



Oberon Council Management Manual

Section 355 Committees

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Amendments to this Manual are made by replacement of the applicable pages. Each revised page shall be identified by the date of the amendment.

A new Contents Page will accompany each amendment issued.

**This Manual is approved for issue and use.
15th December, 2009, Ordinary Meeting, Item B13**

Updates

15th December 2009, Ordinary Meeting, Item M2, No. 36 & Item M3, No. 37 & Item M4, No. 40
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04191010 - Heritage Committee Meeting Minutes
07152011 – Update Heritage Committee Membership

1.0 Foreword

Section 355 Committees Management Manual

The intention of this manual is to implement Council's policy on Section 355 Committees by formalising applicable responsibilities and procedures.

This Manual provides guidelines on the responsibilities, functions and operation of a §355 committee and clarifies Council's role in this partnership. Upon formal approval of a §355 committee by Council, its members are required to adopt and adhere to the conditions set out in this document. Adherence will ensure Council and committee members are aware of the responsibilities and adequately covered by insurance.

This manual has been produced in an attempt to simplify and standardise mandatory procedures and forms that have to be followed or completed in compliance with legislation.

NOTE: § This symbol represents the word "Section" in legal documents, and will be used throughout this Manual in lieu of the words "Section 355" when referring to that section of the Local Government Act or a Committee of Council, e.g. §355 Committee.

2.0 Council Policies

The following adopted council policies are relevant to section 355 Committees:

Policy 1101	Code of Meeting Practice
Policy 1102	Code of Conduct
Policy 1115	Communication
Policy 1118	Values, Principles and Business Ethics
Policy 1119	Fraud and Corruption Prevention
Policy 1206	Procurement and Disposal
Policy 2114	Gifts
Policy 2110	Occupational Health and Safety
Policy 2118	Smoke Free Workplace
Policy 2119	Drugs and Alcohol

3.0 Legislative Basis of Section 355 Committees

3.1 Local Government Act 1993

The Local Government Act 1993, Section 24 – Provision of goods, services & facilities and carrying out of activities, states the following:

“A council may provide goods, services & facilities, and carrying out activities, appropriate to the current & future needs within its local community & of the wider public, subject to this Act, the regulations & any other law”.

3.2 Delegation of Function

Under the Local Government Act 1993 Council is able to delegate some of its functions to a committee of Council. Council uses this delegation and appoints community people to manage its facilities or functions through a committee of management.

3.3 Why Have Section 355 Committees?

The committees provide a mechanism by which interested persons can have an active role in the provision/management of Council facilities or services. This provides a twofold benefit by giving protection to the committee operating under the banner of Council, and by providing Council with assistance in the carrying out of its functions.

3.4 How Section 355 Committees are established?

These committees are established under Section 355, with delegations from Council under the provision of Section 377 of the Local Government Act. Section 355 allows Council to exercise a function of Council and Section 377 allows Council to delegate functions of Council. These terms refer to the Section of the Local Government Act in which the authority for such a committee to be formed is identified

3.5 Procedure for Establishing a §355 Committee

- 1 The group must make written application to Council detailing reasons / purpose for establishment.

- 2 A report to be presented to Council including
 - information to support the committees establishment including role, function and anticipated life if appropriate;
 - recommendation from General Manager;
 - specific authority being delegated by Council.

- 3 A motion to be passed by Council worded thus:
It was resolved that 'xyz committee' be established as a Council Committee in accordance with Section 355 of the Local Government Act 1993, such committee to be bound by the conditions laid out in the Oberon Council "Section 355 Committees Management Manual".

4.0 Responsibility and Conduct

4.1 Responsibility

The §355 Committee will be responsible for activities as determined when the committee is established. This responsibility will be conveyed to the committee and is listed in their specific charter - Appendix 2.

4.2 Limitation of Powers

The committee may not make decisions concerning the following:

- (a) Fixing of charges or fees (the committee may submit recommendations for approval by Council in relation to the fixing of charges and fees for use of the facility under its control).
- (b) Borrowing of any monies without the express written consent of Council on each such occasion.
- (c) The sale, lease or surrender of any land and or other property vested in its care under the provisions of the Local Government Act 1993 (as amended).
- (d) 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).
- (e) The payment or making of any gift, to its members. This includes the payment of allowances or travelling expenses incurred whilst attending committee meetings.
- (f) The payment of any monies outside the scope of the Committees function.
- (g) The carrying out of any works on or to the facility including alterations, reconstructions or construction without the prior consent of Council (Does not include minor maintenance works).
- (h) Unreasonably withholding consent for the letting of the facility to any organisation which agrees to comply with and adhere to the rules adopted for use of the facility, providing an acceptable letting period is available.
- (i) Vote monies for expenditure on the works, services or operations of Council.

The exercise by the Committee of its power and functions will be subject to such limitations and conditions as may from time to time be imposed by law, specified by resolution of the Council or in writing by the General Manager to the Committee. The Committee will observe any Rules and Regulations made by the Council, in relation to the facility/function under its management and control.

If at any time the Committee is deemed to be functioning outside the limits of its powers as described herein, all powers may be revoked by written notice to the Committee signed by the General Manager or his/her representative.

5.0 OPERATION OF §355 COMMITTEES

5.1 Appointment

Council aims to appoint committees that are representative of the local community for the function which the committee manages.

- To hold office all Committee members must be appointed by way of resolution by Council.
- New committee members must be appointed by Council, before being able to vote and take part in meetings of the Committee.
- Council may dissolve a §355 Committee at any time.
- The term of office for §355 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 otherwise specified in specific charters – see Appendix 2.

All nominations for §355 Committees are formally submitted in writing to Council for appointment.

5.2 Committee Membership

The membership shall be determined by Council and will be conveyed to the committee.

Whilst no particular qualifications are necessary, a commitment to the activities of the committee, and a willingness to be actively involved in committee issues, is essential.

5.3 Dissolution of Committee

Council may dissolve the Committee at any time.

Committees are formally appointed by the Councillors in office, therefore, three months after the General Election of Council all §355 Committee members will cease to hold office.

All committee members are eligible for re-appointment. The newly elected Council may:

- re-appoint community committee members following a general local government election
- choose to call for new nominations in writing to the newly elected Council

5.4 Vacation of Office

The office of any member or office bearer of the Committee will become vacant in the following circumstances.

- (a) upon the death of the member; or
- (b) if the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or make an assignment of his or her remuneration for their benefit; or
- (c) if the member becomes cognitively incapacitated; or
- (d) if the member resigns membership by notice in writing to the Committee; or
- (e) if the member is absent for more than three consecutive meetings without leave of the Committee; or

- (f) if the member ceases to be a member of the organisation which he/she represents, (representatives of organisations will be given preference) unless the committee otherwise resolves; or
- (g) while serving a sentence (whether or not by way of periodic detention) for a felony or any other offence, except a sentence imposed for a failure to pay a fine.

5.5 Representation on Committee

Committee membership should reflect the community and must be open to representatives of user groups and interested community members.

Equal representation of various groups is recommended. Council will determine disputes over representation.

5.6 Committee Chairperson

The committee elects a chairperson at its first meeting following each local government general election or upon the resignation of the chairman from the position.

The chairperson who has a casting vote in the event of a tied vote

5.7 Meeting Procedures

Meetings are to be conducted to standard guidelines, which are detailed in the following section and include:

- (a) that a quorum be present
- (b) that appropriate notice is given
- (c) that business on the agenda is properly conducted
- (d) that correspondence and minutes are recorded.

5.7.1 A Quorum

This refers to the minimum number of members who must be in attendance to transact business.

Council regulations state:

- (a) A quorum will consist of one half of the total number of appointed members plus one OR a total of four (4) appointed committee members, whichever is the lesser.
- (b) If a quorum is not present within fifteen minutes after the appointed starting time, the meeting will be adjourned to a time fixed by the Chairperson; or those present can hold an informal meeting to discuss matters. However, any decisions taken by the committee are not recognised until a meeting has ratified them, where a quorum is present.

5.7.2 Agenda

The Agenda is an organised list of headings of all the major items, in order, that will be discussed at the meeting. A copy of the Agenda is distributed to all the committee members before the meeting.

5.7.3 Conduct of Business

Each item of business is discussed in the order in which it appears on the Agenda. Allow adequate time for discussion on important issues. Ensure all relevant information on the matter under discussion is available at the meeting.

5.8 Voting

Voting allows members to express their agreement or disagreement. Voting can be conducted in one of two ways.

(a) Vote verbally

The chairperson asks people to say 'for' or 'against' and then decides which group is the largest.

(b) Vote by show of hands

The chairperson asks people in favour of a decision to raise their hands, firstly those in favour, counts hands and announces the total, and does the same for those against.

5.9 Legal Issues

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 actions which the Committee undertakes are Council's responsibility.

Committees sometimes believe they are responsible in their own right and that their actions are independent of Council. This is not the situation as Council delegated its authority to the Committee to act on Council's behalf and the Council can withdraw this delegation, if it deemed it to be necessary.

The Committee is also a legal entity and the delegated authority of Council was made to a particular Committee by name or title. The Committee cannot change its name without the authority of the Council, nor can a Committee merge with another party without prior notice and input from Council. Unauthorised actions by Committees could lead to insurance coverage being withdrawn or cancelled.

5.10 Sub Committees

The Committee may appoint working groups to report back to the Committee. These 'sub committees' have no legal standing and must recommend back to the Committee for ratification. The activities of the sub committees must be related to the delegated function(s) of the parent § 355 Committee, and details of the persons and activities involved must be included in correspondence supplied to Council.

Members of sub committees must be duly appointed members of the parent Committee and/or Council and will be covered in accordance with the Public Liability and Accident Insurance policies.

5.12 Clerical Support

Council's General Manager will provide a member of staff to record the minutes of each meeting of a committee.

6.0 Insurance

Once the Risk Assessment has been recorded for each hazard or risk they are to be kept with all the other records relating to the organising and running of the particular event.

6.1 Industrial Special Risks

All Council facilities are covered for risks such as fire, theft and malicious damage. Committees should be aware of the excess applicable to these policies.

6.2 Public Liability

Council's Public Liability Policy covers the Committee when performing activities delegated by Council. This insurance does not preclude the committee from having to exercise due diligence and all Council policies and procedures, especially in regards to Risk Management, must be adhered to.

6.3 Personal Accident

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

7. Occupational Health and Safety

7.1 Occupational Health and Safety Legislation

7.1.1 Today's social, legal and industrial climate demands from all workers extremely high standards of occupational health and safety. Oberon Council's policy is based, to a large extent, on the obligations and duties imposed on the Council by the body of statutory law relating to occupational health and safety, in particular the Occupational Health & Safety Act 2000 and the Occupational Health & Safety Regulation 2001. Volunteers are the same as paid staff when they are performing any of the functions delegated to them by Council.

7.2 OHS Duty

7.2.1 Anyone who has an occupational health and safety duty under the Act must fulfil that duty or be guilty of a breach of the Act and can face prosecution, and possibly face fines of up to \$55,000 for individuals (workers) or \$550,000 for a body corporate (Council).

7.3 Capacity to Perform Tasks Safely

7.3.1 Oberon Council must satisfy itself that committee members, either as individuals or in an organised group, actually have the capacity to perform the delegated functions in a safe manner. Council must ensure that the hazard identification and risk assessments process is performed and recorded prior to any tasks being performed. The Risk Assessment process is detailed in paragraph 7.2.3.

8. APPENDIXES

1. List of Oberon Council § 355 Committees
2. Specific Council § 355 Committee Charters, Delegated Functions
3. Committee & Meeting Procedure Guidelines
4. Committee Meeting Attendance Register

Appendix 1

Oberon Council List of Section 355 Committees As at December 2011

1. Cemetery Headstone Maintenance Committee
2. Events Committee
3. Hazelgrove Public School Reserve Committee
4. Heritage Committee
5. Library Committee
6. Oberon Promotions Committee
7. Community Transport Committee
8. Timber Heritage Walk Committee
9. Oberon Sports Complex Committee
10. Seniors Welfare Committee

Appendix 2

§355 Committee Charters

(Delegations and Membership)

The §355 Committee will be responsible for activities as determined by Council when the committee is established. Responsibilities will be conveyed to the committee and are listed below in each committee's specific charter.

1. Cemetery Headstone Maintenance Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special Meeting on Wednesday, 24th September, 2008.

The Committee has been delegated the following powers and responsibilities;

- a) Recommend to Council works required for the maintenance & improvement of the cemetery.
- b) To undertake research to identify all graves at cemeteries within Council's area so that brass plaques can be attached for future identification.
- c) Expend moneys on the placement of brass plaques in cemeteries in the Oberon Council area to the extent of funds provided by the Council.

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work are covered by an accident policy taken out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be held every quarter or on an as needs basis as determined by the General Manager or by resolution of Council.

2. Events Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special Meeting on Wednesday 24th September, 2008.

The Committee was formed with the objects of being able to offer organisations within the community support and assistance with a coordinated approach to the marketing and management of all special events within the Oberon local government area, using existing resources and expertise.

The Committee has been delegated the following powers and responsibilities;

- a) To report and recommend to Council all matters affecting Events activities
- b) To advise Council on matters affecting future Events activities disbursements

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work are covered by an accident policy taken out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule Committee meetings shall be held every quarter or on an as needs basis as determined by the General Manager or by resolution of Council.

3. Hazelgrove Public School Reserve Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special meeting on Wednesday 24th September, 2008.

The Committee has been delegated the following powers and responsibilities;

- a) Control and regulate the use of the ground.
- b) Recommend to Council any improvement works required at the ground.
- c) Arrange the repair and maintenance of the Reserve, either by voluntary labour or otherwise.
- d) Recommend to Council any charges to be set for the use of the ground.
- e) Collect any charges and fees fixed by Council for the use of the ground and retain those moneys for the purpose of the Committee.

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work on the Reserve are covered by an accident policy taken out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be on an as needs basis as determined by the General Manager or by resolution of Council.

4. Heritage Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special Meeting on Wednesday 24th September 2008.

The Committee has been delegated the following powers and responsibilities;

- a) To assess and introduce policies in relation to heritage listed properties
- b) To report and recommend to Council all matters affecting Heritage
- c) To advise Council on matters affecting future Heritage activities disbursements

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work on the Reserve are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be held every quarter or on an as needs basis as determined by the General Manager or by resolution of Council.

5. Library Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special meeting on Wednesday 24th September, 2008.

The Committee has been delegated the following powers and responsibilities;

- a) Act as liaison between Council and the community
- b) To discuss and advise Council on the development of Library services and policy
- c) To participate in Oberon Council Library long-range planning
- d) To make recommendations to Council regarding the Library

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work are covered by an accident policy taken out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee Meetings shall be held every quarter, or on an as needs basis, as determined by the General Manager or by resolution of Council.

6. Oberon Promotions Committee Charter

Appointment and delegations

Council re-appointed the Committee as a §355 Committee at its Special meeting on Wednesday 24th September, 2008.

The Committee has been delegated the following powers and responsibilities;

- a) Act as liaison between Council and the Oberon Plateau Tourism Association, Oberon Business Association and other groups in the community.
- b) Investigating the best option for ongoing management of the Oberon Visitor Information Centre to ensure the centre maintains accreditation and maximises opportunities for promoting the district to residents and potential visitors
- c) Ensuring promotional activity undertaken by Oberon supports the Blue Mountains Regional Plan
- d) Review maintenance and general appearance of the Oberon Visitor Information Centre to ensure best showcase of Oberon Council
- e) Exploring ways to enhance and expand the activity of the Oberon Visitor Information Centre without increasing financial burden on residents.
- f) To report and recommend to Council all matters affecting the Oberon Visitors Information Centre
- g) To advise Council on matters affecting future Oberon Visitor Centre disbursements
- h) To participate in Oberon Council Visitor Centre long-range planning

Note

- I. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be held every quarter, or on an as needs basis, as determined by the General Manager or by resolution of Council.

7. Community Transport Committee Charter

Appointment and delegations

Council appointed the Committee as a §355 Committee at its Ordinary Meeting on Tuesday, 16 December, 2008.

The Committee has been delegated the following powers and responsibilities;

- a) To assess and introduce policies in relation to the Community Transport.
- b) To report and recommend to Council all policy matters affecting the Community Transport.
- c) To advise Council on matters affecting future Community Transport activities disbursements.

Note

- a. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- b. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- c. Members of the Committee when carrying out voluntary work are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

The committee meet twice per year, or an as needs basis, as determined by the General Manager or by resolution of Council.

8. Timber Heritage Walk Heritage Committee Charter

Appointment and delegations

Council appointed the Committee as a §355 Committee at its Ordinary Meeting on Tuesday 21 October 2008.

The Committee has been delegated the following powers and responsibilities;

- a) To develop concepts for a proposed Timber Heritage Walk, a heritage walkway along the Oberon Tarana walking/cycling trail commencing at the Oberon Railway precinct, depicting the history of the Timber Industry in Oberon.
- b) To report and advise Council on all matters affecting the Timber Heritage Walk.

Note:

- IV. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- V. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- VI. Members of the Committee when carrying out voluntary work are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be held every quarter, or on an as needs basis, as determined by the General Manager or by resolution of Council.

9. Oberon Sports Complex Committee Charter

Appointment and delegations

Council appointed the Committee as a §355 Committee at its Ordinary Meeting on Tuesday 15 June 2010.

The Committee has been delegated the following powers and responsibilities;

- a) To provide ongoing management of the sporting facilities in Oberon.
- b) To report and advise Council on all matters affecting the facilities at the Oberon Sports Complex.

Note:

- VII. The Committee DOES NOT have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- VIII. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- IX. Members of the Committee when carrying out voluntary work are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

Committee meetings shall be held every quarter, or on an as needs basis, as determined by the General Manager or by resolution of Council.

Seniors Welfare Committee Charter Appointment and delegations

Council appointed the Committee as a §355 Committee at its Ordinary Meeting on Tuesday, 19 April 2011.

The Committee has been delegated the following powers and responsibilities;

- a) To provide input, feedback and recommendations on matters pertinent to the resident over 55 years population of the Oberon Local Government Area.
- b) To report and recommend to Council on all policy matters relating to senior residents in the Oberon Local Government Area.

Notes

- I. The Committee does not have any authority to incur any expenditure on Council's behalf other than that which is to be met from the Committee's own funds or from funds voted by Council for that purpose.
- II. The Committee is covered by the Council's Public Liability Insurance for any action taken within the ambit of the authority delegated by Council.
- III. Members of the Committee when carrying out voluntary work are covered by an accident policy take out by Council in respect of voluntary workers.

Membership

Council will resolve the membership by way of resolution and the appointments are made for the term of the current council.

Council Staff – Observer Status
General Manager or Delegate

Meeting Schedule

The committee meet four times per year, or more or less frequently on an as needs basis, as determined by the General Manager or by resolution of Council.