

Section 355 Committee Policy

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| Link to Community Strategic Plan | 5.3 Ensure good governance and administration |
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1. Purpose

To outline Federation Council's requirements in the appointment and management of committees under Section 355 of the Local Government Act 1993 and the management of delegations to these committees under Section 377 of the Local Government Act 1993.

2. Background

Council relies enormously on many volunteers who work to assist Council to provide many assets and services across the many communities that comprise the Federation Council Local Government Area. Whilst not all volunteers are part of 355 Committees, nor do they need to be, 355 Committees are considered by Council to be a very valuable way of partnering with the community through volunteers to assist Council in its delivery functions.

In addition to Section 355 Committees, Council has a number of other 'Advisory Committees' that are also comprised of Councillors, members of the public/community groups, and staff. These are typically in areas where no management or operational assistance is required for one of Council's assets, and for specific areas such as Ageing, Youth, Disability, Drug and Alcohol, Arts and Culture and other key focus areas from Council's Community Strategic Plan.

Section 355 of the Local Government Act 1993 provides that: "A function of a Council may be exercised by a committee of the Council". Membership of these committees may include:

- Councillors
- Representatives of Government Departments
- Representatives of community organisations or sporting bodies
- Members of the public

Section 377 of the Local Government Act 1993 allows Council to delegate certain responsibilities to committees formed under the provisions of Section 355.

Council has a responsibility to ensure that these committees are well managed and supported in their role in providing services to the community on Council's behalf. Committee members also have a responsibility to ensure that they comply with the necessary legislative requirements in fulfilling their role as a committee member.

3. Scope

This policy applies to all committees appointed by Council under the provisions of Section 355 of the Local Government Act 1993 approved by Council.

4. Policy Statement

Section 355 Committees, operate effectively as an extension of Council to provide assistance in carrying out some of Council's functions. This may also include aspects of financial management of such facilities they operate/assist to manage/maintain, on behalf of Council.

Federation Council will appoint Committees under Section 355 of the Act, where Council believes that such an appointment is the most efficient and effective method of undertaking that function.

In determining if an activity is a function of Council it must be identified in the Council's Integrated Plans, for example the Community Strategic Plan, Delivery Program and Operating Plan.

Examples of Councils functions are outlined in S. 23A of the Local Government Act and those most likely to be fulfilled by a Committee include as an example:

- Managing/assisting to manage/operating/providing maintenance and other support to Councils built assets including Halls, Recreation Grounds/Courts and associated buildings/infrastructure, Swimming Pools, and Town Progress/Community Improvement functions. This is particularly so in Councils smaller towns and villages where it proves to be very cost effective and creates great community ownership of such facilities, and takes advantage of the significant social fabric and local knowledge of these volunteer efforts.
 - Providing community health, recreation, education & information services.
- Environmental protection.
- Waste removal & disposal.
- Land & property, industry, tourism development and events advice & assistance.

A Section 355 Committee may also be delegated by Council to provide advice on future upgrades and community needs.

Council will not appoint Section 355 Committees simply to overcome the inability of a community committee or organisation to obtain public liability insurance coverage including to run events. In determining whether or not to appoint a Section 355 Committee Council must consider the following:

- Whether the activity being performed is a Council function.
- In the absence of a Committee, would Council still undertake the function?
- Each Section 355 Committee will need to have a Delegations document signed by Council and the Committee Chair. This will be in the form of a Terms of Reference (TOR) adopted by Council that addresses the delegations and limitations according to the Committees purpose and functions identified in the delegations document.

Section 355 Committee membership will be approved by Council and governed by the Committee Terms Of Reference (which would include the delegated function and reference the relevant Council meeting for delegation authority).

- Each delegations document will need to address -
 - Purpose and limitations, Council and Committee responsibility for undertaking specific tasks as well as reporting requirements, office bearers contact details and responsibilities, meeting process and meeting schedule.
 - The ability or otherwise of the Committee to form working groups, but in such cases, they still need to have their direction obtained from the Committee/Council as appropriate. No sub-committees shall be formed.
 - The requirement or otherwise to operate a separate bank account. New Committees will generally not be able to obtain grants/accept donations and hold interest bearing term accounts without the separate approval of Council. Some existing committees may have access to a bank account with Council approval and where a member of staff is a nominated signatory. Any interest bearing deposit account held by such existing committees will be managed on a case by case basis by Council when adopting each existing committees new terms of reference.
 - The need to conduct any purchasing on behalf of Council. Some existing committees may have special purchasing arrangements in place as agreed to by Council.

- The specific maintenance obligations on both the Committee and Council, in Committees that have a role in some form of built asset/s owned or controlled by Council, including on Crown Land where Council is the Trust Manager. This includes ensuring Councils relevant staff contact is aware of any works proposed to be undertaken by the Committee, and to ensure Council and the Committee have a clear understanding of each other’s responsibilities, particularly in regards to capital improvements (replacement/renewal/upgrades) and compliance checking of services such as fire, electrical, pest and any other services or standards where relevant including water quality where relevant at Swimming Pools.

Members of Section 355 Committees will be council officials in the terms of Council’s Code of Conduct.

Council will support this Policy with Guidelines for Section 355 Committees

5. Responsible Officer

The Director, Corporate and Community Services has overall responsibility for ensuring the Committees are appointed and the policy framework is implemented with appropriate resources applied.

6. Definitions

For the purpose of this Policy, a “function of council” is defined as a power, authority and duty of council.

7. References & Associated Documents

- Federation Council Section 355 Committee Guidelines (16/28254)
- Federation Council Code of Meeting Practice (16/21921)
- Federation Council Code of Conduct (16/21900)
- Model Code of Conduct Quick Guide for Council Committee Members and Delegates (19/75861)
- Model Code of Conduct Quick Guide to Completing Returns of Interest (19/75864)
- NSW Local Government Act 1993
 - Chapter 12, Part 2, Division 1 – Code of Meeting Practice
 - Section 360 – Code of Meetings of Councils and Committees
 - Schedule 6A – Code of Conduct

8. Policy History

| Version | Date | Changes / Amendments |
|---------|------------|--|
| 1.0 | 21/08/2019 | Revised for Federation Council and new Council policy template applied. |
| 2.0 | 30/10/2020 | Reviewed with minor changes to Section 4 delegated functions. Addition of references and clarification of bank account responsibilities and Terms of Reference requirements. |

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