

Bellingen Shire
COUNCIL



**SECTION 355 COMMITTEE
GUIDELINES MANUAL**

July, 2018

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SUPPORTING DOCUMENTS

Ref.	Subject
A	Volunteer Policy
B	Deed of Delegation
C	Constitution/Terms of Reference
D	Volunteer Registration Form
E	Sample Meeting Procedure
F	Sample Minutes
G	Working with Children Check
H	GST Summary Return
I	Procurement Policy
J	Code of Conduct
K	Grievance Handling procedures
L	Work Health and Safety Policy
M	Sample user Agreement
N	Sample Key register
O	Application for Property Owners Consent
P	Incident Reporting Form

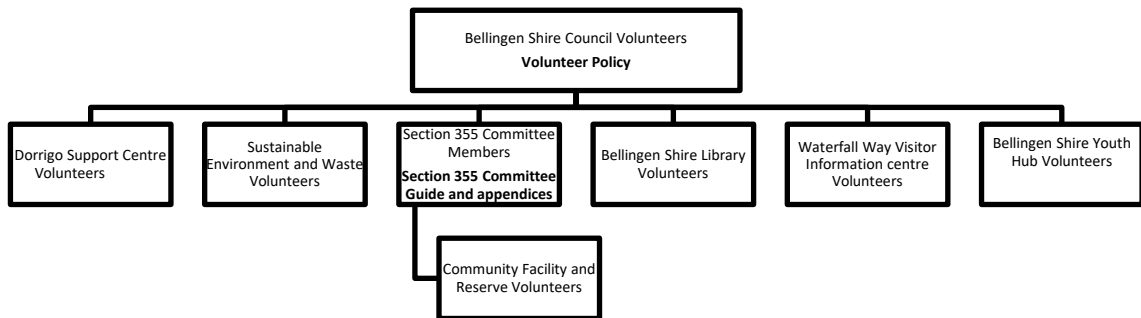
This Guide has been produced by Bellingen Shire Council in partnership with the Mid North Coast Regional Risk Management Group in the interest of the community and members of the community who serve on Section 355 Committees. If used appropriately the Guide will help to ensure the safety, health and well-being of all members of Section 355 Committees and the broader public.

Recognition is provided to Wingecarribee Shire Council who have produced a comprehensive Section 355 Committee manual which was used as a framework for this Guide.

1. INTRODUCTION

This Section 355 Committee Guidelines Manual (the manual), has been produced to assist those Section 355 Committees delegated by Bellingen Shire Council with the specific responsibility to “care for, control and manage” facilities, reserves and specialized centres, in the undertaking of their role.

It is to be used as a reference guide and in conjunction with the broader Bellingen Shire Council Volunteer Policy (see Ref. A). The Volunteer Policy is the over-arching document for all Bellingen Shire Council’s volunteers, including those both on Section 355 Committees and those who may do volunteer work on behalf of the committees.



The manual covers a range of topics relevant to Section 355 Committees and is accompanied by a set of supporting documents which provide more detail on specific activities and can be used by committee members if applicable to their role. The facilities, reserves and specialized centres are assets that Council owns or is trustee for on behalf of the community.

1.1 What is a Section 355 Committee?

Under Section 355 of the Local Government Act 1993 (the Act), a function of Council may, subject to this Chapter, be exercised by a committee of the council. A function of Council is defined as a power, authority and duty of Council.

Bellingen Shire Council has appointed a number of Section 355 Committees to assist in decision making processes to undertake various Council functions. These committees can function as both internal and external committees and fulfil a valuable role in the efficient performance of Council functions.

The terms of reference, role and delegated power of a committee will be determined by a resolution of Council. Council utilizes both Section 355 committees and general Advisory Committees to assist in its administration. The terms of reference for Advisory Committees have a more limited scope than those established under Section 355 of the Act.

21 of the Section 355 committees have been delegated by Bellingen Shire Council with the specific responsibility to “care for, control and manage” facilities, reserves and/or specialised centres.

It should be noted that Council cannot delegate authority to a body (including a committee) that contains an employee of the Council, other than in an ex-officio role.

A committee is an entity in its own right and does not have the ability to sub-delegate although working groups can be formed for specific purposes relating to the activities associated with their objectives.

A Section 355 Committee is considered an operating arm of Council and as such committees are required to comply with Council policies and procedures and work in collaboration with Council staff to achieve the best possible outcomes for the community.

1.2 Aims of Section 355 Committees

The aim of Council delegation of community facilities and reserves to Section 355 Management Committees is to care, control and manage these facilities with a view to achieving a level of self-sufficiency and empowering the community to take responsibility for and make decisions about local community assets.

The capacity to achieve a level of self-sufficiency is from the committee managing an asset which has income producing potential from hiring out the facilities for community, organizational or commercial use.

1.3 Objectives of Section 355 Committees

Each Section 355 Committee will have a Constitution or Terms of Reference which will outline general objectives for each facility, reserve or specialized centre. These objectives are either derived from the Local Government Act 1993 or from general practice in local government and may include the following:

- To promote, encourage and provide for the use of the land, and to provide facilities on the land, to meet the current and future needs of the local community and of the wider public for public recreation and the physical, cultural, social and intellectual welfare or development of individual members of the public
- To encourage, promote and facilitate recreational and sporting pursuits in the community in line with current and future needs of the Bellingen Shire
- To ensure that such activities are managed having regard to any adverse impact on nearby residences.
- To optimise use of the facility or reserve in line with the Constitution or Terms of Reference
- To ensure facilities and reserves aim to be accessible to all members of the community
- To adhere to environmental best practice and sustainability

2. DELEGATIONS

Each committee will receive a Deed of Delegation from Bellingen Shire Council which set out those functions of Council that the Committee has authority to undertake (see Ref. B)

3. COMMITTEE CONSTITUTION/TERMS OF REFERENCE

Each committee will develop a Constitution/Terms of Reference in conjunction with Council, which will include information such as:-

- The name of the committee
- The physical address of the facility or reserve managed by the committee
- The Lot and DP number/s
- If the committee managed facility is on Crown or Council land
- The physical area of responsibility including a map defining property boundaries
- Specific objectives of the committee
- Committee Membership including office bearer positions
- Committee Meetings (general, annual and special)
- Financial Management
- Amending the constitution
- Reporting to Council.

4. COMMITTEE MEMBERSHIP

4.1 Number of committee members

The number of committee members will be between 5 and 11 members including any Councillor representation.

4.2 Make up of a committee

Membership of the committee will be as detailed in the Deed of Delegation (Ref. B) and may comprise:

- Councillors
- Representatives of Government Departments
- Representatives of community organisations
- Representatives of sporting bodies
- Community members

Where a committee member is unable to attend, an alternate representative may participate as follows

COMMITTEE REPRESENTATIVE	ALTERNATE
Councillor	Yes
Representative of a government department	Yes
Representative of a community organisation	Yes
Representative of a sporting body	Yes
Community member	No

Committee members are to be appointed in accordance with the constitution or Terms of Reference for that committee. Where committee membership includes

members of the public, Council will work with committees to recruit suitable members (see Appointment of committee members below). The committee may need to publicly advertise vacancies. Council staff can be non-voting attendees for example, to provide secretarial duties. Equal representation is to be given to sporting users on public reserve committees for voting purposes.

Council may nominate staff as the Council liaison and/or to provide services such as professional advice and secretarial duties. In these instances staff members are not appointed members of the committee and cannot take part in the formal voting or decision making processes of the committee.

4.3 Appointment of Committee members

Committee membership is open to all residents of the Bellingen Shire who subscribe to the objectives of the committee as described in the Constitution/Terms of Reference and are committed to the activities of the committee.

The recruitment of committee members is a public process with the aim of encouraging optimum community input. To this end, an advertisement may be placed in local media if vacancies arise on the committee. In addition, committees can invite interested people to nominate for committee membership and encourage them to attend a meeting as an observer to find out more about the opportunity to be involved with the committee..

If a person is interested in joining the committee, they need to have their nomination approved at a general committee meeting and complete a Bellingen Shire Council Volunteer Registration Form (Ref.D) which will be provided by the committee. If more people are interested in joining the committee than there are vacancies, then current members will vote to decide who will become the nominee to council to be a member/s.

Once the nomination has been approved, the committee will notify Council of the nomination in writing.

When a sufficient number of nominations have been received a report will go to a Council meeting where a recommendation will be made that the nomination for committee members is formally approved. In the meantime, the nominee may participate in committee members meetings but is not entitled to vote as Council ratification is required for someone to be formally appointed as a committee member.

When Council has ratified the membership nomination, the new committee members and the committee secretary will be advised in writing of the appointment which will be for the duration of the Council term (up to 4 years).

All committee members must be approved by Bellingen Shire Council before their official committee duties (including voting rights) can commence. Council is the final decision maker on committee membership and they may or may not decide to ratify committee nominations and may directly appoint committee members if that is deemed as the best option for membership in a given set of circumstances.

4.4 Ceasing Committee Membership

A person shall cease to be a member of a committee if:-

- The committee is dissolved by Council;

- The member resigns by notification in writing to the committee which will be subsequently communicated to Council;
- The member is absent without notifying the committee for three consecutive meetings;
- Council passes a resolution to remove the member from the committee;
- The member is found to have acted in a manner contrary to the Code of Conduct by the General Manager or their delegate;
- The member holds any office of profit from the committee;
- The member fails to disclose any pecuniary interest in any matter with which the committee is concerned and takes part in the consideration, discussion or votes on any question relating to the matter. For the purposes of this provision "pecuniary interest" has the same meaning given to that term in Section 442 of the *Local Government Act 1993*
- The member, while holding that office, is convicted of an offence referred to in Part 4 of the *Crimes Act 1900* (offences relating to property);
- The member is prohibited under the *Corporations Act 2001* from managing a corporation within the meaning of that Act;
- The member becomes bankrupt;

In the event of a casual vacancy occurring on the committee for any reason, this is to be filled in accordance with the committee constitution or Terms of Reference and is to be approved by the Council. Council may assist to support committees with recruiting committee members by using available promotional tools such as print and web based media.

5. OFFICE BEARERS

The committee will, from its own members, elect the office bearers provided for in the committee constitution or Terms of Reference (Ref. C).

It is recommended that the office bearers are elected at the committee's Annual General Meeting and hold office for a period of twelve months or until their successors have been appointed.

For small committees, a member can hold two positions, however, where funds are handled regard needs to be made to the nature of the positions to ensure accountability for funds is not compromised. Two signatories for financial payments or transactions is one method of achieving this.

Councillors may hold the position of Chairperson on a committee.

A maximum of two relatives in a family can be office bearers on the same committee at the same time.

For the purpose of this manual, the definition of 'relatives' shall be the same as under the *Local Government Act 1993* which is:

- (a) the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse or de facto partner,
- (b) the spouse or de facto partner of the person or of a person referred to in paragraph (a)

For multiuse facilities such as sporting fields committees should generally only have one (1) representative from each sport but with an allowance for an additional representative if the sport has separate junior and senior clubs, associations or groups.

Each committee should include the following positions:

Chairperson

The chairperson's main areas of responsibilities are:

- To ensure the smooth running of all committee meetings in accordance with standard or adopted meeting procedure.
- To preside at meetings, ensuring that all committee members have an equal opportunity to speak.
- To be impartial and remain objective
- To regulate meetings, ensuring that sufficient time is allocated for discussion and decision making.
- To provide background on matters discussed so that all members are equally informed.
- To summarize decisions made by the committee, thus clarifying the 'who, what, when and how' of the decisions being made.
- To receive and put to the meeting for debate any motion that is brought before the committee.
- To act as spokesperson for the committee, where an appropriate delegation has been provided by Council.
- To prepare meeting agendas in consultation with the secretary
- To ensure the committee operates within its Deed of Delegation, Constitution/Terms of Reference and committee responsibilities

Deputy or Vice Chairperson

The deputy or vice chairpersons main areas of responsibility are:

- To assist the chairperson and during his/her absence, assume the role of chairperson.

Secretary

The secretary is often the first point of contact with the committee through correspondence, email and/or by phone. The secretary's major areas of responsibility are:

- To deal with all incoming and outgoing correspondence and present it at committee meetings for either receipt or confirmation.
- To provide notices and agendas of committee meetings to committee members.
- To keep accurate records in accordance with the State Records Act 1998 that mandates that all public officials have a responsibility for keeping full and accurate records which document activities and decisions made by the committee. These include recording the minutes of each meeting and forwarding a copy to Council and all committee members within a reasonable timeframe

- Keeping records of the committee secure against unauthorized access, alteration, loss or destruction in line with Council's record keeping procedures for the required period of time
- In the absence of the secretary another committee member shall be elected as minutes secretary

Treasurer

The treasurer has responsibility for keeping the financial records of the committee. The duties of the treasurer are:-

- To be responsible for receipting all moneys payable to the committee (Note: the booking officer may issue receipts for the hire of a facility.)
- To keep correct accounts and books showing the financial affairs of the committee either in a paper format or as electronic documentation.
- To bank all monies received to the credit of the Council/committee.
- To submit financial statements as required to Council.
- To provide an up-to-date financial statement or treasurers report at each meeting of the committee.
- To discuss the report provided by Council after the books have been audited with committee members.
- To submit accounts to each committee meeting for confirmation of payment.
- To close off the committee's financial records at 31 December each year and send the required documentation to Council for audit purposes by 31 January.
- To forward a copy of the financial report to Council by 31 January each year and submit a copy of the financial statements to the Annual General Meeting, to be held before 30 April.
- To prepare and submit GST Summary Returns quarterly (March, June, September and December), even if no income has been recorded. The GST return, nil or otherwise, is needed to meet Australian Tax Office reporting requirements.
- To recommend to the committee fees and charges for facility use to a level to be able to maintain the facility as well as provide a venue for community use.

Other roles which may benefit the committee could include:-

Booking Officer

- To answer enquiries and record bookings into the booking diary or calendar, which may be electronic.
- To provide a user agreement for Council facilities to all hirers.
- To ensure that all user agreements for Council facilities are fully completed and all relevant information attached prior to approval of the hire.
- To ensure regular hirers have provided a certificate of currency for public liability insurance. Note casual hirers can hire for up to 12 times per year without having their own public liability insurance
- To issue receipts for hiring fees and insurance cover.
- To issue keys or electronic entry details to hirers, contractors, etc.
- To inspect the facility after use for damage and/or cleaning requirements and to inform the Treasurer prior to reimbursement of any bond or deposit money.

- To forward copies of relevant correspondence and booking records regarding bookings to Council if requested to do so

General Committee Members

All committee members have an important role, both in the general duties of the committee and at meetings. Attendance and participation in decision making at meetings is vital to the effectiveness of the committee.

It is the responsibility of all committee members to:

- Familiarise themselves with their committee's Constitution/Terms of Reference to ensure that they are aware of how their Committee is to function.
- Attend most committee meetings.
- Participate in meetings. This involves
 - being on time
 - sticking to the agenda
 - contributing to the discussion where appropriate
 - being objective and listening to others' views
 - volunteering to do some of the necessary tasks required.
- Support the office bearers in carrying out their jobs.
- Assist in organising the Annual General Meeting.
- Attend and participate in any planning meetings that may be held.
- Where a facility is involved, making sure the facility is being maintained and runs smoothly.

Committee members wanting information or advice from Council should refer the enquiry through the chairperson or secretary. The chairperson may delegate this responsibility to another person on the committee.

6. COMMITTEE MEETINGS

6.1 General Meetings

The committee can determine how often general meetings will occur in order to conduct the business of the committee providing a minimum of two face to face meetings occur in a calendar year. Meeting procedure as adopted by Council should be adhered to (see Ref. E) and minutes of the meeting recorded (see Ref. F)

6.2 Annual General Meetings

Although not an incorporation and there is therefore no legal requirement to hold an AGM, Council encourages all committees to have one before 30 April each year. The purpose of this AGM is to

- invite the broader membership base, volunteers and the general community to hear about the activities of the committee over the last 12 months
- Have the chairperson to present an annual report with information on the number and types of use
- Elect officer bearers for the next 12 months or fill vacant office bearer positions
- Promote membership of the committee to the general public
- Present an annual financial report to all committee members

All committees are encouraged to advertise the date, time and venue of the AGM in the local newspaper and to Council for inclusion on their website

6.3 Special Committee Meetings

Special meetings can be called for by the committee secretary for a specific purpose as identified by a notice of the committee or at least 3 members thereof or by request of Council. This meeting must take place within 6 weeks of the directive to call one. No business is to be conducted at this meeting other than that specified in the notice.

6.4 Quorum

A quorum for all meetings is half of all committee members plus one. If after thirty minutes of the time appointed for a meeting a quorum is not present, the meeting shall be adjourned to a time, date and place fixed by the chairperson or, in their absence, by the majority of members present. The secretary shall record in the minutes the circumstances and reasons relating to the absence of a quorum, together with the names of the members present.

6.5 Voting (including Proxy)

All committee members are entitled to one vote, either in person or by proxy. In the case of a proxy vote, the absent members vote must be presented in writing and signed and dated by the proxy voter.

Voting shall be by show of hands except that

- Any contested election at an AGM shall be by secret ballot
- Any special resolution concerned with expulsion of a member from the committee shall be by secret ballot
- The meeting may by show of hands require any other vote to be by secret ballot

Decisions shall be made by a majority vote and the Chairperson shall have a casting vote if votes are equal.

6.6 Notice of committee meetings

Notice of committee meetings shall be given at the previous committee meeting or by seven days written notice distributed to all members or in an emergency by such other notice as shall be agreed upon by the committee

7. DUTIES AND RESPONSIBILITIES

7.1 Responsibilities of Council

It is Council's responsibility to:

- Undertake the functions identified in Council's strategic, management, delivery and operational plans through the most efficient and cost effective means including through the appointment of Section 355 Committees;
- Ensure that its community facilities are maintained structurally and in safe repair in accordance with Council's adopted Operational and Delivery Plan;
- Ensure that community facilities operate in accordance with the *Local Government Act 1993*, Council policies and applicable Management Plans or Action Plans;

- Ensure that all relevant insurances are in place for all buildings and fixtures, fittings and contents that belong to Council. The insurance and security of property belonging to user groups of a facility is the responsibility of the user group;
- Ensure that adequate Public Liability insurance is in place to cover members, volunteers and casual users of facilities;
- Inspect and maintain fire safety and emergency exit equipment and lighting and communicating maintenance schedule to committees.
- Continually assess and improve access provision in line with a minimum of universal design standards (in collaboration with committees)

7.2 Responsibilities of Committees

The committee is responsible for:

- Undertaking the Council's functions delegated to it;
- Complying with the provisions of the committee Constitution/Terms of Reference;
- Handling funds in accordance with the committee Constitution/Terms of Reference and Code of Conduct;
- Keeping records and providing reports to Council as provided in this Guide;
- Maintaining adequate First Aid equipment at the facility/reserve if required
- Ensuring the availability of an Emergency Evacuation Plan at the facility/reserve and communicating the availability to all users
- Using funds gained through facility hire for the care, control and management of the facility
- Continually assessing and improving access provision in line with a minimum of universal design standards in collaboration with Council
- Ensuring members or volunteers who have direct contact with children and young people as part of their activities undertake relevant Working with Children Check procedures (see Ref. G)
- Ensuring all changes to the facility are approved by Council including changes to the locks (see Ref. O)

7.3 Responsibilities of Committee Members

All Committee members are required to:

- Complete an online or paper based learning module "Your Obligations as a Council Committee Member" to ensure that they understand the importance of complying with Councils Code of Conduct
- Carry out the business of the committee in accordance with the committee's Constitution/Terms of Reference and the terms of Council's Deed of Delegation to the committee.

8. LIMITATIONS ON POWERS OF A COMMITTEE

8.1 Legislative Limitations

There are limits to the powers Councils are allowed to delegate to committees under Section 355 of the *Local Government Act 1993*. Those which **cannot** be delegated to committees include:

- Determination of fees and charges associated with managing a facility (committees however can recommend proposed fees and charges to Council by a notified date each year) Fees and charges are fixed by Council at the same time as it adopts its Operational Plan.
- Waiving a fee or charge formally adopted by Council
- The borrowing of money;
- The voting of money for expenditure on other Council works, services or operations;
- The acceptance of tenders which are required under the Act to be invited by Council (\$150,000 and over in value current as at 2018);
- A decision under Section 356 to contribute money or otherwise grant financial assistance to persons;
- Any function under this or any other Act that is expressly required to be exercised by resolution of Council.

The exercise by the committee of its powers and functions is subject to such limitations and conditions as may from time to time be imposed by law, specified by resolution of Council or in writing by the General Manager or his representative to the committee. The committee will observe any rules and regulations made by Council, in relation to the facility or function under its care, management and control.

If at any time the committee is deemed to be functioning outside the limits of its powers, all powers may be revoked by written notice to the committee signed by the General Manager or their representative.

8.2 Other Limitations

- The making of a donation unless written approval from Council has been granted.
- The committee is not permitted to forward official correspondence to government officials or government departments including the Governor-General, Prime Minister and Premier or government ministers. All official correspondence must be signed by the General Manager or their representative. This includes signing applications and acceptances in relation to grant funding.
- Committee members are not permitted to speak to the media on any Council matters **in their capacity as a Committee member**. All such requests received must be referred to the General Manager or their representative.
- The Committee cannot employ any staff without the authority of Council and/or the General Manager.
- Committee members/volunteers have no authority to direct a Council staff member to undertake or complete any task.
- Committees cannot undertake capital works on or for the facility without the relevant property owners consent e.g. Crown Lands and/or the consent of Council
- Committees may contract services required to care, control and manage the facility e.g. cleaning, administration, mowing, repairs and maintenance

8.3 Legal Status

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 which is why standards such as the Code of Conduct and relevant legislation are applicable to committee members.

Committees sometimes believe that they are responsible in their own right and that their actions are independent of Council. This is not correct. Council delegates its authority to the committee to act on Council's behalf and can withdraw this delegation if deemed necessary and as detailed in Section 3.2.

It should also be noted that individual committee members are considered to be public officials while engaged in committee activities and so generally legislation that applies to public officials applies to committee members.

9 FINANCIAL MANAGEMENT

9.1 Introduction

Section 355 Committees are subject to the same standards of financial accountability as Bellingen Shire Council and managing finances well is of the utmost importance. All funds and assets held by the committee belong to Council and get audited along with all Bellingen Shire Councils financial transactions.

The overall responsibility for keeping accurate financial records is with the committee treasurer who should record financial transactions by using a paper based or electronic system. All electronic records are to be backed up. Records to be kept by the committee include

- Tax invoice/receipt book
- Cash book/electronic record
- Cheque book/electronic record
- Petty cash book/electronic record
- Petty cash vouchers/electronic record
- Bank deposit book/electronic record
- Bank statement folder
- Quarterly GST Summary returns (Ref.H)
- Booking diary/electronic system
- Asset register

9.2 Banking

The committee can by resolution agree to open an account at a nominated financial institution. Details of accounts held by the committee including the name of the account, the account number, the name of the financial institution and all signatories on the account must be provided to Council. The financial institution is to be advised that the account is on behalf of Council.

All accounts need to be dual signature accounts (office bearers) and can be cheque book or Internet banking accounts. Only one family member can sign cheques on behalf of the committee.

All expenses are to be approved by the committee and recorded in the meeting minutes at a general meeting unless determined otherwise by the committee (for example the committee approves the Officer bearers to approve payments. All monies should be banked as soon as possible after they are received).

9.3 Financial year for committees

The financial year for committee purposes is 1 January until 31 December. This is to enable all financial records to be incorporated into Bellingen Shire Councils financial records before the end of Councils financial year (30 June) as per the Local Government Act 1993.

9.4 Purchasing goods and services

Committees must follow Councils Procurement Policy (Ref. I) where possible when purchasing goods and services. If the committee can't follow this policy this must be discussed with Council before purchasing takes place. Council also has bulk suppliers for items such as toilet paper which can be accessed by the committee.

In summary re purchasing:

- Environmentally friendly goods and services should be purchased where possible
- Health and safety legislation, risk management and Australian Standards are to be considered when purchasing a good or service
- Only contractors approved by Council are to be considered when procuring good and services unless prior approval has been granted by Council (for example if there is no contractor on councils list, in an emergency or where something is under warranty). A list will be provided to committees for the reference.
- For purchases of less than \$1000 one verbal quote is required
- For purchases between \$1001 and \$5000 one written quote is required
- For purchases between \$5001 and \$25,000 two written quotes are required
- For purchases between \$25,000 and \$50,000 three written quotes are required from three suppliers.
- No favouritism is to be given to any supplier
- The highest standards of honesty, integrity, probity and equity are to be observed by the committee
- That a local business preference advantage should be applied in line with the Local Business Preference advantage outlined in the Policy
- Purchases over \$10,000 require the concurrence of Council.

9.5 Purchase and sale of assets

Assets are the resources owned by a Council or business which benefit its future operations and are convertible to cash. Examples are land, building, vehicles, plant and equipment. The committee must keep a record of assets over \$3000 and an asset register with any new assets purchased must be provide to Council by 30 April each year.

9.6 Budgeting and Documentation

Committees are required to keep the following records for committee members

- Treasurers Report
- Annual Budget
- Annual statements
- Statement of Financial Performance (summary of income/expenditure for the year)

9.7 Audit of Accounts

The following financial records must be available for audit after the end of the committee financial year (31 December). The following records need to be provided to Councils Finance Officer, by 31 January each year

- Bank statements covering period from 1 January to 31 December
- Cheque books for cheques used in the last 12 months
- Receipt books or electronic records
- Copies of invoices or electronic records received for the year
- Expenditure and income records
- Petty cash book/vouchers or electronic records
- Utilities and other bills records
- Certificates of investment
- Booking diary or electronic record of bookings
- Deposit books used in the last 12 months

9.8 Recommending fees and charges

Committees can recommend fees and charges to Council by mid-February each year for approval. Fees should be increased in line with inflation or CPI increases each year and the ultimate goal is that income received by the committee, including in fees and charges, should cover committee expenses for maintenance and repairs of the facility/reserve. Suggested categories for hiring fees and charges are as follows

- Commercial
- Community/non-profit
- Regular users
- Hourly/daily/weekly/evening/penalty rate
- Cleaning fee
- Bond/deposit requirements
- Minimum number of hours required to hire
- Use of lights
- Impact of use (e.g. soccer versus netball)

Fees set should be inclusive of GST (bonds do not incur GST)

9.9 ABN

Councils ABN is 26 066 993 265

9.10 GST

GST is a tax of 10% on the supply of most goods, services and anything else consumed in Australia. These are defined as taxable supplies. There are other types of supplies that are not subject to GST (including fresh food, education childcare).

GST is a Federal Government tax and Council has to ensure all guidelines are followed or council could get fined at audit. Legally, a Section 355 Committee is part of Council and Council must account for **all** GST transactions on a **quarterly** basis.

The committee must pay the total amount on an invoice to its supplier/contractor and then claim the GST back on its quarterly GST Summary Return to Council

10 COMMITTEE MEMBERS AS VOLUNTEERS OF COUNCIL

All Section 355 committee members are volunteers of Council and as such are bound by the Bellingen Shire Council Volunteer Policy (Ref. A).

This policy also covers other volunteers that support the committee members in their role. These may include:-

- Museum front of house volunteers
- Working bee volunteers (gardening, cleaning, minor maintenance)
- Event set up and pack down volunteers

All Council volunteers are required to complete a Volunteer Registration Form and in addition, committees need to maintain a Volunteer Register for volunteers undertaking duties such as those listed above. This is essential for ensuring that all volunteers are covered by insurance. If volunteers are undertaking duties as listed above, a site induction is required including the provision of information on emergency evacuation procedures and location of first aids kits, personal protective equipment check and fire safety equipment where available.

10.1 Code of Conduct obligations

All Volunteers are responsible for complying with Council's Code of Conduct and as such are required to undertake an online or paper based learning module on this which covers

- General conduct
- Fairness and equity
- Harassment and discrimination
- Conflict of Interest
- Personal benefit
- Relationship between council officials
- Access to information and council resources
- Maintaining the integrity of the code

Other training opportunities will be made available to volunteers through Council online learning Management System platform, ELMO.

Committee members will be required to acknowledge electronically or in writing that they have read and understood the code of conduct and agree to abide by it within 3 months of commencing on a committee.

10.2 Dispute Resolution – Internal

All disputes and disagreements between members of the committee are to be resolved within the Committee, where possible.

Where a dispute or disagreement over a matter under consideration occurs within a committee, a resolution of the majority of the committee will determine the outcome. Where this is not possible, the Chairperson will have the casting vote.

Whilst Council staff are available to assist the committee in attempting to resolve internal disputes, Council would prefer that the committee resolve its disputes and/or conflict situations within the committee. Information on methods of resolving conflict are available at Ref. F.

10.3 Dispute Resolution – External

Where individual citizens or groups of citizens disagree with a resolution of the committee, these parties may refer their grievances to Council in writing for consideration.

Where such notice in writing is referred to Council, Council will request a report on the issue from the committee. Upon receipt of the report, Council officers will endeavour to liaise and mediate the matter with the parties. Council Officers may choose to involve a third party mediator such as the Community Justice Centres for a resolution. If there is no resolution, the matter will be referred to Council for resolution.

Upon Council adopting a resolution, the details of Council's deliberations will be advised to the committee and the individual citizen or group of citizens who referred the matter to Council.

10.4 Grievance Procedure

If a committee member has a grievance about any aspect of their tasks, other volunteers or Council staff, the Bellingen Shire Council Grievance Handling Procedures should be followed (Ref K)

10.5 Work Health and Safety (WH&S)

The Work Health and Safety Regulation 2017 requires Council to ensure that committee members have the skills and training necessary to carry out their activities in a safe manner.

Training to advise committee members and office bearers of the requirements of their positions and in relation to the Code of Conduct or other matters will be arranged and conducted by Council where appropriate or requested by the committee. This training may be provided face to face, electronically or as an online course.

A comprehensive guide to the Committee's and Council's obligations in relation to Work Health and Safety is included in Council's WH&S Policy (Ref L)

Examples of compliance with Workplace Health and Safety obligations include:

- *Following safe work procedures issued by the Council or Committee;*
- *Observing safe practice around fire, electricity, compressed air or water hoses;*

11. FACILITY AND RESERVE MANAGEMENT

All committees are responsible for the care, control and management of the reserve/facility. Each committee's Constitution/Terms of Reference will detail the specific duties and the role of the Committee in fulfilling these duties.

Where relevant, committees should refer to the core objectives of the use and management of community land as detailed in the Local Government Act 1993, Chapter 6, Part 2, Division 2.

Care may include:

- The duty of care to ensure the health, safety and welfare of people using the facility or participating in a function of the committee
- Maintaining First Aid Equipment
- Displaying and promoting Emergency Evacuation Procedures
- Ensuring appropriate tagging of any electrical equipment
- Being aware of and not exceeding the capacity numbers for the facility
- Being aware of and not exceeding the stage load limits if applicable
- Maintaining the facility and protecting its physical assets from damage, misuse and deterioration
- Informing the Council of any issues in relation to facility maintenance or vandalism of the reserve or facility being managed.
- Ensuring the security of the facility and that adequate security systems are in place.
- Advising Council of any potential insurance risk that may arise in regard to the facility and its users.
- Obtaining sufficient funds to maintain the facility as a going concern.
- Ensuring sufficient and equitable access to the facility by the community.
- Ensuring that all users of the facility conform to the insurance requirements set out in this Guide and complete a User Agreement (See Ref. M)

Control may include:

- Holding regular meetings, accurately recording minutes of each meeting and promptly forwarding a copy of all minutes to Council and all committee members in accordance with the Constitution.
- Maintaining and monitoring accurate financial records.
- Submitting a copy of the Financial Statements to Council by 31 January each year.
- Submitting a current list of all contents and assets belonging to the committee to Council by 30 April each year.
- Recommending fees and charges by the notified date.
- Administering and overseeing use of the facility by hirers/user groups.
- Not knowingly hiring the facility out to groups using the facility for unlawful activities
- Clearly defining the roles of office bearers and committee members.
- Holding an Annual General Meeting each year and advising Council of the date at least 14 days prior to the meeting to allow for the committee to organise advertising of the meeting and for Council to be aware of the meeting date.

- Informing Council of all committee membership changes and forwarding a completed Volunteer Application form to Council
- Maintaining an up-to-date Key/Electronic/Code Entry Register detailing all those who hold keys or electronic entry information to a Council facility (see Ref. N)
- Obtaining property owners (Council's) consent for any changes to the structure of the building or facility, there are modifications to electrical, water or sewer functions or if the locks are changed at any part of the facility or reserve and providing Council with a copy of the new key or keys (see Ref. O)

Management may include:

- Ensuring that all moneys received are banked and then used for the benefit of the facility in an equitable, honest and consistent manner.
- Ensuring that the facility is not used for the financial gain of committee members.
- Being aware of, and involved in, appropriate community activities which are compatible with the Constitution/ Terms of Reference and objectives of the facility.
- Developing and updating long term plans for the facility (Plans of Management).
- Recommending policies and procedures which contribute to the effective management of the facility or the activities of the committee.
- Being accountable to Council and the community for the committee's actions and initiatives in respect of the facility.

11.1 Building Maintenance

Bellingen Shire Council acknowledge that for some of its facilities and reserves, income received in the day to day running of the facility will not cover all the expenses associated with the maintenance of the facility or reserve.

Council requests that committees cover maintenance requirements where possible but will work in partnership with committees to maintain and improve the facilities for the benefit of the community. To this end Council will perform an annual inspection of facilities and reserves so that they are aware of issues and can include them as part of the Building Maintenance Strategy.

11.2 Land

It is recommended that for maintenance of less than \$1000, the committee arrange their own maintenance where possible.

Committees have no legal authority of leasing, subleasing or licencing of the land they manage. Leasing and licencing can only be done by Council

No changes can be made to drainage and ground level without the approval of Council.

12 RISK MANAGEMENT

12.1 Risk Assessments

Where a Section 355 Committee undertakes an activity as opposed to providing advice to the Council, it must consider the risks associated with such activity. A risk assessment should be undertaken for each relevant activity. Copies of any completed risk assessments should be submitted to Council for their records.

13. INSURANCE

Bellingen Shire Council holds various types of insurance where members of a committee established by Council are included in the definition of the insured. This should be seen as a last resort in the implementation of good risk management. Committees are also required to ensure certain insurances are in place. For more information please contact Councils Governance and Corporate Planning Officer.

13.1 Public Liability Insurance

Public Liability Insurance provides protection for Council and committees against claims for personal accident and property damage arising from the negligent act or omission of the Council or committee. In this instance "Council means employees, Councillors, committee members and volunteers".

Public Liability claims often end up in court and it is most important that accurate details are taken down immediately after an incident/accident. This information may be used by Council for their investigation and in court should the matter proceed to that step. The volunteer involved may also be called upon as a witness. An Incident Report Form (Ref. Q should be completed).

Council's insurer determines all insurance claims. Whilst it is acceptable to express regret that an incident occurred, committee members and volunteers must **NEVER ADMIT LIABILITY**. Council must be contacted in the event of such an incident and the issue will be referred the relevant officer.

13.2 Property Insurance

Council's property insurance covers properties and assets belonging to Council. Property insurance covers damage resulting from such occurrences as storm, fire, impact, malicious damage, theft, and burglary, earthquake subject to the policies terms, conditions and exclusions.

Each claim carries an excess (the amount not covered by the insurer).

The policy does not extend to property owned by third parties such as facility hirers, committee members or volunteers (i.e. property in which Council does not hold an insurable interest). Committee members and volunteers should ensure that their home contents insurance policy provides coverage for personal items.

Burglary and malicious damage incidents **MUST** be reported to the Police Assistance Line (13 14 44) immediately upon discovery and a Police Report Number and the name of the Police Officer recorded) All incidents, regardless of value must be reported to Council as soon as possible.

13.3 Personal Accident Insurance

Bellingen Shire Council has personal accident coverage insurance for volunteers whilst engaged in or on any activity directly or indirectly connected with or on behalf of

the Policyholder (Bellingen Shire Councils) which includes travelling to and/or from such activity.

This includes the following:-

- Personal accident and sickness, including lump sum benefits and weekly benefits
- Bodily Injury resulting in surgery
- Percentage of salary volunteers lose if they are injured whilst conducting volunteers work for Council, if they can't attend their usual job,
- Fractured bones
- Loss of teeth or dental procedures
- Death, Coma,
- Rehabilitation,
- Bed confinement
- Trauma counselling,
- HIV/Aids
- Non Medicare expenses

Please note, compensation is limited for Covered Persons aged ninety (90) years or over and death or injury must be accidental. The policy does not extend to a death or injury from medical causes (e.g. heart attack) while undertaking Council duties.

A full schedule of benefits can be made available upon request.

13.4 Casual Hirers Public Liability

In the interests of good risk management practises, groups using council facilities and sporting fields should ideally have their own adequate insurance provisions for the events and activities they provide.

Council recognises that this is not always possible especially for small groups who may use a facility infrequently or groups that do not charge a fee or who may request a donation for fundraising purposes and have a Casual Hirers Public Liability Policy for this purpose.

This policy provides insurance coverage for casual hirers for nominated Council facilities. A casual hirer is a person or group of persons (other than a sporting body, club, association, corporation or incorporated body) which uses the facility less frequently than once a month or 12 times per calendar year.

Council can also provide insurance cover for groups who may want to use a facility more frequently if they are not charging fees, are non-profit making or for fundraising purposes providing they are not incorporated.

13.5 Insurance required by Facility Users

Where the Section 355 Committee manages a Council facility which is used by hirers or community groups who are not considered casual hirers, there are certain insurances which such users must hold and provide evidence of to the committee.

These include:

- Public Liability Insurance – various levels of public liability insurance may be required based on the activity being undertaken and the risks identified;
- Workers Compensation Insurance – if using employees.

In addition hirers and users should be made aware that their property and equipment brought onto the facility is not covered under the Council's insurance arrangements.

13.6 Insurance required by contractors

Where the Section 355 Committee (in accordance with its delegation) engages contractors to undertake work, it must ensure that the contractors hold and provide evidence of such insurance including:

- Public Liability Insurance
- Workers Compensation Insurance
- Professional Indemnity Insurance (if undertaking professional work e.g. architects, engineers)

13.7 Insurance required for Fundraising and Community Events

Committees may wish to conduct fundraising activities and community events. Each activity must be endorsed by Council and Council's insurer to ensure that insurance cover is extended to the activity and the committee members organising/participating in the activity. The event may attract an additional premium which will need to be met by the committee. Council and Council's insurer also need to be notified of all activities and participants involved in the event.

If the fundraising involves other community groups in, for example, a fete situation where each group has a stall to sell goods, then each group is responsible for its own Public Liability Insurance (minimum cover ten million dollars).

Groups and stallholders that do not have Public Liability Insurance cover can join together and take out relevant liability insurance for the event.

13.8 Notification of Potential Claim

Any matter or incident that may give rise to a claim against Council must be reported to Council as soon as practicable. This will ensure that investigations and remedial actions can be undertaken to prevent further occurrences and protect Council's interests.

The committee may receive notification of an incident either verbally, in writing, by telephone or through observation. Once the committee becomes aware of a potential claim it must notify Council **by the next business day**. If Council does not notify its insurer of a claim which it could reasonably have known about, indemnity may be denied.

14 GRANTS AND FUNDRAISING

14.1 Grants

Grants are available to assist Section 355 Committees to maintain and improve the facility they manage or for a related project or event.

Bellingen Shire Councils Grants and Business Development Officer provides information on available funding through an email distribution list and it is recommended that a nominated person from each committee subscribes to this list

In addition, information is available on the Internet.

If the committee are interested in applying for a grant, it is important that contact is made with Council in the first instance to discuss the project. Some things to think about

- What do you want to do (provide as much detail as possible on the description of the project)?
- Why do you want to do it?
- What do you hope your project will achieve?
- How much will it cost – quotes need to be sourced in line with Councils Procurement Procedures
- How much do you want and from whom?
- How much can you contribute yourselves (always better to include some funding from your own sources and remember in-kind contributions)?
- How long will it take and when will you need to start?
- Do you have a plan for the project if it requires building works?

Any grant sought for modifications or maintenance for the facility or reserve managed by a committee requires Councils signed consent as the property owner. It is essential that the decision to apply for any external funding is approved by the committee at a general meeting and that this is minuted. In addition, committees are required to complete and submit an Application for Property Owners Consent (Appendix O)

Eligibility requirements vary depending on the funding source. If Section 355 Committees are ineligible to apply in their own right, they could consider applying under the auspices of another group (e.g. a facility user group) in the community in consultation or partnership with Council.

14.2 Fundraising

Section 355 Committees may embark on fundraising activities to support their role in managing their facility or reserve or to promote the activities of the committee.

When planning a fundraising activity or event, the committee must make contact with Council to discuss the event or activity and to determine what the requirements are.

Examples of fundraising activities the committee may choose include:-

- Street stalls – there is a specific application for this with information available on Councils website
- Raffles
- Crowdfunding campaigns
- An event

The following points should be kept in mind if the committee engages in fundraising activities and/or public events:-

- (a) Any fundraising activities must be carried out in accordance with the *Charitable Fundraising Regulation 2008*. Local Councils including committees of councils are exempt from obligation to hold an authority to conduct fundraising.
- (b) Any fees to be charged by the committee (e.g. for stall holders, entry fees) must be approved by Council. Please advise Council officers **at least three months** before any promotional material is distributed to allow time for a report to go before Council seeking approval of the fee structure.
- (c) Make sure when organising an activity or event that all fees, charges and donations comply with GST legislation.
- (d) **Ensure that all necessary Public Liability Insurance cover is arranged/provided.** Council's Public Liability Insurance covers Committee members and the activities of the committee. It does not, for instance, cover stall holders or participants (e.g. jumping castle) at an event organised by the committee.
- (e) If you are organising a major event, please check whether you need to apply to Council for approval via a Land Use/Development Application that may attract a fee.
- (f) If you are seeking any form of donation or sponsorship for the event, refer to (a) and (c) above.

Bellingen Shire Council provides a range of information on successful event planning. For further information go to:
<https://www.bellingen.nsw.gov.au/Business/Tourism/The-Events-Hub>