

# Section 355 Committee Guidelines

August 2022



**BYRON**  
SHIRE  
COUNCIL

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# 1. Introduction

Community Halls are important community spaces where people can come together, create connections, and engage in social, artistic, cultural, educational, and recreational activities.

Under the Local Government Act 1993 (“the Act”), Byron Shire Council (“Council”) can delegate some of its functions to a Committee of Council. Under this delegation, community volunteers play an important role in the management and care of Byron Shire’s Community Halls via membership of Section 355 Committees (S355 Committees). Where the term ‘Committee’ is used, it refers to all S355 Committees.

## 1.1 Purpose of S355 Committee Guidelines

This document aims to support Committees in their management role and function, so they are aware of their responsibilities and informed about the procedures, policies and legislative requirements that govern Committees of Council.

S355 Committee members are required to follow the terms outlined in this document. Any modifications to these terms require a Council resolution.

These guidelines have been prepared to:

- Provide a clear and comprehensive guide on Committee management responsibilities, functions, and operations of community hall buildings
- Clarify Council’s and the Committee members’ roles and responsibilities in this partnership
- Provide advice on operational issues for the Committee

## 1.2 Support

Council is committed to ensuring the Committees have access to the support they need to fulfil their roles and responsibilities and to provide advice and direction relating to the Committees as required. Any questions or requests for assistance should be directed, in the first instance, to [halls@byron.nsw.gov.au](mailto:halls@byron.nsw.gov.au) or the key contact outlined on the staff contact list.

## 2. Responsibility

### 2.1 Legal position of Committees

The Local Government Act 1993 legislates how Council can exercise its functions, including the operation of a wide range of community services and facilities. S355 allows Council to delegate some (but not all) functions to Committees of Council. Very simply, these are called Council's "S355 Committees".

S355 Committees are given particular powers to exercise some functions of the Council. These are called delegations (refer to the Committee's 'Delegations of Authority' document). It is important that S355 Committees, and individual Committee members, understand that **only when** they are acting in accordance with the delegations given to them by Council:

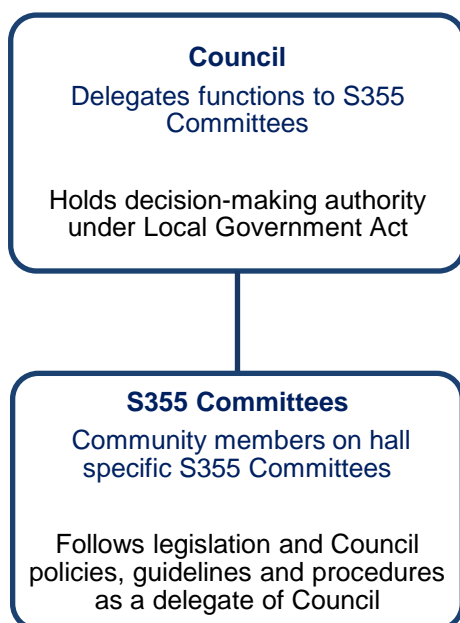
- they are acting on Council's behalf;
- actions of the Committee are deemed to be actions of Council.

It is important that S355 Committees, and individual members of S355 Committees, always follow the delegations given to them by Council.

When S355 Committees, or individual members of S355 Committees, act outside of, or beyond, the delegations given to them by Council, they are acting without power and in these instances, they may not be insured or protected by Council.

### 2.2 Community hall management structure

The following diagram shows the hierarchical structure of Community Hall management:



## 2.3 Code of Conduct

Council has adopted a Code of Conduct that applies to individual Committee members, just like it applies to Council staff, Councillors and Council volunteers. This Code of Conduct sets out the minimum standards of behaviour required of Committee members and the principles that must be followed to ensure the business of Council is carried out in an honest, efficient, and impartial way.

When appointed onto a S355 Committee, Committee members will be provided with access to Council's Code of Conduct. Committee members must comply with Council's Code of Conduct when carrying out duties as a Committee member.

Committee members, or a whole Committee, can be the subject of Code of Conduct complaints or investigations into any behaviour or activities alleged to be in breach of the Code of Conduct. Breaches of the Code of Conduct can result in dissolution of Committees or removal of Committee members.

## 2.4 Committee roles and responsibilities

The roles and responsibilities of the Committee are to:

- Care for and maintain the facility, through responsible day to day management
- Support the safety of patrons, contractors, and volunteers at the facility by undertaking minor maintenance repairs in line with the Committee guidelines and Council's policies, procedures, and processes.
- Manage bookings, generate income, and promote optimum usage of the hall, collecting fees for hire in line with Council's fees and charges. Priority of use should be given to not-for-profit community groups and organisations.
- Support equitable access to the facility and ensure access is not denied because of ethnicity, gender, age, disability, religion, or any other form of discrimination.
- Ensure the facility is not aligned with, or advocate or advertise for or on behalf of, a political party or person/s.
- Strive for a "break-even" or profitable annual financial position (after all operational, maintenance and other costs are considered).
- Provide reports, Minutes and annual financial statements to Council as required
- Ensure compliance with Council policies including, but not limited to, Council's adopted fees and charges, Work, Health and Safety, Code of Conduct and all legislation and policies relevant to the operations of the facility.
- Ensure that negative impacts on the environment and neighbours are minimised.

- Provide recommendations to Council for function improvements and/or upgrades to the facility.
- Plan and undertake fund raising activities as required.
- Consider grant funding opportunities for Council's consideration (optional). Committees may be responsible for grant management on behalf of Council, unless otherwise deemed by Council.

## 2.5 Limitation of powers

The power and function of Committees is subject to limitations as outlined by law, Council resolution or in writing by the General Manager. Section 377 (S377) of the Act outlines what cannot be delegated to Committees of Council.

The Committee will follow the rules, processes and decisions made by Council, in relation to the facility and function under the Committees management and control.

The Committee **must not** make decisions concerning the following:

- Fixing of fees and charges (the Committee may submit recommendations annually for consideration by Council).
- Borrowing of monies or the payment of monies outside the scope of the Committee's function.
- The sale, lease, sub-lease or surrender of land and or other property vested in its care under the provisions of the Local Government Act 1993 (as amended).
- 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).
- The payment or making of a gift to its members (other than a token gift), notwithstanding Resolution 14-601 regarding the payment of Honorariums to Committee members. Token gifts are as per Council's Gifts and Benefits Policy and Code of Conduct.
- The carrying out of works on or to the facility including alterations, reconstructions, or construction without the prior consent of Council (does not include minor maintenance works).
- The refusal to hire the facility to a person or organisation, which agrees to follow and comply with the rules relevant to the facility, providing the facility has suitable availability.
- Financial decisions relating to expenditure on the works, services, or operations of Council, outside the Committees delegation.

- If the Committee is deemed to be functioning outside the limits of its powers, Committee powers may be removed by written notice to the Committee signed by the General Manager or an elected representative.

## **2.6 Related Council policies and procedures**

As Committees of Council, all S355 Committees need to follow the policies and procedures of Council. Policies and procedures ensure that legal, fair, and consistent decisions are made across Council operations.

A copy of all related Council procedures and policies to accompany these Guidelines are available on Council's website. Council staff will assist Committee members with any queries on policies and procedures.

Related Council policies and procedures include (but are not limited to):

### **Related NSW legislation (not limited to)**

- S355 Local Government Act (Committees)
- S377 Local Government Act (Delegations)

### **Related Council Policies (not limited to)**

- Code of Conduct
- Volunteering with Council Policy
- Work Health Safety Policy, Plans and Procedures
- Revenue Policy including Fees and Charges
- Social Media Policy
- Sponsorship Received by Council Policy
- Complaints Handling Policy

## **2.7 Media**

Committee members are not permitted to speak to the media on any Council matters in their capacity as a Committee member. All media requests must be referred to a Council officer.

## **2.8 Grievance procedure**

If a Committee member has a grievance about any aspect of their tasks, other volunteers or Council staff, Committee members can approach, or notify in writing, the relevant Council



staff member, if they are comfortable to do so. Where possible, grievances or complaints will be resolved in the first instance with Council.

If this option is not suitable, Council's Complaint Handling Policy outlines how a complaint will be managed by Council.

## 2.9 Filing and records management

Council follows the protocol of record keeping as set by the State Records Authority of NSW.

Records relating to the Committee remain the property of Council and are to be stored on the Council's filing system. An online folder will be established for each Committee, with all records to be stored there (e.g., meeting Minutes, bookings applications, hire agreements, hirer's insurance, maintenance and repairs records, financial records etc.)

## 2.10 Volunteers (non-Committee members)

Volunteers may, from time to time, come forward to assist with events or functions or other activities in relation to the Committee's work.

Council's **Policy on Volunteering with Council** and the associated Guidelines and Procedures for the Engagement of Volunteers have been developed using best practice in volunteer management.

In all cases, Committees are to develop a clear job description and provide a basic induction for any volunteer roles. You may need to provide further training for the activity they will be undertaking.

All volunteers need to complete an Expression of Interest (application form) and a Volunteer Agreement (Volunteer Appointment Registration Form). Volunteers should have their names noted in the Committee Minutes and the application paperwork filed in a safe place. Volunteers are protected against public liability claims whilst conducting activities on behalf of the Committee.

## 2.11 Social media

Council's Social Media Policy and Social Media Procedures apply to Committee members. The General Manager, or their delegate, must approve all Byron Shire Council official social media sites including community halls and facilities.

The Social Media Procedures outline how social media needs to be used transparently, responsibly and with respect. Social media posts need to be relevant, accurate and timely.

# 3. Committee membership

Whilst no formal qualifications are necessary to hold a position on the Committee, some

essential skills are required alongside a commitment to the Committee's delegated roles and responsibilities.

The term of office for Committees is the same as the current term of Council, with the addition of an extra three months after the General Election of Councillors, or as otherwise directed to support with the transition of a new Committee. Committee members are eligible for re-appointment in the new term of Council following the nomination process.

### **3.1 Nominations and appointments**

When a position becomes vacant or if a group requires further members, the Committee may ask Council to advertise for member/s.

#### **Steps:**

- Nominations will be open to all members of the community. Vacancies are typically advertised online with an accompanying nomination form.
- Interested community members are to submit a nomination form.
- Nominations received at the start of a Council term will be assessed and appointed by Council resolution, following an open nomination process.
- Any nominations received during the term of the Committee will be assessed by Council staff against selection criteria and approved by the GM, as outlined on the nomination form. The applicant will be notified of the outcome.

### **3.2 Membership**

Committee members are required to participate in Council induction training.

Committee membership will number not less than four and not more than nine members. The exception will be the Bangalow Parks (Showground) Committee which can number up to twelve members.

Committee members require essential skills and abilities, including:

- Basic computer skills and regular access to a computer
- Access to email and basic email skills (this is the primary form of Committee communications)
- A commitment to Committee meetings
- A willingness to be actively involved in Committee issues
- A willingness to share the workload amongst Committee members

- Demonstrate goodwill and cooperation working as a Committee team.

Accommodations may be possible on a case-by-case basis for anyone who does not display the above skills and abilities.

### **3.3 Member ceasing to hold office**

Under Council's authorisation, a Committee member shall cease to hold office in any of the following circumstances:

- If the member resigns membership by notice in writing to the Committee and Council
- If the member fails to comply with Council's Code of Conduct
- If the member fails to attend three (3) consecutive meetings without a formal apology or reasonable excuse provided to the Committee
- If the member becomes bankrupt
- While serving a sentence (whether by way of periodic detention) for a felony or other offence, except a sentence imposed for a failure to pay a fine
- Council passes a resolution to remove the member from the Committee
- Upon the death of the member

### **3.4 Dissolution of Committee**

By resolution, Council can dissolve a Committee at any time. Upon the Committee being dissolved, assets and funds of the Committee shall, after payment of expenses and liability, be handed over to Council.

### **3.5 Committee office bearers**

Committees elect office bearers to fill key roles required on the Committee (e.g., treasurer, bookings officer, maintenance officer, secretary, and chairperson).

Officer bearers are elected for a 12-month period.

The Committee elects officer bearers at the first Committee meeting and each year after at the Annual General Meeting (AGM). Office bearers must be reported to Council after they are elected.

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.

**A Committee member may:**

- Fill more than one role, if necessary and they are willing to do so (maximum two office bearer roles on the Committee). The responsibilities of one position may be shared between two Committee members if desirable.
- Request other Committee members for assistance with their officer bearer role and associated tasks as needed.

## 3.6 Overview of office bearer roles

The Committee should elect the following positions:

### **Treasurer**

- Liaise regularly with the Bookings Officer or Venue Coordinator
- Handle the movement of money by the Committee
- Record income and expenditure and manage the accounts electronically
- Report on income, expenditure, and cash flow to the Committee and in line with Council's financial system processes
- Submit regular financial records to Council for auditing and GST purposes
- Provide Council with any financial information or documentation upon request
- Financial planning

### **Bookings Officer**

- Manage bookings for activities to be held at the facility, including liaising with potential hirers, and ensuring the correct bookings documentation is completed
- Keep an accurate record of bookings (this is essential for an insurance claim to be made by casual or regular hirers of the facility)
- Keep the online booking calendar updated
- Liaise with the cleaner/s of the facility to ensure cleaning is done at the appropriate times
- Authorise the release of bonds
- Provide instructions to all hirers prior to the booking date (this task may be allocated to other Committee members to assist the Bookings officer)
- Work with other Committee members on marketing and promotion of the facility,

including any websites and social media activities

### **Maintenance Officer**

- Regularly assess the facility for any maintenance that may be required
- Liaise with the cleaner/s of the facility to assess any maintenance that may be required
- Obtain Committee approval for routine minor maintenance to be undertaken and the associated expenditure (note these items in the Committee Minutes)
- Obtain quotes, liaise with contractors, and ensure any invoices are checked against the quality of the final job completion before providing to the Treasurer to pay
- Where possible, meet contractors on-site prior to work commencing. If necessary, complete a site induction for contractors, at least annually but as required
- Ensure professional contractors with the appropriate licenses are used to undertake any works at the facility
- Ensure any Work Health and Safety or other hazards are dealt with and/or reported to Council to ensure the safety of all visitors to the site
- For questions and support, liaise with Council's Property Maintenance Coordinator or Property Maintenance Officer

### **Secretary**

- Deal with correspondence to and from the Committee (if required)
- Issue the meeting agenda with instructions from the Chairperson (if required)
- Take and distribute meeting Minutes
- Ensure that official files and records are kept and maintained
- Notify members of meetings

### **Chairperson**

- Manage the operations of the Committee including chairing the meetings
- Act as official representative of the Committee
- Has the casting vote in the event of a committee tied vote
- Act on behalf of the Committee in an emergency or urgent situation

## **Alternative arrangement for office bearer roles**

If office bearer roles cannot be filled by the existing Committee members or via a recruitment process, the Committee may explore other arrangements.

The Committee may propose to outsource some of the more time-consuming positions, such as the Bookings officer or part of an officer bearer position e.g., bookkeeping. The Committee must notify Council staff in writing of this proposal; however, this decision will be subject to the Committee's revenue, expenses and current budget and will require approval by Council staff.

If the Committee does not have sufficient budget to fund this arrangement and requires financial assistance, this requires approval by the elected Council. Financial assistance to fund this arrangement will be considered through the quarterly budget review

The Committee will be advised of the outcome and if approved, what process is required for this to occur.

## **3.7 Councillor contact**

Council staff should be the first point of contact for Committee members to assist with any queries, concerns or matters relating to the function of Committees or the operation of the halls.

Council acknowledges that there may be instances when Committee members feel more comfortable speaking with an elected Councillor – a leader and representative of the local community. Each Committee will have a designated Councillor contact to assist Committees if they require additional input, negotiation, or advice. This acknowledges the leadership role that Councillors serve in the community.

The Councillor contact is not required to attend Committee meetings; however, the Councillor contact may attend Committee meetings upon request or if required to discuss a particular matter. The Councillor contact should not be involved in any operational decisions relating to the halls and is not eligible to vote at Committee meetings.

## **3.8 Annual General Meeting**

An Annual General Meeting (AGM) should be held each year (usually November/December). The business to be conducted at an AGM is to include:

- Election of Office Bearers - Office Bearers of the Committee stand down and their positions are declared vacant
- Annual Office Bearer's reports (i.e., Treasurer's Report etc)

The AGM provides an opportunity to execute the Committee's responsibility to be accountable to the general community about the running of the facility. The meeting may be held in conjunction with an 'open day' for the venue.

### 3.9 Procedures for AGM election

A Returning Officer, appointed at the meeting, takes the chair, and calls for nominations for the positions of Office Bearers. 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 **secret ballot** vote must be taken:

- Members vote on paper and put into general pool, the Secretary and a member not standing for a position count the votes (requests by members for secret ballot cannot be denied).

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 drawn 'from the hat' by the Returning Officer (or an impartial observer). The first name drawn is elected to the Office.

A list of elected Office bearers must be recorded together with the names of nominators and seconders. Minutes of the AGM containing this information must be sent to Council preferably within 14 days.

## 4. Meeting procedures

Meetings are to be conducted to standard guidelines which state that:

- A quorum must be present
- Appropriate notice is given
- Business on the agenda is properly conducted
- Correspondence and Minutes are recorded

Committee members should work together to schedule meetings at a mutually convenient time for all. Ideally, meetings are held online or at the hall or facility, or another public space. Meetings should not be held on private property.

## 4.1 Quorum

This refers to the minimum number of members who must be in attendance for the Committee to formally meet and make decisions.

A quorum will consist of one half of the total number of appointed members plus one (e.g., a majority present).

If a quorum is not present, the meeting will be adjourned to a later date agreed by the Committee. Those present can hold an informal meeting to discuss matters, however, decisions taken by the Committee are not recognised until a formal meeting is held where a quorum is present.

## 4.2 Agenda

The Agenda is an organised list of items, in order, that will be discussed at the meeting. The Agenda should be circulated to all members prior to the meeting (preferably 5 days prior) and is to include:

1. Welcome
2. Acknowledgement of Country
3. Apologies
4. Adoption of previous Minutes
5. Business arising from previous Minutes and report on actions
6. List of items for discussion at the meeting
  - Correspondence Report: list of significant correspondence is presented at the Committee meeting by the Secretary

NB: Committee members may request items for inclusion in Agendas, through the Chair, prior to the Agenda being distributed

7. Close

An Agenda template is available on Council's website.

## 4.3 Minutes of meeting

- Minutes of the meeting must be recorded and kept in accordance with the requirements in the 'filing and record management' section.
- The Minutes must be sent to Council after the meeting and confirmed at the Committee's next meeting.



- Council will not act on Minutes recommendation/motions alone. Motions by the Committee that require action by Council should be in the form “That the Committee requests Council to...” and the action is then for the Committee to make a request in writing to Council.
- Minutes of each meeting are provided to Council for transparency and accountability. The Minutes are available upon request to interested community members.

## 4.4 Voting

- For the vote to be carried, a simple majority is needed (more than half).
- Each member of the Committee is to have one vote, with the Chairperson to have a casting vote in the event of a tie.
- The outcome of the vote should be recorded in the Minutes.

# 5. Financials

## 5.1 Financial accountability

Committees are subject to the same rules and regulations as Council, as outlined in the Local Government Act. Local Government Regulations and Accounting standards must be followed for transparency, accountability, and auditing purposes.

The General Manager has the authority to direct Committees to process their financial records through Council’s financial system and processes.

Funds raised, received or spent need to be available for public examination, just the same as Council. The concept of public accountability involves the responsibility to ensure that Committee funds are used for the manner they were intended, and that a clear and full disclosure of the Committee’s financial activities is available.

Council staff will provide Committee members, such as the Treasurer, with the information the Committees require to meet and follow Council’s financial system and processes.

## 5.2 Accounting and Bank Accounts

The below terms are designed to assist Committees with the sharing of financial information and processing financial records to ensure up to date reporting and consistent processes.

All Committees have a bank account with a float of \$5,000, to be used for expenditure approved by the Committee and noted in meeting Minutes.

Each bank account should have two Committee members as signatories, with Council as an additional signatory.

Committees are authorised to approve financial transactions up to \$5,000.

Bank account details and online viewing access should be given to the Finance Officer at Council.

Committees can have 2 debit cards per Committee, to allow for online and in-store purchases using current balances in the Committee's bank accounts. Bank accounts are not permitted to be overdrawn.

### 5.3 Out-of-pocket expenses

Committee members are strongly encouraged to use the Committee debit card for all Committee related expenses. This is to avoid Committee members using their own personal funds for Committee related expenses.

If required, reimbursement may be made to committee members, with approval of the committee where tax invoices for out-of-pocket expenses are presented to the Treasurer (e.g., cleaning supplies, etc.)

### 5.4 Payments to Committee members

#### Honorarium payments

Committees may vote to pay an honorarium (allowance) to Committee members for duties undertaken in their role on the Committee as follows:

- Up to a maximum of \$115.75\* per week/\$501.58\* per month (excl. GST) for Booking Officers and Treasurers
- Up to maximum of \$115.75\* (excl. GST) per month for other Administration positions including the Secretary, Chairperson and Maintenance Officer.

\*Payment amounts will be reviewed and increased annually in line with the Consumer Price Index (CPI). These amounts were calculated as at December 2021 CPI period.

The Committee must vote on and recommend honorarium payments to Council. **Approval by Council's Finance Manager is required prior to any honorarium payments starting.** This is to ensure the income generated from the facility is suitable to sustain these ongoing costs.

#### Ad-hoc cleaning payments

Regular cleaning of halls and facilities should be contracted out to professional cleaners (refer to Section 'Cleaning').

Under the Committee's financial delegation (subject to Council's annual budget), Committees can pay a Committee member for ad-hoc cleaning when a hirer has not adhered to their conditions of hire and regular cleaners are unavailable. Ad-hoc cleaning

should be kept to a minimum, with only the essential cleaning undertaken.

Payment amounts will depend on the circumstances but generally can be based on the Fair Work Cleaning Services Award 2020. The payment amount as of September 2022 is \$24.76\*. Committees need to agree on the maximum number of hours for cleaning and keep a record of payments.

\*Payment amounts can be reviewed and increased annually in line with the Award.

### **Note:**

Committee members receiving payments should note that:

- The honorarium positions are not permanent and can be ceased by the Committee or Council at any time.
- Payments are performance based and positions can be reviewed by the Committee as required, with the assistance of Council upon request.
- Payments requested outside points 1 or 2 above will require approval by Council's Finance Manager.

## **5.5 Accepting donations**

Committee members, as individuals, need to follow Council's Gifts and Benefits procedure as outlined in the Code of Conduct. However, from time to time, the Committee may be offered donations for the facility. These may come in the form of cash, furniture or other items, or perishable goods for a function or fundraising activity.

To ensure that donations are handled in a fair and equitable manner, Council requires:

- Any financial donations need to be banked into the Committee's bank account and recorded as 'donations income' in a separate General Ledger code for the hall or facility.
- Financial donations for any specific purpose need to be accompanied by a letter outlining the purpose the donor desires and that letter needs to be provided to Council.
- All furniture, equipment, perishable goods, and other items must be outlined in a letter to Council, with a recommendation from the Committee of its willingness to accept the donation.

Committees are required to notify Council in writing, preferably within 14 days, of any offered donations. Council reserves the right to advise the Committee if a donation is not to be accepted.

## 6. Risk management and insurance

### 6.1 Property insurance

Council facilities are covered for risks such as fire, theft, and malicious damage. Committees should be aware of the excess applicable to this policy which is currently \$5,000.

### 6.2 Committee members' public liability and personal injury cover

#### Public liability

The appointed Committee members are covered by the public liability policy of Council anywhere in Australia.

Members of the Committee should note that they are only covered by public liability insurance when acting within the scope of their delegation.

This Policy also covers Council and the Committee against claims made by members of the public for personal injury or injury to personal property arising from a negligent act or omission of Council and/or the Committee.

This insurance does not preclude the Committee from due diligence and council policies must be adhered to.

This Public Liability Policy for Council and Committees is subject to a claims excess.

#### Personal injury

Committee members are covered when injured whilst undertaking duties relating to their role in the Committee.

### 6.3 Contractors' insurance

Council's insurance does not provide any cover for Contractors. Where members of the Committee have authority to appoint Contractors, the types of insurances that should be held by Contractors include:

- Workers Compensation,
- Public Liability and:
- Third Party Motor Insurance when a vehicle is being used on Council property.

Insurances need to be available to Council staff upon request.

## 6.4 Casual and regular hirers' insurance liability

A Casual and Regular Hirers' Policy (\$20 million) exists to cover persons using Council facilities on a non-permanent and not-for-profit basis (e.g., weddings, birthday celebrations or the like)

For a Casual or Regular Hirer, the claims excess is \$2,000 for each and every claim, payable by Council.

A record by the Committee of the history of bookings is essential for a claim to be made.

### **Note:**

Fundraising for an individual, a charity or community organisation or group will be covered under Council's Casual Hirer's Policy if the hirer:

- Is not a sporting group, club, association, corporation, or incorporated body
- Is not a sole trader or registered business
- Is not making a personal financial gain from the activity
- Is not a commercial activity
- Is not a large event (e.g., the halls capacity) where alcohol will be sold or BYO
- Provides the Committee a signed statement from the hirer and beneficiary that states the beneficiary will be receiving all proceeds from the activity
- Acknowledges that they are responsible for the applicable claims excess, for every claim under the policy arising from their event within Council premises

## 6.5 Other hirers' insurance liability

Persons or groups, not defined in 6.4 must have and provide the Committee with proof of their Public Liability insurance policy in the sum of not less than \$20 million if they fit into one of the following categories:

- Creates an income or profit from the activity (e.g., classes charging a fee for service, workshops by charging door entry, participation fee etc.)
- Makes a personal financial gain from the activity
- Is a sole trader or registered business
- Is a corporation or incorporated body
- Sporting body, club, or associations of any kind

It is the Committee's responsibility to ensure that users of the facility in the above categories have adequate Public Liability insurance. In cases of uncertainty, please refer to Council for guidance.

## 6.6 Definitions

### Casual hirer

Person or group of persons (not being a sporting body, club, association, corporation, or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, less frequently than once per calendar month or 12 times per calendar year.

### Regular hirer

Person or group of persons (not being a sporting body, club, association, corporation, or incorporated body), who hires a Council facility for non-commercial or non-profit making purposes, more frequently than once per calendar month or 12 times per calendar year.

### Personal injury

- I. Bodily injury, death, sickness, disease, disability, shock, fright, mental anguish, and mental injury.
- II. False arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution, and humiliation.
- III. Assault and battery not committed by or at the direction of the Casual or Regular hirer unless committed for the purpose of preventing or eliminating danger to person or property.

## 7. Hiring of the facility

Hiring a facility is central to the purpose of the Committee.

### 7.1 Hire documentation

It is essential that hall hirers complete all hire documentation and provide all necessary approval documentation, which may include (but is not limited to):

- A hire agreement (or the equivalent)
  - o This outlines the conditions of hire set out in line with Council policies, procedures, and legislation.
- Hirer risk assessment
  - o This demonstrates the hirer has considered all aspects of the event and can manage it safely.
- Any relevant licenses, approvals, or certificates (e.g., liquor license, Food Safety

certificate, RSA etc.)

Bookings officers can refer hirers to Councils' 'Event enquiry form' on Council's website

The booking documentation must be filed securely for legal and insurance purposes.

## 7.2 Inclusion

The Committee acts on behalf of Council, and it is important to uphold the principles of equity, accessibility, and inclusivity, providing opportunities for the whole community to use the hall facilities.

Consideration of disability and inclusion is managed by the Disability Inclusion Act 2014. The Act requires all government departments, including Councils in NSW, to have a Disability Inclusion Action Plan.

The Plan focuses on four key areas: attitudes and behaviours, liveable communities, employment, and systems and processes.

For Committees, this means that inclusion needs to be considered in all areas of planning and facility operation. Critically, this includes access to the hall and all facilities.

### The case for inclusion

Below is an excerpt from the NSW Disability Inclusion Action Plan Guidelines that provides further background:

Personal choice and control is only possible when communities are inclusive for all people with disability (and their families and carers), including those with physical, intellectual, cognitive, sensory disabilities and those with mental health conditions. Real diversity cannot be realised unless people with disability are provided with the opportunities inherent in truly inclusive communities. Local Government plays a key role in both protecting the rights of people with disability and in promoting the value of diversity and inclusion across the community.

## 7.3 Fees and charges

The schedule of fees and charges is set by Council, taking into consideration the recommendations of the Committee and the operating requirements of the facility.

**Only Council has the power under the Local Government Act to set fees and charges.** This is outlined in S377 of the Local Government Act which states that Council cannot delegate the making of a charge or the fixing of a fee.

**Legally, the Committee cannot provide subsidies or waive hire fees and charges as a result.**

Each year, Council contacts the Committees to review the facilities fees and charges and

make recommendations (GST inclusive) for the next financial year. Once Council has adopted the fees and charges, they will be supplied to each Committee.

Requests concerning fee reduction or fee waiver must be referred by the Committee in writing to Council staff. This request should include the Committee's recommendation for Council's consideration. This fee reduction or fee waiver request usually requires a Council resolution, except in extraordinary circumstances which can be referred to the General Manager for consideration (e.g., emergencies, disaster recovery or matters that require an urgent decision).

## 7.4 Bonds

As a safeguard against possible damage, the Committee can charge hirers a bond as part of their booking. Hirers should be advised that this will be refunded if the conditions of hire are followed.

Abnormal costs associated with the hire of the facility will be deducted from the bond including GST, where appropriate. This may include extra removal of rubbish, extra cleaning, repair of damage etc.

The Committee is responsible for notifying the hirer of reasons for withholding the bond and the amount of bond to be withheld.

## 7.5 Keys and security

Committees are encouraged to manage keys and access to the facility in a safe and efficient manner. This may include installing a key safe for key collection and returns. If a key safe is used, the combination should be changed regularly for security purposes. Hirers should **not** be issued with keys of their own.

A complete change of locks may be required if there are too many outstanding or lost keys distributed throughout the community. Some facilities may implement additional security measures (e.g., a surveillance system or alarm system).

## 7.6 Kitchen Use

A **non-commercial kitchen** may only be used for:

- Reheating food; or
- Private functions

If the hall or facility has a non-commercial kitchen, food **must not** be prepared in that kitchen for any commercial purposes (e.g., the sale of food on-site for private profit).



A **commercial kitchen** may be used for:

- Reheating food or private functions; and
- On-site commercial purposes, as per the requirements:
  - o Food **must** be sold at the facility during the time of the event.
  - o Food **must not** be prepared at the hall or facility and sold elsewhere for commercial purposes/private profit. This is because the private use of the commercial kitchen, which is not linked to an on-site event at the facility, is not a purpose supported by the Local Government (General) Regulations.
    - E.g., A commercial catering service is not permitted to hire the commercial kitchen, unless it is serving food on-site at the event.

Committees need to inform hall hirers that all food businesses that sell food on-site are required to:

- be registered with Council (e.g., provide their food business details)
- hold a valid Food Safety Certificate and any other required permits

Council's Environmental Health Officers may be able to assist if further information on food safety is required.

## 7.7 Events and activities approval

Hirers may need to submit an 'Events Enquiry Form' on Council's website for further guidance and advice by Council staff on the necessary approvals needed for their proposed event.

Council's Events team may advise that certain hire activities and uses may require extra licenses or approvals, prior to the event going ahead.

In some cases, the hall hirer may need to submit a Development Approval (DA) if their proposed event or activity falls outside the permitted use of the facility and/or land use zoning e.g., extensive use of the hall surrounds.

## 7.8 Alcohol

If there will be alcohol at the proposed event, all relevant licenses and approvals must be provided to the Committee prior to the event. It is the responsibility of the Committee to ensure the hirer provides this information before the event goes ahead.

For the service of alcohol, a liquor license may be required.

If serving BYO alcohol at the event, a person in authority for the event must have an RSA

Certificate or Card.

Refer to Liquor and Gaming NSW website for further information. Hirers may submit an 'Events Enquiry Form' on Council's website for further guidance and advice by Council staff, if required.

## 7.9 Opening and closing procedures

Committees should provide opening and closing instructions to all hirers prior to the booking date.

# 8. Facility maintenance and improvements

## 8.1 Cleaning

The Committee is responsible for the overall cleanliness of the facility, including the employment of a professional cleaner. Cleaners require the following:

- Appropriate public liability insurance
- ABN
- Workers compensation insurance (if they employ people) or personal accident insurance (if a sole trader).

### **Note:**

If a Committee Member is involved in ad-hoc cleaning (e.g., when a hirer has not followed the conditions of hire), payment to this Committee Member must follow 'Honorariums' section instructions.

## 8.2 Committee's responsibility - repairs and minor maintenance

Committees have been delegated the authority by Council to undertake minor repairs and maintenance at the hall or facility they manage, up to \$5000. This means Committees can carry out minor repairs, without explicit permission from Council. This ensures the facility is kept in a state of reasonable repair and does not present hazards to its users.

The NSW Department of Fair Trading defines minor maintenance/cleaning as:

"Work involved in non-structural maintenance (including minor repairs) or cleaning of existing works/structures/buildings."

Repairs and minor maintenance may include (but is not limited to):

- **Regular maintenance** (e.g., cleaning, replenishment of, mowing and watering) and
- **Periodic maintenance** (e.g., repairs or replacement of worn or broken items).

Repairs and minor maintenance help to preserve, protect, maintain and where possible, improve the condition of the facility.

Priority should always be given to statutory and other health and safety requirements and any work relating to emergencies e.g., major electrical failures; floods, fire damage etc.

**The Committee is generally responsible, but not limited to, the costs of:**

- Cleaning
- Internal painting (under 2.4m high)
- Plumbing maintenance (only by licensed plumbers)
- Electrical maintenance (only by licensed electricians)
- Cleaning of gutters
- Minor repairs, such as broken windows and fittings
- Telephone charges
- Hygiene Services
- Electricity
- Gas
- Installation of new internal fittings, such as cupboards
- Excess water
- Provision and maintenance of furniture and equipment
- Music copyright licences
- Checking the condition of the building and reporting to Council as required

**Note:**

An annual '**Building Inspection and Management Report**' needs to be completed by the Committee and submitted to Council, usually by December each year. This form is available on Council's website.

If Committees have any questions about repairs and minor maintenance, they may contact Council for advice and support.

### 8.3 Council's responsibility – major maintenance, improvements, and compliance

Generally, Council is responsible for major maintenance, improvements, and services, including (but not limited to):

- Health and Safety requirements
- Accessibility and Inclusion improvements
- Compliance matters (e.g., emergency evacuation procedures)
- Asset Protection (e.g., re-roofing, external painting, structural inspections etc.)
- Security
- Regular fire equipment inspection

### 8.4 Requests for works

Council staff will inspect the facility periodically, but the Committee is expected to keep Council informed on any substantial repair or upgrading work required at the facility.

Committees can submit a **'Project Request'** form online at Council's website. This form can be used to seek Council approval for:

- Maintenance works: any works necessary or desirable that are over the \$5000 delegation of the Committee (or outside the scope of the 'Committee's responsibility – repairs and minor maintenance' section)
- Upgrades and major works (e.g., building extensions and major alterations)
- Dream projects

The 'Project Request' form will be reviewed by Council staff and will consider:

- The urgency of the works
- Availability of funds
- Other priorities of Council

Where possible, 'Project Requests' will be considered for inclusion in the Works Program or annual budget for the following financial year.

The 'Project Request' form is also used for grant funding (refer to 'Grants – Project Request procedure' section).

## 8.5 Purchasing of goods & services

Committees are authorised to approve financial transactions up to \$5,000.

Council authorises the Committee to purchase goods and services as per the requirements below:

- When purchasing goods/services for projects that are under \$200, a verbal quote is acceptable.
- When purchasing goods/services for projects that are between \$200 and \$5,000, one written quote is required.

Committees are not authorised to approve financial transitions over \$5000, without Council approval. However, Committees may scope the cost of goods and services to support a project proposal, as per the requirements below:

- When costing goods/services for projects that are between \$5,000 to \$50,000 (or more), Committees are required to obtain three written quotes and Council approval is required.
- Quotes should be reviewed and discussed by the Committee. The successful quote should be selected by the Committee for recommendation to Council, prior to Council approval (if required, refer to 'Requests for works' or 'Grants' sections).

### **Note:**

In some cases, Council has contracts with suppliers where a Council rate may be obtained for the delivery of a good or service. Council can provide the Committee with a list of Council approved contractors.

## 8.6 Licensed contractors

The Committee must ensure that the suppliers of goods and services, including cleaning and minor maintenance works, are carried out by licensed contractors. To do so, the Committee must:

- Request a copy of the contractor's public liability insurance (\$20 million cover) and workers compensation policy (if not a sole trader)
- Request a copy of the contractor's license/accreditations
- Request the contractor's ABN
- Outline the contractor's responsibility (below) in writing to the contractor

## Licensed contractors are responsible for:

- Compliance with WH&S standards and regulations
- Compliance with the Building Code of Australia and relevant Australian Standards
- Compliance with Work Health and Safety plans and Safe Work Methods Statements.

All contractors undertaking work at the hall or facility should, where possible, be inducted to the site by a Committee member. If this is not possible, the Committee should provide clear instructions to the contractor and be available via phone in case they are required.

## 8.7 Emergency repairs

Generally licensed contractors should be engaged to undertake emergency repairs. However, it is recognised that this is not always possible, especially in regional or rural areas.

If the emergency repairs require **electrical or plumbing works** and the Committee is unable to organise a licensed contractor, the Committee should contact Council staff immediately for assistance. Electrical and plumbing works are specialised skills and require licensed contractors due to the high-risk nature of the work.

**For emergency repairs that do not require electrical or plumbing works**, the Committee is authorised to engage a tradesperson with the correct insurances and safety training to make the emergency repairs deemed necessary (e.g., tradesperson with a WHS induction card).

‘Emergency repairs’ are defined as works that that must be undertaken to minimise or remove immediate loss or harm to people and property.

## 8.8 Grants – Project request procedure

Committees may wish to consider grant funding opportunities for the hall or facility they manage, as outlined under ‘Committee roles and responsibilities’ section.

Council has a small budget for each hall and facility, and therefore grants offer the opportunity for Committees to seek additional funding on behalf of Council, if desired.

### Project Request – how to get Council approval to apply for grants

1. Discuss the grant funding opportunity at a Committee meeting
  - Tip: discuss grant management and any potential workload responsibilities that may arise for the Committee. This should not fall to one Committee member alone.
2. Committee votes on applying for the grant (yes or no)

3. If yes, submit a **'Project Request'** form on Council's website to seek Council approval to apply. Please allow adequate time for Council to review the 'Project Request' (please submit the request a minimum of one month before the grant is due).
  - Most facility upgrades require Owners Consent from Council.
4. Council staff will review the 'Project Request' form and notify the Committee of the outcome.
  - Council staff must give the Committee approval to apply.
  - Council will seek further information from the Committee if required.
5. If Council approved, the Committee may apply for the nominated grant.

**Note:**

It is important Committees understand they will be responsible for managing the grant on behalf of Council, including applying for the grant, carrying out the proposed project/s and meeting the grant requirements, unless otherwise advised by Council.

Council staff may support Committees by providing advice and guidance, as and when required. In some circumstances, Council staff may assist with certain tasks relating to the grant funding and if so, Council's involvement will be discussed with the Committee.

When considering whether to apply for a grant, Committees should:

- **Read the grant eligibility criteria and requirements** – is the facility eligible as a Council owned facility? What do you need to do?
- **Decide on the proposed project/s** – what does the Committee want to use the grant funding for and why? How will this benefit the community?
- **Consider the expected timeframe** – how long does the Committee expect this will take? Is this timeframe manageable for Committee members based on current availability?
- **Complete the 'Project Request'** on Council's website – this will provide Council with specific details about the proposed project and grant and help understand what is needed.
- **Approval is granted** to complete the application and any supporting documentation is provided by Council
- **Seek quotes for the proposed project/s**– scope costs for the proposed project/s (refer to 'Purchasing goods and services' section for the number of quotes required).

## 9. Health and safety

Council is governed by the Work Health and Safety Act 2011 and must meet certain requirements to ensure the health and safety of all its workers, including volunteers.

### 9.1 Council WHS responsibilities

Council requires volunteers to be registered and inducted for the work that they do on behalf of the community.

Council makes assessments of the hazards and risks volunteers are likely to encounter and takes reasonably practicable steps to eliminate or minimise those risks. This may mean volunteers are not permitted to undertake some activities (see below).

### 9.2 Activities not to be undertaken by volunteers

The following types of activities are **not permitted** to be undertaken by volunteers:

- Any work where asbestos is present or potentially present.
- Chemical handling
- Confined space entry
- Excavation, penetration, or trenching
- Use of electrical tools other than battery operated hand tools
- Use of 'plant' and machinery (e.g., chainsaws, ride on mowers, bob cat, etc.)
- Electrical works
- Work at heights/ladders
- Tree branch removal
- Burn offs
- Unapproved clearing

### 9.3 Committee WHS responsibilities

Committee members and volunteers are required to:

- Take reasonable care for their own health and safety
- Take reasonable care that their conduct does not adversely affect the health and safety of others



- Comply with any reasonable instruction that is given by Council
- Cooperate with any reasonable policy or procedure relating to health and safety at the workplace (e.g. Council's WHS policy)

## 9.4 Reporting hazards or incidences

Committee members should report any hazards, incidences, injuries, and near misses as soon as possible to Council by completing an 'Incident Notification Form'. This can be found on the Byron Shire Council website.

# 10. Templates/forms

Templates/forms available to Committees on Council's website include (not limited to):

- Meeting Agenda
- Meeting Minutes
- Annual General Meeting Agenda
- Annual Building Inspection and Management Report Template
- Incidence Notification Form
- Booking request form
- Hire agreement
- Risk assessment



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