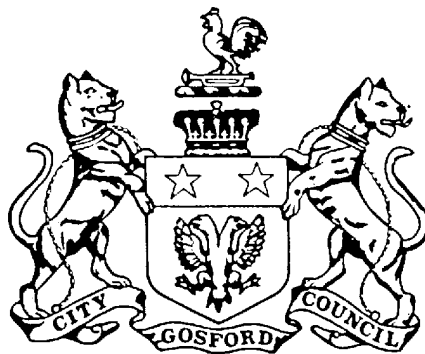




**APPOINTMENT OF A DELEGATED
COMMITTEE
UNDER SECTION 355 OF THE
LOCAL GOVERNMENT ACT 1993**



APPOINTMENT OF A DELEGATED COMMITTEE UNDER SECTION 355 OF THE LOCAL GOVERNMENT ACT 1993

COMMUNITY GROWTH - LIBRARY & COMMUNITY

POLICY OBJECTIVES

- 1 To provide a system for community representatives to be delegated care, control and management of community facilities.
- 2 To appoint and remove a delegated committee.
- 3 To ensure the Committee implements governance and other procedures in compliance with Council's policies and the Code of Management annexed hereto (Annexure A).

POLICY STATEMENT

In relation to a particular function of the Council, it may, by resolution of the Council, delegate that function under Section 377 of the Local Government Act 1993.

Council may appoint a person(s), group, committee, association or corporation as a delegated committee under Section 355 of the Local Government Act 1993 to have care, control and management of a Council facility.

Council may, by resolution of Council, withdraw any delegation of authority either wholly or in part.

The Chief Executive Officer may recommend to Council the removal of any person who, in his/her opinion, should no longer be a member of a delegated committee.

APPOINTMENT OF DELEGATE

- A Council may appoint a member to a delegated committee (or may instruct the Chief Executive Officer to appoint).
- B No person, being a member of Council staff acting as an employee, will be appointed as a delegate or member of a delegated committee unless authorised by the Chief Executive Officer.
- C In making appointments, Council or the Chief Executive Officer will give consideration to the skills, abilities and experience of potential committee members in relation to the duties of the local organisation and their ability to represent the community.

TERMINATION OF DELEGATE OR PERSON

- A A delegated committee may be dissolved at any time by Council.
- B Each delegated committee will be extinguished three (3) months after an Ordinary Election of Council unless re-appointed.

FUNDS

Any funds relating to the facility which is the subject of the delegation will be held by Council and will be subject to Council's financial, purchasing and other relevant policies/criteria.

LIMIT OF AUTHORITY

The delegated committee will be advised in writing as to the limit of the delegation, as determined by the Chief Executive Officer or Council.

(Minute No 678/1994 - 12 July 1994)

(Minute No 403/1994 - 26 April 1994 - Code of Management)

(Minute No 1132/1995 - 7 November 1995 - Code of Management)

(Minute No 648/1996 - 27 August 1996 - Review of Policies)

(Minute No 239/2000 - 24 October 2000) – Review of Policies

(Minute No 214/2005 - 8 March 2005 - Review of Policies)

(Minute No 311/2009 - 5 May 2009 - Review of Policies)

(Minute No 2013/388 - 16 July 2013 - Review of Policies)

ANNEXURE A

CODE OF MANAGEMENT

LOCAL FACILITIES MANAGEMENT COMMITTEES APPOINTED PURSUANT TO SECTION 355 OF THE LOCAL GOVERNMENT ACT 1993

1 THE DELEGATED COMMITTEE

- a The name of the Delegated Committee will be adopted by Council and will be used in official correspondence and registered in the Community Information Directory.

For the purpose of appointing members to a Delegated Committee, Council will receive nominations from the public, any interested user group or any interested community group, including a person(s), group, committee, association or corporation.

- b Members of the Delegated Committee will be appointed by Council in accordance with Section 355 of the Local Government Act 1993. Council's decision in relation to the appointment of a person or group shall be final.
- c The Delegated Committee will be authorised to exercise the care, control and management of specific Council property, subject to compliance with Council's Code, the Local Government Act 1993 and such other conditions resolved by Council.
- d Council may by resolution withdraw any authority or delegation either wholly or in part.
- e Vacancies on the Delegated Committee may be filled either by Council's acceptance of a nomination from the remaining Delegated Committee members, or by any other method by resolution of Council. Council's decision in relation to the appointment of a person or group to fill the vacancy shall be final.
- f Council will retain the right to be represented at any meeting of the Delegated Committee by one of its officers, but such officer will not exercise any form of voting rights and will act only as an observer and/or adviser.
- g The three executive positions of President, Secretary and Treasurer, or equivalent officers, must be filled at all times.
- h A committee member, by the legislation is a delegate of the Council, and must comply with Council's Code of Management. If a member of the committee (or is related to a person as described in section 443) has a pecuniary interest in the decisions of the committee, that interest must be disclosed and leave the meeting as required by chapter 14 Local Government Act 1993. The member may be required to record a non-pecuniary interest.

2 DEFINITIONS

"Facility" shall be the property of Council which is the object of the delegated care, control and management and defined in the Plan of Management.

"Authorised Officer" shall be the employee of Council authorised in writing by the General Manager in respect to the care, control and management of the facility.

3 POWERS AND DUTIES

Unless specifically defined by resolution of Council, the delegation mentioned in clause 1 above shall place the following responsibilities and liabilities on the Delegated Committee:-

- a To recommend charges, subject to Council approval, for the use of the facility which will ensure that the income of the Delegated Committee will be sufficient to meet all costs associated with carrying out its duties.

A budget for the forthcoming year for the operation of the facility should be submitted in support of the proposed fees.

The fee year is 1 July to 30 June. Proposed fees for the following year are to be submitted to Council by the end of January for inclusion in Council's City Management Plan.

If the Delegated Committee's proposed fees are not received and adopted by Council by the required date, fees will remain at the current rate for the ensuing year.

- b To make the facility available to and safe for all members of the public consistent with the purpose for which the facility was originally constructed. Any restriction to this availability is to be approved by Council.
- c To meet any charges which may be made from time to time for rates (Gosford City Council), electricity (Energy Australia), telephone and other service charges in respect to the operation of the facility.
- d To maintain the facility in accordance with Council's Code of Management and to the satisfaction of the General Manager.
- e To permit authorised Council officers to enter the premises at any reasonable hour for the purpose of carrying out work or inspections at times of emergency when entry is necessary, and to supply a set of keys to Council for these purposes.
- f Structural alterations and permanent installations require relevant Council building and planning approval prior to commencement of work.
- g Council approval is to be obtained for major maintenance, improvements or extensions to the facility prior to issuing the contract for the commencement of any such work. Such works are to be to the satisfaction of the General Manager.

- h Variations to the use of the facility or the use of the premises as a "Place of Public Entertainment" require the prior approval of Council.
- i To publicly advertise and convene an Annual General Meeting for the election of Office Bearers and consideration of the Annual Report.
- j The names, addresses and telephone numbers of the Office Bearers are to be submitted to Council within six (6) weeks of the Delegated Committee's Annual General Meeting.
- k To supply to Council an Annual Report on the use of the facility for the same period, with statistics indicating types of services provided and numbers relating to usage by population group of pre-school children, school children, youth, aged, people with disabilities, ethnic groups, women and other general usage.
- l Funds relating to the facility which is the subject of the Delegation, will be held by Council and subject to Council's financial, purchasing and other relevant policies/criteria and will be audited as part of the consolidated annual statements for Gosford City Council.

4 INSURANCES

a Public Liability

Members of Delegated (Unincorporated**) Committees are covered by Council's Public Liability Policy whilst acting within the scope of their duties for and on behalf of Council. This public liability insurance provides cover to members of the Delegated Committee for the running of the Council facility but does not provide any cover for hirers of the facility. Hirers should at all times be requested to carry and provide evidence of their own public liability cover in the sum of \$10m.

Council does carry a Casual Hirers' Policy which, as the name suggests, offers protection to "casual" one-off hirers eg weddings, parties etc. This policy also provides cover for non-profit community groups that hire a Council facility for up to 10 times a calendar year. If such groups hire more than 10 times in a calendar year they must have their own public liability cover.

The policy *does not cover* incorporated bodies, sporting associations, business related activities etc. These types of groups, especially those who hire the centre to conduct business activities, must produce evidence of their own public liability cover before the facility is hired to them.

****Note:** Council's Public Liability Policy does not cover Delegated Committees that are incorporated. In these circumstances, Incorporated Delegated Committees must carry their own Public Liability Insurance for a sum not less than \$10 million for each and every claim.

b Buildings/Contents/Other Structures

- i Buildings (unless stipulated elsewhere in a Lease agreement) are comprehensively insured by Council against damage by perils such as fire, storm, impact, vandalism and glass breakage. In the event of any damage to a Council building/asset Committees are to:
 - a Immediately report the damage to Council's Building Maintenance Section on telephone 4325 8466. If the damage occurs or is discovered outside of normal working hours it is to be reported to Council's After Hours Duty Officer on 1800 680 828. Instruction will be given on how the repairs are to be carried out.
 - b Broken glass windows or doors are to be promptly repaired using Council's service provider. An order number can be obtained from Council's Building Maintenance Section on telephone 4325 8466 or the Duty Officer on telephone 1800 680 828.
 - c All damage (including broken glass) must be promptly reported in writing addressed to the Insurance Section - Gosford City Council, PO Box 21, Gosford 2250. The cause of damage, date of loss etc must be set out in the letter. If the Committee has arranged or are to arrange their own repairs (after agreement from Council's Building Maintenance Service) quotes for repairs or repair invoices are to be also included with the letter.
- ii All contents or other property in or on the facility not owned (ie purchased) by Council should be appropriately insured by the Committee or the relevant property owner.
- iii It should be noted that Council does not carry insurance for fences or tennis court surfaces. If the Committees wish for these structures to be covered for loss or damage they should arrange their own property cover.

c Personal Accident Cover for Volunteers.

Council carries the above policy for volunteers. In the unfortunate event of an accident or injury occurring during volunteering duties the policy will provide certain cover to individuals (including Committee Members) who have volunteered their services to Council.

The policy offers a capital benefit in the unfortunate event of death, permanent disablement or disability, loss of limbs/organs. It also provides weekly benefits for loss of income (if the individual has actually lost income as the result of the accident/injury) and payment of other expenses. All benefits are subject to the conditions, limitations and exclusions of the policy.

Note: The policy does not cover medical expenses that are covered by Medicare nor does it cover any gap payments - ie the difference between the medical account and the Medicare benefit.

The age limit for volunteers under the policy is 15-90 years of age.

5 MAINTENANCE

Clause 3(d) of the Code of Management states maintenance is to be effected in accordance with Council's Code of Management and policy. The following maintenance is the responsibility of the Delegated Committee:-

Note: Buildings under the Community Development Cyclic Maintenance Project will receive assistance in addressing minor maintenance only. These items are listed in *italics* below:-

- i Buildings
 - a General cleanliness;
 - b Paintwork, internal and external;
 - c Maintenance checks, repairs and/or replacement of electrical fittings;
 - d Maintenance checks, repairs and/or replacement of plumbing fittings;
 - e Maintenance checks, repairs and/or replacement of damaged woodwork, lining material, glazing, roof, concrete and ceramic surfaces;
 - f Maintenance checks, repairs and/or replacement of floor surfaces and coverings;
 - g Pest control;
 - h General ground tidiness - including litter collection, mowing and gardening;
 - i Fire fighting equipment and services where installed;
 - j Locks and door furniture.

- iii Passive and active recreation areas
 - a General tidiness, including litter collection, mowing, gardening, line marking, maintenance of the playing surface and goal posts;
 - b Maintenance checks, repairs and/or replacement of furniture;
 - c Maintenance checks, repairs and/or replacement of fences (excluding boundary fences with private property if the land is a public reserve);
 - d Maintenance checks, repairs and/or replacement of electrical and plumbing fittings, irrigation and sub-soil drainage not related to buildings on the subject land.

6 PLAN OF MANAGEMENT

To use and manage the facility in accordance with the Plan of Management applying to the facility, as adopted by Council (Section 35, Division 2 of the Local Government Act 1993).

7 ADDITIONAL CONDITIONS

- a All facilities must operate in accordance with Council regulations and conditions of consent detailed in Council's approval of the development application (eg hours of use, noise emission, signage etc);
- b The consumption of alcohol requires approval from the Licensing Court of New South Wales for an On-Licence Function or Permanent On-Licence Functions. A copy of this licence must be forwarded to Council for each instance;
- c A "No Smoking" ban applies to all enclosed Council owned and controlled properties. The Delegated Committee is to ensure that all users of the facility are aware of Council's policy and that appropriate signage is displayed in the facility.

8 TIME FRAMES

Annual General Meeting - to be held each year in a specified month. Details must be supplied to Council within six (6) weeks of the Annual General Meeting (refer to 3(j) above).

Fees and charges and budget - proposed schedule of fees and charges and budget for the ensuing financial year (July to June) must be submitted to Council by 31 January each year (refer to 3(a) above).

9 LIMIT OF AUTHORITY

The Delegated Committee will be advised in writing as to the limit of the delegation, as determined by the General Manager or Council.