

TEMORA SHIRE COUNCIL



TEMORA

The Friendly Shire

CODE OF PRACTICE – SECTION 355 COMMITTEES

ACTIVE

Review Details

ABOUT THIS RELEASE

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INTRODUCTION

Temora Shire Council recognise the important part volunteers and community groups play in providing and managing Council facilities or services. There are a number of committees which are constituted under the powers provided by the Local Government Act 1993 and this document refers to these committees.

This manual provides comprehensive guidelines on the management responsibilities, functions and operation of a community committee and clarifies Council's role in this partnership. Upon formal approval of a community committee by Council, its members are required to adopt and adhere to the conditions set out in this document. Adherence will ensure Council and committee members are aware of the responsibilities and adequately covered by insurance.

The manual is divided into 4 sections, namely:

- 1 Scope of Power: Describes the delegation of function, how committees are established and types of committees.
- 2 Responsibility: Outlines the responsibility undertaken by committees including care, control and management, limitations of power and code of conduct.
- 3 Committee: Provides details of establishment, representation and membership.
- 4 Key Issues: Includes insurance, finances, legal, pecuniary interest, health and safety and employment.

Committee members who seek clarification of any issue raised in this document should contact the General Manager of Temora Shire Council on 6980 1100.

SECTION 1: POWER OF COMMITTEES

1.1 Delegation of Function

Under the Local Government Act 1993 Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community members to manage its facilities or functions through a committee of management.

1.2 Why Does Council Have Community Committees?

The committees provide a mechanism by which interested persons can have an active role in the provision/management of Council facilities or services. This provides a twofold benefit by giving protection to the committee operating under the banner of Council, and by providing Council with assistance in carrying out its functions.

1.3 How are Community Committees Established?

Community committees are established under Section 355 with delegations from Council under the provision of Section 377 of the Local Government Act. Section 355 allows Council to exercise a function of Council and Section 377 allows Council to delegate functions of Council. These terms refer to the section of the Local Government Act in which the authority for such a committee to be formed is identified. (The two extracts of the Act are reproduced in Appendix 4 and 5).

SECTION 2: RESPONSIBILITY

2.1 Responsibility

The community committee will be responsible for activities as determined when the committee is established. This responsibility will be conveyed to the committee and is listed in Appendix 2.

2.2 Limitation of Powers

The committee may not make decisions concerning the following:

- (a) 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).
- (b) Borrowing of any monies without the express written consent of Council on each such occasion.
- (c) The sale, lease or surrender of any land and or other property vested in its care under the provisions of the Local Government Act 1993 (as amended).
- (d) 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).
- (e) The payment or making of any gift, to its members. This includes the payment of allowances or travelling expenses incurred whilst attending committee meetings.
- (f) The payment of any monies outside the scope of the Committee's function.
- (g) 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).
- (h) Unreasonably withholding consent for the letting of the facility to any organisation which agrees to comply with and adhere to the rules adopted for use of the facility, providing an acceptable letting period is available.
- (i) Vote monies for expenditure on the works, services or operations of Council.

The exercise by the Committee of its power and functions will 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/function under its management and control.

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 representative.

2.3 Code of Conduct

Temora Shire Council has adopted the Office of Local Government's Model Code of Conduct which is applicable to elected Councillors, employed staff and Council committee members. This Code of Conduct sets out the principles to ensure the business of Council is carried out in an efficient, honest and impartial way.

As Community Committees are operating as Council, it is important for committees to be aware of and abide by this Code of Conduct. (Copies are distributed to all Community Committees and it is available on Council's website).

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

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

2.4 Accountability

The committees need to be aware that accountability is required to Council, user groups and the general community. To facilitate this accountability, the committees are required to:

- (a) Hold an Annual General Meeting annually that is advertised.
- (b) Provide reports and minutes to Council.
- (c) Ensure that affected persons are aware of the committee meeting details.

SECTION 3: COMMUNITY COMMITTEES

Council aims to appoint committees which are representative of the local community or interest groups for the function which the committee manages.

3.1 Appointment

- To hold office and be responsible for the management of a Council facility, all committee members must be appointed by Council.
- New members must also be appointed by Council before being able to vote and take part in meetings of the Committee.
- Any such committee may be dissolved by the Council at any time.
- The term of office for community committees will be the same term as the current Council, with the addition of an extra three months after the General Election of Councillors, unless as a sunset committee, ie, with a finite time specified.

All nominations for Community Committees are formally submitted in writing to Council for appointment.

3.2 Committee Membership

The Community Committee membership will number not less than four (4) and not more than twelve (12) members as appointed by Council including office bearers unless otherwise decided by council. Council reserves the right to appoint at least one of its members to each committee.

Whilst no particular qualifications are necessary, a commitment to the activities of the committee and a willingness to be actively involved in committee issues is essential.

3.3 Dissolution of Committee

The Committee may be dissolved by the Council at any time.

Committees are formally appointed by the Councillors in office, therefore, three months after the General Election of Councillors, all Community Committee members will cease to hold office.

All committee members are eligible for re-appointment. Committees can either resubmit the nominations in writing to the newly elected Council; or hold a meeting to re-elect the committee and then forward the nominations to Council for approval.
(This action does not rule out committees holding an Annual General Meeting).

3.4 Vacation of Office

The office of any member of office bearer of the Committee will become vacant in the following circumstances:

- (a) upon the death of the member; or
- (b) 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; or
- (c) if the member becomes a mentally incapacitated person; or
- (d) if the member resigns membership by notice in writing to the Committee; or
- (e) if the member is absent for more than three consecutive meetings without leave of the Committee; or
- (f) 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; or
- (g) while serving a sentence (whether or not by way of periodic detention) for a felony or any other offence, except a sentence imposed for a failure to pay a fine.

3.5 Representation on Committee

Committee membership should reflect the community organisations, which use the facility, and must be open to representatives of user groups and interested community members.

Equal representation of each user group is recommended. Where there is a dispute on representation a final determination will be made by Council.

3.6 Committee Positions

Community Committees consist of office bearers (also known as the Executive) and other committee members. The committee elects at its first meeting and thereafter at each Annual General Meeting, office bearers and committee members. Particulars of all appointments, eg, committee position, name, address, contact number and the user group represented, must be notified in writing to council as soon as possible after appointment is made.

Community Committee members need to have a certain degree of commitment to their role as committee members. One of the advantages of community committees is that the workload can be shared between the different committee members. It is important each member understands this role and what is expected by the community.

3.6.1 Office Bearers/Executive

Office bearers do not have greater decision-making powers than other committee members, other than the chairperson who has a casting vote in the event of a tied vote. Whilst office bearers usually have defined roles, each committee member plays an important part in the functioning of the committee.

At a minimum the committee must have:

- **Chairperson/President**
The Chairperson is usually the spokesperson for the organisation and therefore needs to be certain that the organisation is running smoothly and achieving its aims and objectives. (Refer Appendix 6(i))
- **Secretary**
(One person may fill the joint position of Secretary/Treasurer)
The Secretary is often the key contact point for the organisation, that is, for correspondence, phone messages, etc. and is required to record the 'minutes' for each meeting. (Refer Appendix 6(ii)).
- **Treasurer**
The Treasurer is responsible for looking after the committee's financial business records and is required to present a report of all receipts, payments and other transactions to each committee meeting. (Refer appendix 6(iii)).

3.7 Meeting Procedures

Meetings are to be conducted to standard guidelines, which are detailed in the following section and include:

- (a) that a quorum be present
- (b) that appropriate notice is given
- (c) that business on the agenda is properly conducted
- (d) that correspondence and minutes are recorded.

3.7.1 A Quorum

This refers to the minimum number of members who must be in attendance to transact business.

Council regulations state:

- (a) A quorum will consist of **one half of the total number** of elected members plus one,
- (b) If a quorum is not present within half an hour after the appointed starting time, the meeting will be adjourned to a time fixed by the Chair/President; or those present can hold an informal meeting to discuss matters. However, any decisions taken by the committee are not recognised until they have been ratified by a meeting where a quorum is present.

3.7.2 Agenda

The agenda is an organised list of headings of all the major items, in order, that will be discussed at the meeting. A copy of the agenda is distributed to all the committee members at the commencement of the meeting, or before if it is possible. Late matters can be added to the agenda at the opening of the meeting as the chairperson calls for discussion on the agenda.

Each item of business to be discussed at the meeting needs to be put on the agenda. Unfinished business and reports on actions taken since previous meetings are included in the agenda under 'Business arising from previous minutes'. If any items on the agenda are not discussed due to limitations of time, they are carried over to the next meeting agenda.

3.7.3 Conduct of Business

Each item of business is discussed in the order in which it appears on the agenda. Allow adequate time for discussion on important issues. Ensure all relevant information on the matter under discussion is available at the meeting.

3.7.4 Correspondence

A list of correspondence received (**Inwards**) is present at the Committee meeting by the Secretary. This action is to inform members of any new issues that may have arisen and to report on letters received in response to matters raised at previous meetings. A list of correspondence sent out (**Outwards**) is provided to inform the members of any action taken on their behalf. All correspondence will be suitably filed for future reference.

3.7.5 Election of Committee

At the AGM all members of the committee stand down and their positions are declared vacant. A Returning Officer, appointed at the meeting, takes the chair and calls for nominations for the positions of office bearers (also known as the Executive) and committee members.

3.7.6 Procedures for Election

Nominations can be accepted in two ways:

- in writing, duly seconded, and signed by nominee, prior to the AGM; or
- verbally from the floor to the Returning Officer.

If two or more persons are nominated for a single position a vote must be taken. Persons nominated for election are entitled to vote for themselves. If a tied ballot occurs, the name of each candidate is written on a separate, identical piece of paper and draw 'from the hat' by the Returning Officer (or an impartial observer), takes place. The first name drawn is the elected member.

A list of duly elected office bearers / executive and committee members must be recorded together with the names of nominators and seconders. Minutes of the AGM with the list of duly elected committee members must be sent to Council for approval within 5 working days.

3.7.7 Observers

Observers are welcome to attend meetings and to speak at the discretion of the Chairperson. However, an observer is not entitled to:

- a) Give notice of business for inclusion in the agenda for the meeting, or
- b) Move or second a motion, or
- c) Vote at the meeting.

3.8 Voting

Voting allows members to express their agreement or disagreement. Voting can be conducted in one of three ways.

- (a) **Vote verbally**
The chairperson asks people to say 'for' or 'against' and then decides which group is the largest.
- (b) **Vote by show of hands**
The chairperson asks people in favour of a decision to raise their hands, firstly those in favour, counts hands and announces the total, and does the same for those against.
- (c) **Vote by secret ballot**
Members vote on paper and put into general pool, the secretary and a member not standing for any position, count the votes. (Requests by members for secret ballot cannot be denied.)

For all motions, the committee needs to have an agreement concerning the way a vote will be decided, eg. For the vote to be carried, you will need a simple majority (more than half); for changes to the Constitution, you will need two-thirds majority of those present.

KEY ISSUES

4.1 Insurance

4.1.1 Industrial Special Risks

All council facilities are covered for risks such as fire, theft and malicious damage. Committees should be aware of the excess applicable to these policies.

4.1.2 Public Liability

The Committee is covered by the public liability policy of Council (currently \$20 million). This insurance does not preclude the committee from due diligence and all council policies must be adhered to.

4.1.3 Personal Accident

Committee members are covered when injured whilst undertaking duties relating to their role in the committee up to the limits outlined in Council's insurance policy. Compensation is limited for covered persons aged 90 years or over.

Council's Personal Accident Insurance Policy is not intended to provide medical expenses cover. These are covered by Medicare or private health insurance. Consequently, only non-Medicare rebated medical expenses will be claimable under this policy.

4.1.4 Motor Vehicle

In the event that a committee member utilises a Council vehicle, the motor vehicle policy of Council will provide cover.

4.2 Legal Issues

From a legal perspective it is important for Committees of Council to be aware that they are in fact acting on Council's behalf. Legally, the committee is 'Council' and any action which the committee undertakes is Council's responsibility.

Committees sometimes believe they are responsible in their own right and that their actions are independent of Council. This is not the situation. Council delegated its authority to the committee to act on Council's behalf and Council can withdraw this delegation if it deemed it to be necessary.

4.2.1 Records of Committee

Most of the records of Council Committees should be kept for at least 7 years. 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 cases.

4.2.2 Pecuniary Interest (Refer to Part 4 of Council's Code of Conduct)

Pecuniary Interest may be defined as an interest that a committee person has in a matter, as a member or employee of a company or other body, because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person, or another person with whom the person is associated. Such other person includes the spouse or de-facto partner or relative of the committee person.

Disclosure of Pecuniary Interests

(a) If:

- (i) committee member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting; or
- (ii) the interest appears to raise 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 member's knowledge, disclose the nature of the interest at the meeting.

(b) A committee must ensure that:

- (i) Particulars of any disclosure made under this clause are recorded in a book kept for the purpose; and
- (ii) That book is kept open at all reasonable hours to inspection by any person.

(c) After a member of a committee has disclosed the nature of an interest in any matter, the member must not,

- (i) be present during any deliberation of the committee with respect to the matter; or
- (ii) take part in any decision of the committee with respect to that matter.

4.3 Correspondence

Correspondence from the committee is effectively correspondence from the Council as the committee acts on Council's behalf. Hence stringent conditions are required to ensure appropriate use of Council's name.

4.3.1 Letterhead

- (a) There are some occasions when the Council letterhead may be used on behalf of the committee. In these instances, the letter must be approved and signed by the Council's General Manager.
- (b) The use of separately designed letterhead is limited to those Council Committees and areas of activities which:
 - (i) may have a benefit in being identified in a slightly different way to normal Council activities and where a separate image or presentation may be appropriate, and
 - (ii) may be strongly community based.
- (c) In all instances the letterhead design must be approved by Council and indicate that the function is a committee of Temora Shire Council.

4.3.2 Purpose of Correspondence

Usage is limited to the activities of each specific authorised functional area and specifically limited to:

- provision and seeking of information
- extension of invitation
- letters of thanks
- seeking of sponsorship (after approval of General Manager)
- general correspondence not committing the Council or making public comment.

4.3.3 Filing

Copies of all correspondence from the committee must be placed in Council's filing system within 1 day of the letter being sent.

4.3.4 Signatures

The signing of correspondence being limited to the Mayor, General Manger, a member of staff duly authorised by the General Manager, or a chairperson of the committee duly authorised by Council.

4.4 Sub Committees

The committee may appoint working groups to report back to the committee. These 'sub committees' have no legal standing and must recommend back to the committee for ratification.

Members of sub committees must be duly appointed members of the community committee and will be covered in accordance with this policy.

4.5 Clerical Support

It is not the normal practice of Council to provide clerical support to community committees. A committee may however apply for support and Council will make a determination on whether assistance will be forthcoming.

In general terms, clerical support will only be offered if a Council employee is a member of the committee and the assistance is an extension of the employees duties.

If support is offered, the level of assistance will be subject to negotiation between the committee and Council and strict duties established. Council supports the principle that a committee should be self-reliant and provide its own office bearers.

4.6 Financial Issues

Community Committees are given authority to operate by Council and are subject to the same rules and regulations. These rules are set out in the Local Government Act, and Local Government Regulations and Accounting standards and must be adhered to.

Community Committees are, as the name suggests, established to benefit the community and are made up of members of the community. Any funds raised, received or spent are subject to public scrutiny, just the same as Council. The concept of public accountability involves a responsibility to ensure that committee funds are used in the manner for which they were intended and that a clear and full disclosure of the committee's financial activities is available.

4.6.1 Accounting

The following conditions are required by Council in relation to community committees, subject to delegations set out in the Committee's Terms of Reference:

- a) A bank account must be opened at any branch of a recognised bank or Credit Union with a credit rating of BBB+ or greater and/or a branch in the Shire of Temora. Such account will be in the name of the committee.
- b) All monies received by the committee must be banked within 1 week of receipt.
- c) The committee is authorised to draw on its account for such sums as it may require in the performance of delegated function but under no circumstances will the account be overdrawn.
- d) A suitable cash book, receipt book, bank deposit book and petty cash will be maintained and kept up to date. All such records will be submitted to Council no later than the 31 July in each year for audit purposes. (The financial year will be from 1 July to 30 June).

- e) Receipts, in the name of the Committee, will be issued for all charges and other monies received and duplicates of all receipts will be retained for audit.
- f) Payment will be made by cheque or EFT and in every case evidence of the need for the payment will be obtained and attached to payment records.
- g) The Committee may authorise its Chair/President, treasurer and one other person to sign on its behalf on the basis that two signatures are required on each cheque or two authorisers of EFT.
- h) All records and books will be made available for inspection whenever required by any inspector of local government accounts, Council's auditor or any authorised officer of Council.
- i) The Committee will be entitled to spend all monies raised in the management of the facilities under their control, provided that all such monies together with the Committee on their operations, will be expended strictly in accordance with any conditions imposed by the Council and only upon the facility of the Council for which the Community Committee has been constituted.
- j) 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 expenditure certification will be required by Council.

APPENDIXES

1. Council Committees
2. Committee Responsibilities
3. Procedure for Establishment of Committees
4. Section 355 Local Government Act (Community Committees)
5. Section 377 Local Government Act (Delegations)
6. Sample Reports and Specifications
 - Responsibilities of Chairperson
 - Responsibilities of Secretary
 - Responsibilities of Treasurer
 - Responsibilities of Committee Members
 - Standard Format – Ordinary Meeting Agenda
 - Standard Format – Annual General meeting Agenda
 - Standard Format – Correspondence
 - Standard Format – Minutes
 - Procedures for Motions
7. Liability Exposures of section 355 Committees and voluntary workers

Appendix 1

COUNCIL COMMUNITY COMMITTEES AS AT 15 AUGUST 2024

Access & Equity Committee
Aerodrome Users Committee
Ariah Park Advisory Committee
Ariah Park Swimming Pool Committee
Temora Shire Australia Day Committee
Bundawarrah Centre Advisory Committee
Friends of Temora Shire Cemeteries
Heritage Committee
Imagine Temora
Lake Centenary Management Committee
Sister City Committee
Springdale Community Committee
Temora Agricultural Innovation Centre Committee (TAIC)
Temora & District Sports Council
Temora Fight the Fruit Fly Committee
Temora Arts Centre
Temora Women's Network
Temora Youth Team
Town Hall Theatre

Appendix 2

COMMUNITY COMMITTEE RESPONSIBILITIES

Access & Equity Committee

- To advocate on behalf of people with disability, older people and parents with infants
- To promote wellbeing and a sense of belonging for the above residents by raising awareness of issues that they may face
- To ensure services and facilities in the community are accessible to all residents (within reason and with regard to regional and rural limitation)

Aerodrome Users

- To promote the future development of Temora Aerodrome and provide a forum for consultation with aerodrome users

Ariah Park Advisory Committee

- To promote and maintain the facilities of Ariah Park for the benefit of the community.

Ariah Park Swimming Pool Committee

- To promote optimum usage of the Ariah Park Pool.
- To provide an information conduit between the users of Ariah Park Pool and Council
- To develop capital expenditure priorities for the Ariah Park Pool

Temora Shire Australia Day Committee

- To organise or facilitate appropriate events to celebrate Australia's National Day in Temora Shire
- To participate in the ambassador program
- To organise community recognition through the annual Citizenship awards.

Bundawarra Centre Advisory Committee

- To provide a liaison body for co-located organisations operating from the Bundawarra Centre
- To provide a conduit between the Bundawarra Centre operators and Council.

Friends of Temora Shire Cemeteries

- To advise Council on issues relating to the maintenance and development of Council owned cemeteries
- To assist in the maintenance of Council owned cemeteries in Temora Shire Council areas
- To provide residents with historical information for family history purposes relating to burials.

Heritage Committee

- To protect and conserve areas and items of historic and landscape heritage value
- To administer the Local Heritage Fund
- To manage the Local Heritage Advisory program
- To develop, maintain and implement the Heritage Strategy.

Imagine Temora

- To promote cultural diversity and to satisfy artist needs of community
- To foster performing artists
- To bring performances to the Shire

Lake Centenary Management Committee

- To manage the usage of Lake Centenary on behalf of Temora Shire Council
- To provide an information conduit between the users of Lake Centenary and Council
- To administer the rules and regulations for the use of Lake Centenary as set down by agreement between Council and the Committee.
- To advise Council on issues pertaining to the maintenance and development of Lake Centenary and surrounds
- To promote safe usage of the facilities at Lake Centenary
- To promote the usage of Lake Centenary as a premier water sports location accessible to all residents.

Sister City Committee

- To forge closer Council and community relationships with existing sister cities and Council.
- To promote peace through mutual respect, understanding and cooperation.

Springdale Community Committee

- To promote optimum usage of the Springdale Hall including maintenance of the hall;
- To provide an information conduit between the Springdale community and Council
- To ensure that the hall is maintained in good condition;

Temora Agricultural Innovation Centre (TAIC)

- To work in partnership with FarmLink to promote TAIC as a premium facility providing value to farmers in the local area and further afield.

Temora & District Sports Council

- To foster active participation of the people of the Temora and District in all forms of sport.
- To advise Council on matters relating to the utilisation of Council Sporting facilities.
- To promote and acknowledge sporting excellence through the annual sportsperson of the year award and Walk of Honour
- Monitor the usage of Temora Recreation Centre.

Temora Fight the Fruit Fly Committee

- To create awareness amongst citizens and provide education towards the control of fruit fly in the shire

Temora Arts Centre

- To build community support and establish a creative reputation for the facility.
- To increase the financial returns of the facility.
- To stimulate the pursuit of creative thinking, education and outcomes at the facility.

Temora Women's Network

- To provide networking and support for women in the community
- Provide information on women's issues for the Temora Shire Council Strategic Plan

Temora Youth Team

- To provide a safe, social network for the youth of Temora Shire

Town Hall Theatre

- To provide a venue to host small movies, seminars, concerts, lectures.
- To provide a social outlet to all residents of the shire

Appendix 3

PROCEDURE TO ESTABLISH A COMMUNITY COMMITTEE

- 1 The group must make written application to Council detailing reasons / purpose for establishment.
- 2 A report to be presented to Council including:
 - information to support the committee's establishment including role, function and life
 - recommendation from General Manager
 - specific authority being delegated by Council
- 3 A motion to be passed by Council worded thus:

It was resolved that 'xyz committee' be established as a Council Community Committee in accordance with Section 355 of the Local Government Act 1993, such committees to be bound by the conditions laid out in the Council Code of Practice for Community Committees.
- 4 The committee will be notified of the decision of Council and if adopted, a copy of the Code of practice for Council Committees will be forwarded to the committee.

Appendix 4

SECTION 355 LOCAL GOVERNMENT ACT COMMUNITY COMMITTEES

355 How does a council exercise its functions?

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

- (a) 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
- (b) by a committee of the council, or
- (c) partly or jointly by the council and another person or persons, or
- (d) 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
- (e) by a delegate of the council (which may, for example, be a Voluntary Regional Organisation of Councils of which the council is a member).

Appendix 5

SECTION 377 LOCAL GOVERNMENT ACT (DELEGATION)

377 General power of the council to delegate

- (1) A council may, by resolution, delegate to the general manager or any other person or body (not including another employee of the council) any of the functions of the council, other than the following:
 - (a) the appointment of a general manager
 - (b) the making of a rate
 - (c) a determination under section 549 as to the levying of a rate
 - (d) the making of a charge
 - (e) the fixing of a fee
 - (f) the borrowing of money
 - (g) the voting of money for expenditure on its works, services or operations
 - (h) the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)
 - (i) the acceptance of tenders to provide services currently provided by members of staff of the council
 - (j) the adoption of an operational plan under section 405
 - (k) the adoption of a financial statement included in an annual financial report
 - (l) a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6
 - (m) the fixing of an amount or rate for the carrying out by the council of work on private land
 - (n) the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work

- (o) the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979
 - (p) the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194
 - (q) a decision under section 356 to contribute money or otherwise grant financial assistance to persons
 - (r) a decision under section 234 to grant leave of absence to the holder of a civic office
 - (s) the making of an application, or the giving of a notice, to the Governor or Minister
 - (t) this power of delegation
 - (u) any function under this or any other Act that is expressly required to be exercised by resolution of the council.
- (1A) Despite subsection (1), a council may delegate its functions relating to the granting of financial assistance if—
- (a) the financial assistance is part of a specified program, and
 - (b) the program is included in the council's draft operational plan for the year in which the financial assistance is proposed to be given, and
 - (c) the program's proposed budget for that year does not exceed 5 per cent of the council's proposed income from the ordinary rates levied for that year, and
 - (d) the program applies uniformly to all persons within the council's area or to a significant proportion of all the persons within the council's area.
- (2) A council may, by resolution, sub-delegate to the general manager or any other person or body (not including another employee of the council) any function delegated to the council by the Departmental Chief Executive except as provided by the instrument of delegation to the council.
- (3) A council may delegate functions to a joint organisation only with the approval, by resolution, of the board of the joint organisation.

Appendix 6(i)

RESPONSIBILITIES OF THE CHAIRPERSON

The Chairperson generally has the following specific duties, which make up the major part of their responsibility:

(i) Before a meeting

- prepares the agenda (in consultation with the Secretary or members or can delegate this role to the Secretary), setting out the items of business to be considered.
- ensures meeting is properly convened in accordance with the organisation's rules ie. proper notice of a meeting is given and a quorum is present.

(ii) During the meeting

- chairs all meetings, opens meeting, welcomes and introduces members and guests, subject to the right of the Mayor at his/her discretion, to take the chair at any meeting he/she attends
- keeps individuals and the meeting focused on the topics being discussed and encourages all members to participate, ensuring adequate opportunity is given to members who wish to speak
- ensures correct meeting procedures are followed and control of the meeting is maintained, keeping track of time (or delegates to someone to do this)
- makes sure members are aware of decisions being made and that the minute taker has recorded decisions of the meeting
- acts impartially and uses discretionary powers in the best interests of members and in accordance with the agreed standing orders ie. method of conducting meetings, and ensures all statutory regulations and organisation's rules are observed
- closes meeting after business at hand has been properly concluded.

The Chairperson needs to be aware of certain issues and procedures and the importance of establishing and maintaining a working relationship with Council, particularly in regard to Government funding, the function/facility budget, Council and community involvement and requirements.

The chairperson is responsible for providing assistance to all members of the committee and ensuring that they fulfil their respective roles. The chairperson is the 'spokesperson' for the committee.

Appendix 6(ii)

RESPONSIBILITIES OF THE SECRETARY

The organisation's secretary usually carries a great deal of responsibility and often has more knowledge than anyone else on what is happening.

(i) Before a meeting

- draws up the agenda, (in consultation with the Chairperson)
- makes copies of the agenda if required

(ii) During the meeting

- takes minutes
- reads minutes of previous meeting if necessary
- provides a list of correspondence in order and summarises any important points
- records any motions and/or decisions of the meeting including, mover and seconder.

(iii) After the meeting

- types the minutes and distributes to committee members as soon as possible
- ensures that accurate minutes are kept
- writes any letters as decided (this can be a shared role with another committee member).

(iv) Outside of meetings

- keep a register of correspondence that has come in and gone out, and file copies of all letters written
- in between meetings inform other committee members of any correspondence requiring urgent attention.

Appendix 6(iii)

RESPONSIBILITIES AND GUIDELINES FOR THE TREASURER

To establish an effective financial system, Committees will need to maintain the following books and forms (depending on delegations outlined in Terms of Reference):

- 1 Cheque Book
- 2 Expenditure documentation
- 3 Receipt Books
- 4 Cash Book
- 5 Bank Deposit Book

1 Cheque Book/EFT Payments

The Cheque book should normally be held by the treasurer and must only be drawn upon with the joint signatures of two of the executive.

All EFT payments made from the Committee bank account will require authorisation by two committee members.

All cheques drawn/EFT payments will have some form of supporting documentation. All cheques drawn/EFT Payments will be authorised by the Community Committee. All payments must be entered in the Cash Book under the appropriate cost heading.

2 Expenditure Documentation

All payments should have supporting documentation, preferably an Invoice. These should be kept in payment order and noted with the cheque/EFT number and date of payment for easy reference and to prevent double payment. Where documentation is not available, a notation should be provided detailing the payment and explaining why documentation is not provided.

3 Receipt Books

All receipt books must bear the Committee's name (a stamp will do), have a fixed duplicate copy and be numbered. A receipt must be issued for every payment received and monies should be banked regularly. The receipt of cash is an area where strict control is required. The safest method is to have only a limited number of approved people who have the responsibility for receiving funds, issuing receipts and banking monies.

Keep a record of receipt books detailing the number and location (ie. in use or not). Record receipt number in the Cash Book and on the Deposit form retained by you. Never give change for a cheque payment.

Avoid altering amounts on receipts. If it is necessary to alter a receipt, cross through the incorrect entry and insert the correct amount. Initial all alterations. It is more acceptable to cancel a receipt and retain both the original and duplicate in the book, than to alter a receipt.

4 Cash Book

The Cash Book is the organisation's record of what money is received and spent, the transactions (both incoming and outgoing) that have occurred, and how much cash is on hand at any one time.

A twelve (12) or eighteen (18) column cash book gives most committees enough room for details. It is essential to have receipts and payment on separate pages or in some cases, separate section of the cash book. Across the page the columns are headed to allow the date, receipt or cheque number, cost or income allocation and totals. Have appropriate and sufficient cost or income headings for frequent transactions. Try not to have too many items under sundries or miscellaneous – it makes things difficult when preparing end of year figures.

Update the Cash Book on a regular basis so it does not become a big job. The totals down the page should always equal the totals across the page – do this each time you rule off a page. Check that the totals carried forward onto the next page are correct.

Bank fees, interest, etc. wherever possible should be written in the Cash Book in the month they were raised or when bank statements are received. This assists with reconciling the cash book to the Bank statements.

Show all cheques written/EFT payments during the month in the cash book whether they have been presented or not. Show all income received during the month whether banked or not.

Reconciliation – Check off the amounts received and paid in the cash book against the bank statement figures. From this, you can compile a list of outstanding deposits or unpresented cheques and it also verifies that an incorrect figure does not appear in either records. If the bank reconciliation does not agree, find the discrepancy. It will be either a mistake in the Cash Book or on the bank statement.

5 Bank Deposit Book

This book is supplied by the bank you have nominated and it is where all income is recorded for deposit into the organisation's account.

Keeping the books

All Community Management Committees are required to keep complete and accurate records.

The following guidelines and procedures have been prepared to give members of Community Committees a greater understanding of the tasks they have undertaken.

Steps Required to Keep Complete and Accurate Records

- 1 Open a bank account in the committee's name.
- 2 Make as many payments as you can by cheque or EFT. Avoid paying cash.
- 3 Record details of cheques on the cheque butt.
- 4 Bank all cash receipts promptly into the bank account.
- 5 Record all details on the receipt book butt.
- 6 Write up the cash book regularly – at least monthly.
- 7 Reconcile the bank account regularly – generally monthly or each time a bank statement is received and at the end of the financial year.
- 8 Keep a wages book (if applicable).
- 9 Retain supporting documentation or evidence for all cheques drawn/EFT payments.

Writing up the Cash Book

Council will establish a set of essential books for issue to all Community Committees upon establishment. Cash books are available in various sizes from stationers and office suppliers such as Newsagents.

a. Payments

- Enter appropriate headings in the book, ensuring the first column is “Bank” and the last one “Sundries”.
- Enter cheques in cheque number order and EFT payments in date order.
- Ensure every cheque and EFT payment is recorded in the book.
- Record cancelled cheques, but at no value.

b. Receipts

- The same procedures as for payments.
- All amounts received must be receipted.

c. Reconciliation

Bank reconciliations need to be performed regularly because:

- i. they keep track of cheques that are outstanding and possibly lost
 - ii. they ensure that a complete record is kept of all transactions
 - iii. they enable your accountant to prepare a balance sheet and accounts for your committee and can therefore save you considerable money in professional fees.
- Take the monthly bank statement and write all items such as bank fees, direct debits, etc. into the cash book.
 - Total up the columns, ensure they add the same across as well as down.
 - Tick off all items appearing in the cash book against the bank statements, noting any that are outstanding.

Finally, to complete reconciliation:

Take the total Cash Book balance (brought forward from previous financial year)
Plus Income received to date in current financial year,
Less payments to date in the current financial year,
This should equal the balance on the bank statement; - less any unpresented cheques
plus any unbanked deposits.

d. Retention of Records

GA-39 – General Retention and Disposal Authority: Local Government Records requires records to be retained for seven years. It is important to retain all invoices and other supporting documentation.

Appendix 6(iv)

RESPONSIBILITIES OF COMMITTEE MEMBERS

Committee members' role is important and ensures the democratic process is followed. Members' responsibilities are:

- a. attend most committee meetings;
- b. participate in meetings – this involves:
 - being on time
 - sticking to the agenda
 - contributing to the discussion where appropriate
 - being objective, listening to others' views
 - volunteering to do some of the necessary tasks required.
- c. support the office bearers in carrying out their jobs
- d. assist in organising the Annual General Meeting
- e. attend and participate in any planning days that may be held
- f. make sure the function is being maintained and run smoothly.

Appendix 6(v)

STANDARD FORMAT – ORDINARY MEETING AGENDA

1. **Open Meeting**

Action: The Chairperson welcomes members and visitors, declares the meeting open, ensures everyone has an agenda, and asks for any extra items suggested by members.

2. **Attendance and Apologies**

Action: The Secretary records those present along with a motion moved and seconded to accept any apologies. An attendance list or book may be circulated.

3. **Confirmation of minutes of the previous meeting**

Action: Two committee members in attendance at the last meeting are asked to confirm that the record of minutes is a true and correct one. Any amendments or changes need to be recorded and included in this meeting's minutes.

4. **Business arising from previous minutes**

Action: Deal with any matters that have arisen or were to be completed since the last meeting.

5. **Correspondence**

Action: Includes both Inwards and Outwards correspondence. A member, usually the Secretary, reads out in full or in summary any letters received or sent since the last meeting. Any business arising from these letters is dealt with as it is read, and recorded in the minutes.

6. **Treasurer's Report**

Action: The Treasurer gives a report on the financial position of the committee, including income and expenditure since the last meeting and gives an overview of future budget estimates.

7. **Other Reports**

Action: Reports from other office bearers.

8. **General Business**

Action: Items on the agenda are discussed. Also remind members of any upcoming events.

Note: *General Business often contains the important discussions and decisions. Efficient meetings work through the early business quickly to leave sufficient time for general business. Specific items that arise in items (1) to (5) can be deferred to General Business if appropriate.*

9. **Close Meeting**

Action: Establish the date and time of next meeting. Chairperson thanks members and visitors for attending and declares the meeting finished or closed.

Appendix 6(vi)

STANDARD FORMAT – ANNUAL GENERAL MEETING AGENDA

1. Commence/Open Meeting

Chairperson/President presides over the following items:

- a. Welcome
- b. Apologies
- c. Minutes of previous AGM
- d. Reading Reports, ie. Chairperson, Treasurer, etc.

All positions are declared vacant and the Returning Officer appointed by the meeting takes the chair and presides over the following items:

- a. Election of Office Bearers
- b. Acceptance of nomination from user groups and community members.
- c. Appointment of Solicitor (if required)
- d. Recommending Annual Fees

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

- a. Thanking the Returning Officer
- b. Welcoming New Committee
- c. Consider recommendations “carried” by way of motion from the floor
- d. Getting agreement on meeting dates for coming year.

Closure of AGM Meeting

Appendix 6(vii)

STANDARD FORMAT FOR CORRESPONDENCE

1. Keep a copy of all correspondence sent out on behalf of committee.
2. 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 despatch of mail
 - A numbering system 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 Secretary.
3. Enter all correspondence in the relevant section of the book ensuring date and number are recorded.
 4. Place letter received since the last meeting in a folder marked, Correspondence Inwards, for the meeting.
 5. Record any action required and which committee is responsible for this action.
 6. Establish and maintain a filing system for all mail, both In and Out.
 7. Correspondence can be filed numerically or by subject.
 8. Related items of correspondence can be placed together.

Appendix 6(viii)

FORMAT FOR GOOD MINUTES

1. Keep them short, clear and concise, and consistent.
2. 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.
3. 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.
4. A copy of the minutes without error or additions (unless initialled and signed by the Secretary and Chairperson, after adoption at the meeting) must be kept 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.
5. You must 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.
6. 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. Decisions can also be noted on the business papers and then transferred to the minutes later.
7. 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.
8. Remember, minutes should communicate and assist evaluation. They ensure accountability and are a permanent record of the group's activities.
9. Send them out as soon as possible after the meeting, so that follow-up action is more easily taken.
10. Include a record of the place, date and time of the next meeting.

Appendix 6 (ix)

PROCEDURE FOR MOTIONS

A motion needs to be lawful, productive, relevant, appropriate, easily understood and be positive in its intent, eg. *“I move that the facility be an alcohol free zone”*. If the motion does not meet these requirements, it can be rejected by the Chairperson. 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. If there is no seconder, the matter lapses. Once a motion has been moved and seconded, the order of debate is –

- Mover (raised original motion)
- Secunder (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
- be put to the vote before the motion

Appendix 7 LIABILITY EXPOSURES OF SECTION 355 COMMITTEES & VOLUNTARY WORKERS



JARDINE LLOYD THOMPSON



11 April 2002

Risk Services Division

Jardine Lloyd Thompson Pty Ltd
ABN 69 009 098 864

Unit 5, 3rd Floor, 33 Macquarie Street

Dubbo NSW 2830

PO Box 609

Dubbo NSW 2830

<http://www.jlta.com.au>

Telephone 02 9320 2700

Facsimile 02 6884 6747

Direct Dial 02 6884 6744

Email tonks@jlta.com.au

Attention: Ms Cathy New

The General Manager
Temora Shire Council
PO Box 262
TEMORA NSW 2666

Dear Sir,

LIABILITY EXPOSURES OF SECTION 355 COMMITTEES AND VOLUNTARY WORKERS

It is well-known that at present many community groups are experiencing difficulty in obtaining Public Liability insurance, and that where insurance can be purchased by the groups then the premium costs have risen considerably. The Statewide Mutual Board has become aware that some Councils are establishing such community groups as section 355 committees, or nominating the members of the community groups as "voluntary workers" of Council, in an attempt to include the groups under Council's Statewide Mutual protection.

Statewide Mutual has prepared a letter, which is attached, pointing out that the establishment of a new section 355 committee will constitute a new activity by Council and must be advised to (and agreed by) Statewide Mutual. As Brokers to Council, we also bring to your attention that *any claim which arises from the activities of a section 355 committee will be subject to your Public Liability/ Professional Indemnity excess, which is payable by Council.* Any new sub-committee must be established and managed in accordance with the Local Government Act, and can only operate in accordance with its delegated authority from Council. A committee established under the Local Government Act will become part of Council, and you should carefully consider your obligations to that committee, *including those under the Occupational Health and Safety Act.* Also, Council has responsibilities for the actions of its voluntary workers, who are under your control and who may cause personal injury or property damage to third parties for which Council will have a liability.

PERSONAL ACCIDENT COVER FOR VOLUNTARY WORKERS

Where Council agrees to engage further voluntary workers, it should not be assumed that Council's Personal Accident cover will automatically apply to such voluntary workers. This particularly applies where the activities of the new voluntary workers fall outside the usual interpretation of "local government activities". You should notify JLT so that we may obtain the agreement of the insurer, and if necessary negotiate an extra premium.

If the activity is hazardous, insurers may decline to provide cover. An example might be where a Council's Events Co-ordinator arranges for entertainers or persons demonstrating a sport to appear at a Council-organised function. It is doubtful that they can be considered to be "voluntary workers" of Council, or that insurers will agree that they may be included under the Personal Accident scheme for local government.

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In addition, Council should be aware that it has obligations in respect of its voluntary workers. They should be engaged in connection with a Council-organised activity and be registered as volunteers by Council. The Occupational Health and Safety regulations applicable to paid employees should be used in connection with voluntary workers; you are required to ensure that all voluntary workers are suitably trained for their duties, have suitable clothing and are appropriately managed during the voluntary activity.

HOLD HARMLESS AGREEMENTS AND INDEMNIFICATION OF OTHER PARTIES

Council will be aware that contract Wordings which Council is requested to sign may contain "Hold Harmless", "Release" or "Indemnity" clauses, or other clauses which seek to impose liabilities upon Council or which require Council to provide indemnity to outside parties or to release outside parties from liabilities. The clauses are intended to alter the Common Law rights of the parties involved.

As a general rule, the coverage provided by your Public Liability insurance policy (or by your Local Government Scheme Liability protection provider, such as Statewide Mutual) may be reduced or totally negated if the insurer or scheme protection provider is prejudiced by your acceptance of alterations, either to your own or your insurer's Common Law rights, without first obtaining their permission.

It is not practical to list all the types of contracts and agreements which may be involved; however, some of the more common examples include joint ventures, leases, hire, service, maintenance, franchise, cartage, sale and purchase order agreements. The contracts and agreements may be drafted and presented to Council for signature by companies with whom you conduct business, or by authorities such as electricity or communications organisations.

For your protection, please ensure that all contracts and agreements are reviewed prior to execution to identify whether the effects of any clauses are to:

- ◆ impose liabilities on you which would otherwise not arise; or
- ◆ require you to release another party from its liability to you.

Where such clauses are included in an agreement, please notify our office so that we can refer the clauses to your insurers. Please note that generally insurers will **not** agree to provide protection in respect of liabilities which fall outside the policy wordings.

ACCREDITED PLANT LOCATORS

Councils rely on Telstra and other authorities for information on the location of underground cables. Where a Council relies on such information and it is found to be incorrect, then generally Council can successfully defend any action by the authority for damage to the cables and for subsequent losses resulting from the disruption. Where a Council applies to become an accredited plant locator, then that Council should ensure that it does not sign any agreement whereby it agrees to accept liabilities arising from the activity or to indemnify the authority in respect of any liabilities which may arise. We remind Council that the Statewide Mutual Board has already advised that liabilities arising from any "accredited cable location" activities will not be covered by Statewide.

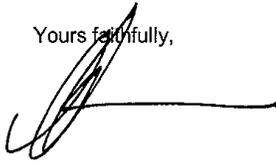
Notwithstanding that **no coverage** will be provided by Statewide, if Council still wishes to pursue accreditation, then it is imperative that you obtain legal advice to ensure that you do not sign contracts or agreements which impose liabilities upon Council or which remove Council's ability to recover from other parties. In fact, all contracts and agreements should be perused by your legal advisers prior to signature by Council.

Document2

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In summary, we urge Council to notify us of any new activities, or changes in your activities, so that appropriate insurance arrangements can be made where possible. Please feel free to pass a copy of this letter to all sections at Council which may be involved in the issues raised above. If you have any enquiry regarding any of the matters, please contact us and we will be pleased to assist you.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Scott Tonkin', with a long horizontal line extending to the right.

Scott Tonkin
Regional Manager

Encl: