



Policy Title	Council Committees
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Policy Owner	Governance and Risk
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1. STRATEGIC PURPOSE

The establishment of a Council Committee (committee) reflects Snowy Valleys Councils (Council) commitment to involve the community in the provision of Council functions, with the aim of enhancing the opportunities for the towns and villages within the Local Government Area (LGA).

2. POLICY STATEMENT

A committee's primary role is to accept the responsibility for a function of Council through a delegation under the Local Government Act, NSW 1993 (the Act). These functions can include the provision of services and/or management of Council-owned facilities, such as public halls or recreation reserves.

This policy applies to all committees of the Council except:

- Committees of which all the members are Councillors. These committees must conduct their meetings in accordance with Councils Code of Meeting Practice.
- Committees of which all the members are staff. These committees are operational and do not require Council adoption, although may follow the *Committees of the Council Operations Manual* for guidance.

3. DEFINITIONS

Functions of Council Councils *Information Guide* explains in more detail the functions of Council. Under *Section 21 of the Act*, Councils functions can be grouped into the following categories

- Non Regulatory Functions (chapter 6)
- Regulatory Functions (chapter 7)
- Ancillary Functions (chapter 8)
- Revenue Functions (chapter 15)

- Administrative Functions (chapter 11,12,13)
- Enforcement Functions (chapter 16 and 17)

Terms of Reference (ToFR) Agreed purpose and structure of the committee formed in partnership with the Council and adopted by Council.

4. CONTENT

4.1 Rules Governing the Appointment of a Committee

The following sections of the Act allow Council to delegate functions and appoint committees to manage those functions.

Section 24 - Provision of goods, services and facilities and carrying out of activities

Council may provide goods, services and facilities, and carrying out activities, appropriate to the current and future needs within the local community and of the wider public, subject to the Act, association regulations and any other law.

Section 377 General power of the Council to delegate

Council may, by resolution, delegate some of its functions to a committee

Section 355 How a Council may exercise functions

A function of Council may be exercised by a committee of the Council.

4.2 Establishment of a Committee

Committees are established by resolution of Council to manage a function on Council's behalf. Members of that committee are considered and appointed to the committee by Council in accordance with the committees adopted *Terms of Reference*. Members of committees are considered Council officials under Councils *Code of Conduct*.

In determining whether or not to appoint a committee, Council will consider the following:

- Whether the activity being performed is a Council function
- In the absence of the committee, would Council still undertake the function

Council will not appoint committees to overcome the inability of community groups to obtain insurance cover or any other factor inhibiting the functioning of the community group, such as financial distress or lack of volunteers.

4.3 Types of Committees

Advisory Committees whose membership may include experts, professionals, government employees, community representatives and Council employees as well as Councillors. Advisory committees are often used by Council to obtain expert advice on complex matters.

Community Committees are delegated by the Council to perform certain functions of the Council (such as managing a Council owned facility) and may have Councillors or Council employees as delegates. Membership consists of community members who must be registered and inducted volunteers of Council as per Councils *Volunteer Policy*. These members must be appointed to the committee by Council.

4.4 Legal Status

From a legal perspective it is important for committees to be aware that they are, in fact, acting on Council's behalf and all decisions and/or recommendations are made as if they were made by the Council. Legally, the committee is "Council" and any action which the committee undertakes is conducted under Council's authority.

The committee has no independent legal or operational standing in their own right, outside of that which is delegated by Council. Council delegates its authority to the committee to act on behalf of the Council and can withdraw this delegation at its discretion.

The term of office for committees will be the same term as the current Council, with the addition of an extra three months after the general election of Councillors, unless established as a sunset committee, i.e. with a specified end date.

4.5 Councils Commitment to Committees

Council is committed to implementing a framework to ensure that committees are provided with:

- Best practice in committee management
- An opportunity to be involved in decisions that affect them or the function they are performing
- Clarity regarding roles, expectations and relevant policies and procedures
- Appropriate resources to conduct their activities as per the committee *Terms of Reference*
- Leadership and guidance to enable the committee to undertake their function
- Mechanisms for resolving disputes and grievances

4.6 Committee Commitments

Committees are committed to ensuring they comply with Council requirements by:

- Complying with legislative requirements
- Complying with the appropriate committee Terms of Reference
- Distributing agendas, taking minutes and submitting documentation to Council in a timely way
- Being accountable for effective financial management
- Complying with Council's *Code of Conduct*
- Complying with Council's *Committees of the Council Operations Manual*
- Complying with Council's policies and procedures
- Complying with any reasonable instruction given by designated Council employees
- Not bringing Council and its reputation into disrepute
- Not speaking on Council's behalf to the media
- Providing Council with copies of relevant documents when requested

4.7 Limitations of Power

There are a number of responsibilities that cannot, under legislation, be delegated to or enacted by a committee. These limitations and restrictions are set out under Section 377 of the Act.

Section 377 of the Act states "A council may, by resolution, delegate to the Chief Executive Officer or any other person or body (not including another employee of the council) any of the functions of the council under this or any other Act, **other than the following**:

- (a) The appointment of a **general manager**, **Should this say Chief Executive Officer**
- (b) The making of a rate,
- (c) A determination under section 549 as to the levying of a rate,
- (d) The making of a charge,
- (e) The fixing of a fee,
- (f) The borrowing of money,
- (g) The voting of money for expenditure on its works, services or operations,
- (h) The compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment),
- (i) The acceptance of tenders to provide services currently provided by members of staff of the council,
- (j) The adoption of an operational plan under section 405,
- (k) The adoption of a financial statement included in an annual financial report,
- (l) A decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6,
- (m) The fixing of an amount or rate for the carrying out by the council of work on private land,
- (n) The decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work,
- (o) The review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979,
- (p) The power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194,
- (q) A decision under section 356 to contribute money or otherwise grant financial assistance to persons,
- (r) A decision under section 234 to grant leave of absence to the holder of a civic office,
- (s) The making of an application, or the giving of a notice, to the Governor or Minister,
- (t) This power of delegation,
- (u) Any function under this or any other Act that is expressly required to be exercised by resolution of the council.

In addition to this, committees are also subject to such limitations and conditions as may from time to time be imposed by law, specified by resolution of Council **and then or** notified in writing by the Chief Executive Officer to committees.

5 ASSOCIATED LEGISLATION

Crown Lands Act 1989
 Work Health and Safety Act 2011
 Local Government Act, NSW 1993
 Local Government Regulations, NSW 2005

6 ASSOCIATED COUNCIL DOCUMENTS

Code of Conduct - SVC-RP-STY-001
 Council Committees Operations Manual - SVC-GOV-Gdl-028
 Committee Terms of References
 Information Guide - SVC-EXE-Gdl-001
 Volunteer Policy - SVC-GOV-PO-025

7 SUPERSEDING DOCUMENT NUMBER AND TITLE

Nil

8 HISTORY

Date	Version Number	Activity log	Resolution Number	Resolution date
16/07/2020		Endorsed by Council for Public Exhibition	M154/20	16/07/2020
19/11/2020		Endorsed by Council for Public Exhibition for a further 56 days	M270/20	19/11/2020