next one will be held.

A good way to remind Committee members about a forthcoming meeting is to circulate the Minutes of the last meeting, plus Agenda and any other papers, approximately one week before the meeting date.

In principle, meetings should be open to the public because the Committee is representing the community in the management of a public asset. Therefore, visitors should be able to attend meetings if they wish. They can take part in discussions only at the invitation of the Chairperson, and cannot propose Motions or vote.

Holding Committee Meetings
Committee meetings are to be held as required and the number to be set our in the Terms of Reference.

Notice of the Meeting
A notice of meeting, typically incorporated with the Agenda, is circulated to Committee members at least a week before the meeting. Reasonable notice of meetings should also be provided to the public. This may be by publishing annually a schedule of meetings, or publishing a notice of meeting just prior to each meeting.

Agenda
An Agenda is prepared prior to any meeting. The Agenda is a short document that sets out the business that is to be dealt with at the meeting. Usually the Secretary, in consultation with the Chairperson, prepares the Agenda, but all Committee members can nominate items of business to be included on the meeting Agenda. When circulating the Agenda, the Minutes of the previous meeting and any reports to be considered at the meeting are usually attached. At the start of the meeting the Chairperson usually asks:

- If there are other items of business that any member wishes to be added to the Agenda,
- And if any member wishes to change the order of the Agenda. The addition of new items at the meeting is generally acceptable however if those items are contentious and/or some members are absent from the meeting then a decision can be made to defer such items to a subsequent meeting of the Committee.

Quorums
A Quorum will be half the number of Committee Members plus one (the minimal number of members of the Committee who must be present in order for the Committee to make decisions). If after thirty minutes (or some time generally agreed by the Committee as appropriate) from the start of the meeting a quorum has not been obtained, the Chairperson will decide to:

- Postpone the meeting, or
- Conduct the scheduled business of the Committee, but refer all decisions and Motions to a subsequent meeting when a quorum is present for reconsideration and/or ratification.

Note that a member who has made a declaration of interest in a matter before the Committee cannot be counted as part of the quorum.

Voting
One method for voting is a show of hands. The Chairperson calls first for those in favour of a Motion and then for those opposed to a Motion, and then declares the result to the meeting. In the event of a tied vote the Chairperson may exercise a casting vote.

Addressing the Meeting
For more formally run Committees, all Committee members addressing the meeting must direct their remarks through the Chairperson ("*Through you Mr/Mrs/Ms Chairperson…*"). Any other member shall not interrupt a Committee member addressing the meeting, except that the Chairperson has the right to provide any direction to the member regarding the conduct of that address (appropriate language, length of time taken, etc).

Making Decisions/Motions
Each decision of the Committee should be made by a formal vote, even if everyone agrees, and recorded in the Minutes. Decisions are made by passing Motions. Any Committee member may move a Motion and the Chairperson then accepts the Motion for consideration.

This could be as simple as:

> "*I move that the Treasurer's report be accepted*" Bill Smith moves.
>
> "*I second that motion*" says Mary Black.
>
> The Chairperson says "*All in favour*" (counts six raised hands) "*all against*" (Counts no raised hands) "*The Motion is carried*".

The Minutes will record the wording of the Motion, who moved it, who seconded it, whether it was passed or defeated. Committees may have Motions that are more complicated and contentious arising from their discussions on how to proceed with a project or manage their asset. In such cases, it may be useful for the Motion to be written down and red out or circulated prior to voting, so that everyone is clear about what is being decided. If a vote is tied, the person in the chair has a second or casting vote.

A member may have their name recorded against or for a Motion if the Motion is carried contrary to the way they voted. A Committee can only make decisions (i.e. move and pass Motions) if a quorum of its membership is at the meeting.

Public Participation
All Committee meetings are open to the public. The form of public participation at any Committee meeting is at the discretion of the Committee and may range from simply allowing the public to witness the Committee's proceedings to actively encouraging input into the discussion of items of general business. Suggestions on managing public participation include:

- Allowing question time at the start of any meeting,
- Accepting questions in writing for consideration either at the start of the meeting or as part of general business, and
- Encouraging deputations and petitions

A Committee that regularly attracts public interest may develop and circulate publicly some simple rules on how members of the public are expected to conduct themselves in Committee meetings. These rules can detail any limits on participation such as limiting questions to two per person, giving the Chairperson the right to eject any person disrupting the meeting etc. Members of the public cannot vote on any matter before the Committee.

Minutes
In accordance with Clause 266 of Division 5 of Part 10 of the *Local Government (General) Regulation 2005 (NSW)*:

266 Committees to keep minutes

- Each committee of a council must ensure that full and accurate minutes of the proceedings of its meetings are kept. In particular, a committee must ensure that the following matters are recorded in the committee's minutes:
    - details of each motion moved at a meeting and of any amendments moved to it,
    - the names of the mover and seconder of the motion or amendment,
    - whether the motion or amendment is passed or lost.
- As soon as the minutes of an earlier meeting of a committee of the council have been confirmed at a later meeting of the committee, the person presiding at the later meeting must sign the minutes of the earlier meeting.

Copies of all meeting Minutes are to be forwarded to Brewarrina Shire Council within two (2) weeks of the meeting being held.
Minutes are a formal, written record of a meeting and must be kept for all meetings of the Committee. They should record decisions, rather than who said what. At a minimum, the Minutes should record:

- The time the meeting started and finished;
- The place of the meeting;

- The names of the Committee members present;
- The time of any arrivals and departures of members during the meeting;
- A list of all items of business considered;
- The exact wording of any Motions moved, including the name of the mover and
- seconder, and the mover and seconder of any amendments to the Motion;
- A record of any or all of the members who supported or opposed the Motion if requested by any member;
- The results of consideration of any Motions – carried, lost, withdrawn, lapsed, and amended;
- Details of any questions taken on notice;
- Details of any deputations made to the Committee, or any guest speakers; and
- Disclosure of any pecuniary interest or conflict of interest of any member.

The Minutes should enable a Committee member, not present at the meeting, to be informed of all actions and decisions arising and the reasons for those actions and decisions. Every page of the Minutes should be numbered and bear the date of the meeting. The Minutes of a meeting should be endorsed by the following meeting as being a true and accurate record. The Motion endorsing the Minutes should only be moved and seconded by members who actually attended that meeting. Upon ratification of the previous meeting's Minutes, the Chairperson should sign the Minutes. Once endorsed by the signing of the Chairperson, they must never be altered.

Minutes are a permanent record of the Committee's decisions and proceedings. The Secretary should keep a Minute book that will be passed on to the incoming Secretary at the end of the Committee's term. Minutes are a public record of Council and must be stored and archived in accordance with the *State Records Act 1998 (NSW)*. A copy of the Minutes following each meeting is to be forwarded to Council for correct registering and storage.

The *General Disposal Authority - Local Government Records* is the official authority for the disposal of records of councils and county councils. Consult with Council's Executive Officer for information in relation to the disposal of records.

The Annual General Meeting

The AGM is a public meeting where the Committee reports to its community. The AGM must be held no later than 30 September annually. The AGM includes:

- Ratification of the Minutes of the previous AGM and signing by Chairperson;
- A Chairperson's report on the Committee's activities of the past 12 months;
- Presentation of audited financial statements by the Treasurer or Secretary;
- An outline of the Committee's proposed activities for the 12 months, that may also include seeking the community's approval of those plans; and

- The election of Office Bearers for the following 12 months.

The AGM should be advertised in advance in local newspapers, on public notice boards and via a mail out to users of the Council facility. Committee members should receive the Agenda, reports and Minutes from the last AGM at least twenty-eight days before the meeting. Ideally, public notification of an Annual General Meeting should be made at least twenty-eight days prior to the meeting. Attendees can ask questions of the Committee (only in the time set aside in the meeting to do so) but it is not a forum for taking Motions from the floor or voting on proposals. Committee members can only undertake these actions and any such business should be held over to the next regular meeting. The Minutes of the AGM are to be forwarded to Council along with notification of any changes to names, addresses and contact numbers of office bearers. The incoming office bearers may choose at the end of the AGM to hold the first General meeting of the Committee.

Code of Conduct
The Brewarrina Shire Council Code of Conduct is maintained as a separate document. It includes:

- Council's Charter.
- Conflicts of Interest.
- When Does a Conflict of Interest Arise?
- How Should a Conflict of Interest be dealt with?
- Recording Conflicts of Interest.
- Other Responsibilities of Councillors, Members of Staff and Delegates.**-** Equitable Treatment of People and Situations.
    - Bribes, Gifts, Benefits.
    - Use of Council's Resources.
    - Use of Information.
- Particular Obligations of Staff & Second Jobs.
- Returns Disclosing Interests of Councillors and Designated Persons.
- What are the Legitimate Expectations of a Councillor, Member of Staff & Delegate?
- Making of Protected Disclosures for Corrupt Conduct Etc. as per the *Protected Disclosures Act 1994 (NSW).*
- Ombudsman's Report on Good Conduct and Administrative Practice Guidelines.
- Provision of Information to & Interaction between Councillors & Staff.
- ss.439-90 of the *Local Government Act 1993 (NSW)* - Honesty and Disclosure of Interests.

Appendix B: Templates

Template Meeting Agenda

(Date)
(Name) (Address)
(Town) NSW (Post Code)

Dear (Name)

Meeting Agenda – (Meeting Date)

You are invited to attend a meeting of the (Committee Name) Management Committee to be held at (location of venue), (town) on (meeting date) commencing at (start time).

Yours faithfully

Secretary
(Committee Name) Management Committee

Committee Meeting for the (Committee Name) Management Committee MEETING

- Opening of meeting by Chairperson/ Welcome to any visitors
- Apologies
- Confirmation of Minutes of the previous meeting held *(Copy of Minutes attached)*
- Business arising from the previous minutes
- Correspondence In/Out
- Treasurer's report
- Agenda Items *(List any items submitted by Committee members separately)*
- General Business
- Confirmation of next meeting date
- Closure of meeting

(Attach any relevant documents to be sent out with Agenda)

Appendix C: Facility Management Guidelines

CARE, CONTROL & MANAGEMENT OF A COUNCIL FACILITY (IF APPLICABLE)

Section 1: Management
Committees are responsible for management of the facility on behalf of the community. In doing so a Committee is reminded that subject to payment of fees and charges and other such considerations, the public do have a right to use the facility. Council's buildings must not in any event be used for any purpose that may conflict with the *Occupational Health and Safety Act 2000 (NSW)* and *Occupational Health and Safety Regulation 2001 (NSW)* and Council's Risk Management policies.

1.1 Maintenance and Improvements – Public Buildings
Each Committee has the responsibility for ensuring that the facility under its control is maintained in a state of reasonable repair and does not present hazards to users. This may entail regular maintenance, (e.g. cleaning, replacement of consumables – paper towelling, etc, mowing and watering) and periodic maintenance of a major nature, (e.g. repainting, replacement of worn or broken items). Council's staff will inspect the various facilities from time to time but Committees are expected to keep Council informed of any substantial repair or upgrading work required on the facility under their control. Any repair work in excess of $500.00 or any alterations must first be referred to Council for approval and advice before any work is undertaken. Any works considered necessary or desirable but beyond the means of the Committee should be referred to Council in writing so that early consideration might be given to their inclusion in a Works Program or the allocation of Council funds.
Generally, Council will be responsible for major maintenance and improvements, such as external painting or re-roofing and building extensions, but consistent with availability of Council funds and income generated by the facility. The Committee would be expected to accept responsibility for the cost of such items as:

- Cleaning;
- Internal Painting;
- Plumbing maintenance;
- Electrical maintenance;
- Minor repairs, such as broken windows and fittings;
- Installation of new internal fittings, such as cupboards;
- Electricity;
- Gas;
- Water Usage; and
- Provision and maintenance of furniture and equipment.

1.2 Bookings – Public Buildings, Playing Fields and Open Spaces
In the majority of cases, Council will take control of bookings for the facility, subject to schedule of proposed fees being provided by the management committee to be approved by Council on an annual basis. Fees received by Council will be retained to cover the cost of maintenance and improvement.

1.3 Usage – Playing Fields, Showground and Open Spaces
Committees will not be required to pay any fee to Council in return for field usage. With the exception of usage by schools, preschools or playgroups, the Committee may levy a charge on all users of the field for organised sport and may make a charge on spectators at scheduled events to defray its costs by way of maintenance and operation, provided that such fees and charges are approved by Council.

The general public may not be excluded from any sporting area (unless the general public display disorderly or nuisance conduct), which constitutes public open space except during scheduled events. The Committee will be required to submit a program of scheduled events to Council before the commencement of each sporting season. Council will closely monitor sporting area usage and reserves the right to schedule sporting events of other organisations on to any sporting area controlled by a Committee, provided that such organisations pay to the Committee the standard fee for usage, if required.

Council will be concerned if any sporting area managed by a Committee is either under or over utilised and may seek redress for such occurrences. So long as the Committee manages and maintains the sporting area under its control, and Council is satisfied there is a continued need for the area to be consistently used by the clubs from which the Committee is formed, then that club is permitted to nominate the area as its home ground. If, however, management and/or maintenance is not adequate and/or need for use by the club diminishes then Council may implement its power to dissolve the Committee.

1.4 Funding Allocation
Applications for subsidy and loans towards the cost of upgrading facilities will be considered by Council when there is a shortfall in funds after taking into account all income, justifiable expenditure and available services. Any application for subsidy should satisfy Council that all income is being fully utilised, adequate fees are being charged and that fields are maintained at a reasonable standard. The Management Committee may be required to assume total responsibility for the control of any subsidy funding. Maintenance works can be carried out by the following means:

- Voluntary labour,
- Use of Contractors, and/or
- Council staff and equipment (on the basis that the Management Committee pays Council the appropriate hire rates).

Council staff will regularly check to ensure that the facility is being properly maintained and that funds allocated by Council are being spent on the approved activities.

Section 2: Purchases, Employment & Insurances

2.1 Public Liability
As Council appoints Management Committees, members of the Management Committee are included in Council's Public Liability insurance cover, which extends to all properties owned or leased by Council. Members of the Committee should note that they are only covered by Public Liability insurance when acting within the scope of their delegation and when they are an approved registered volunteer of Council. The Committee should be aware that this policy is subject to a claims excess (please liaise with Brewarrina Shire Council's Risk Management Coordinator for information on limits).

2.2 Casual Hirer of Premises
All short-term, unincorporated users of Council facilities (e.g. weddings, birthday's etc) are covered by a master policy by Council. Please check with Brewarrina Shire Council's Risk Management Coordinator to ensure your facility is covered.

2.3 Definition of a Casual Hirer
'Hire of facilities owned by Council, no more than a total of 10 days over any 12 month period.' Should a claim occur arising out of negligence of Council as owners of the facility hired, (e.g. the third party breaks a leg after tripping on a broken step) then Council's Public Liability – Professional Indemnity Policy is the policy to respond to the claim, not the Casual Hirers policy. However, if a claim occurs arising out of the negligence of the Hirer, (e.g. the third party breaks a leg after slipping on a drink spilt on the floor) the Casual Hirers policy is to respond. The Casual Hirers policy provides cover for the ad-hoc hiring of Council owned facilities, including sports facilities. However, it does not provide cover to permanent hirers of the facilities; Incorporated Associations, Sporting bodies or Associations of any kind (see permanent hirer for more detail).

2.4 Definition of Permanent Hirer
'A permanent hirer of Council owned facilities is a hirer of facilities for more than 10 days over any twelve-month period, Incorporated Associations, Sporting Bodies, or Association of any kind. These organisations are to provide their own Public Liability Insurance cover, indemnifying Council against any claims that may arise as a result of their activities.'

The hirer shall take out and maintain a Public Liability insurance policy with a reputable insurance office indemnifying Council and in the case of the facility being on a Crown Reserve indemnifying the Minister in the sum of not less than ten million dollars ($10,000,000) in respect of each and every claim. The hirer shall provide Council with proof of evidence of this by presenting Council with a Certificate of Currency issued by the Insurer, establishing that the Public Liability Insurance policy remains in force. It is the Management Committee's responsibility to ensure that all incorporated bodies and regular users of Council facilities have adequate Public Liability cover. It is also the responsibility of the Committee to ensure that correct licenses are held by facility users engaged in activities that require the same (e.g. carnival operators). Council has Public Liability Insurance to cover the various Committee facilities. The following general information applies to the Public Liability policy:

- The policy covers Council and the Committee (registered volunteers) against claims made by members of the public for personal injury or injury to personal property arising from a negligent act or omission of Council and/or the Management Committee.
- When an accident occurs members of the Management Committee are instructed NOT to admit liability. The Committee should contact Council's Risk Management Coordinator, as soon as possible.
- Members of the public who wish to make a claim should be requested to state their claim in writing setting out full particulars of the accident (when, where and how) and the grounds on which they hold the Committee (or Council) responsible.
- When a Committee receives a claim, the Committee Secretary should question the members/s involved and submit a report in writing concerning the particular accident as remembered by the Committee member. Specific reference should be made of points raised in the claimant's claim. A full investigation will be undertaken by Council's Risk Management Coordinator.
- Claims from members of the public and the report of the incident should be forwarded together with any other relevant documentation to the Council and marked to the attention of the Risk Management Coordinator.

2.5 Personal Accident Insurance
Council has a blanket policy that covers all Council building assets and, where notified, all contents, which are assets belonging to Council. Any claims for loss or damage would be subject to an excess. Only items belonging to Council can be covered under this policy.

2.6 Property – Damage/Theft
In the event of theft or vandalism to Council property or assets, the incident must be reported to the Police in the first instance and appropriate action taken to secure the property and ensure safety of the area.

The reporting officer must fill out an Incident Report (available from Council) and submit to Council's Risk Management Coordinator for certification. The reporting will serve as an important database of information on small incidents for future reference and budgeting. Management Committees will be liable for the first $500 on all claims below the excess. A claim under this provision must be made on the appropriate insurance claim form accompanied by the Incident Report. If a claim is successful under this provision the items will be on a replace/restore basis only through Council's purchasing system. This provision only refers to property belonging to Council:

- For a claim to be successful it must be demonstrated that the Committee had exercised a "duty of care" prior to the damage or loss.
- It is important that the assets of the Committee are listed on Council's records. Written advice is required on new assets in the Annual Report to Council.

2.7 Fixing of Fees and Charges
Committees do not have the power to set their fees and charges for the hire of a Council facility in accordance with Section 377 of the *Local Government Act 1993 (NSW)* – General power of the council to delegate. Council fixes all fees and charges annually when developing Council's budget. Committees must forward recommended Fees and Charges for the ensuing financial year on or before the 1st April of each year to the Director of Corporate and Community Services. Any fees and charges recommended should be calculated carefully so as to cover the costs of managing and maintaining the facility including periodic maintenance of a major nature, e.g. repainting, top dressing, furniture replacement, running of events, etc. Care should be taken to ensure that one group or section of users does not unduly subsidise others and that all users contribute on an equitable basis bearing in mind all circumstances. Council retains the right to set fees and charges in order to secure a reasonable fee and charge for the facility. The Committee may recommend to Council that specific groups such as schools, preschools and playgroups be allowed Council subsidised use of the facility and the circumstances under which this is to occur.

Section 3: Risk Management

3.1 What is Risk Management?
A risk is the chance of something occurring that has the potential to cause loss, damage or injury. Most activities have risk associated with them. Risk management is setting in place practices and processes that enable risks to be identified, minimised and dealt with. Risk management seeks to minimise the impact of undesirable events, without discouraging appropriate risk taking and initiative.

3.2 Identification of Risk
There are many ways to identify risks including checklists, judgements based on experience, records, expert opinion etc. The aim of risk identification is to generate a comprehensive list of events that might affect the Committee's operations or objectives. These risks are then considered in more detail to identify the potential impact of each risk. The identification process should be broad so that all possible risks, no matter how small, are considered. Steps should then be taken to reduce the risk as much as possible to try to eliminate loss, damage or injury.

As a minimum, Council's Insurer has advised that where a facility is hired out, the responsible Committee should have a Pre-Hirer checklist. This would need to be completed by a Committee member prior to the Hirer taking possession of the facility to identify and deal with any items that may potentially be a hazard causing loss, damage or injury. The checklist is also helpful as it can prove that the hall was in good order before the hire, therefore the damage must have been inflicted during the hire period. Where the Committee identifies a major risk and reducing it is outside the scope of the Committee, a report should be forwarded to the Risk Management Coordinator at Council's office.

STANDARD FORMAT FOR CORRESPONDENCE

- Keep a copy of all correspondence sent out on behalf of the Committee

- Set up a correspondence book to record all correspondence of the Committee.
- This should include:
    - a section for Inwards correspondence/mail.
    - a section for Outwards correspondence/mail.
    - a space to record the date of receipt or dispatch of mail.
    - a numbering systems for both Inwards and Outwards to enable any correspondence to be easily located if the need should occur.
    - a space to identify whose responsibility it is to act on eg, the Secretary.
- Enter all correspondence in the relevant section of the book ensuring date and numbers are recorded.
- Place letters received since the last meeting in a folder marked ‘Correspondence Inwards’ for the meeting.
- Record any action required and which Committee is responsible for this action.
- Establish and maintain a filing system for all mail, both In and Out.
- Correspondence can be filed numerically or by subject.
- Related items of correspondence can be placed together.

FORMAT FOR GOOD MINUTES

- Keep them short, clear and concise, and consistent.
- Set them out - not too cramped, use headings, and underlining so the subjects, decisions and actions to be taken (and by whom) stand out and are easy to read. Use the Agenda as a basis for the format of minutes.
- Don't try to record every statement made at the meeting. The minutes are a record of the decisions made - each decision or resolution must be accurately recorded.
- A copy of the minutes without error or additions (unless initialled and signed by the Secretary and Chairperson after adoption at the meeting) should be included in the Minutes Book as a permanent record of meetings. It is the Chairperson's responsibility to see the minutes are unaltered after adoption and are signed as an accurate record.
- You can record the names of the mover and seconders of each motion or amendment. Record the numbers for and against if specifically requested by those present.
- List correspondence, business arising and items for general business by number.

- Organise all your papers in this order and try and see that the agenda follows this order. Shuffling reams of paper, lost items and trying to take minutes while finding the next item is a hassle. Decisions can also be noted on the business papers and then transferred to the minutes later.
- If minute taking is a shared or revolving duty, allow each person to perfect their skills by taking minutes for at least 3 - 4 consecutive meetings.
- Draft minutes can be reviewed with the Chairperson or with the Secretary. Two heads are better than one to remember events.
- Remember, minutes should communicate and assist evaluation. They ensure accountability and are a permanent record of the group's activities.
- Send them out as soon as possible after the meeting, so that follow-up action is more easily taken.
- Include a record of the place, date and time of the next meeting.

PROCEDURE FOR MOTIONS

A motion needs to be lawful, productive, relevant, appropriate, easily understood and be positive in its intent, e.g.” *I move that the facility be an alcohol free zone*." If the motion does not meet these requirements, the Chairperson can reject it. Reasons must be given for this decision. Any motion must be ‘seconded’ before it can be accepted by the Chairperson and opened for debate. There is no legal requirement to record mover and seconder; however it can be done at the Committee's discretion. The matter lapses if there is no Seconder. Once a motion has been moved and seconded, the order of debate is:

- Mover (raises original motion)
- Seconder (allows debate on the motion)
- Speaker against the motion
- Speaker for the motion
- Speaker against the motion
- Speaker for the motion

The debate continues in this manner until there are no further speakers. A member of the Committee may speak no more than once to each motion or amendment at the meeting. The Mover may then speak again, but in doing so closes the debate. Once the Mover has closed the debate the Chairperson must put the motion to a vote.

Amendments

Amendments may be made after the motion. The amendment must:

- be clear and be part of the motion being considered,
- have a seconder,
- not exceed the power of the meeting,
- not be a direct negative of the motion, and
- be put to the vote before the motion.

STANDARD FORMAT - ANNUAL GENERAL MEETING AGENDA

1. Commence/Open Meeting.

2. The Chairperson presides over the following items:

- Welcome,
- Apologies,
- Minutes of previous AGM, and
- Reading reports i.e. Chairperson Report, etc.

3. All positions are declared vacant and the Returning Officer takes the chair and presides over the following items:

- Election of Office Bearers, and
- Acceptance of nominations from user groups and community members.

4. Returning Officer then hands the chair over to the newly elected Chairperson who is responsible for:

- Thanking the Returning Officer,
- Welcoming the new Committee,
- Consider recommendations 'carried' by way of a motion from the floor,
- Getting agreement on meeting dates for coming year.

5. Closure of AGM.

Brewarrina Council appreciates the efforts of volunteers who become members of Section355 Committees. This is an important role providing a valuable contribution to the local community. Without such voluntary help the number of community facilities and services that Council is able to establish and support would be reduced.