



PORT STEPHENS
C O U N C I L

**355(c) Committee
Terms of Reference
Draft**

**Adopted by Council
Minute No**

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Definitions:

Advisory Member	A Council Volunteer who holds an <i>advisory position</i> of that Committee in accordance with Clause 6 of the Terms of Reference. There can be up to a maximum of five (5) Advisory Members;
Annual General Meeting	A General Meeting held once per year in February/March to elect Executive and Advisory Members;
Appendix	The Appendix for each s355c Committee attached to this Terms of Reference;
Casual Volunteer	A person who volunteers with a Committee or Council Service on a one off or casual basis, and has participated in relevant Work Health and Safety requirements in accordance with Clause 7. A Casual Volunteer does not attend Committee Meetings;
Committee	A 355c Committee of Port Stephens Council consisting of the whole group of Executive, Advisory and General members;
Council	Port Stephens Council;
Deputy Chair	The Deputy Chair of the Committee who assists the Chair, serves as Chair in the absence of the Chair or when a motion involving the Chair is being discussed;
Chair	The Chair of the Committee who presides over the meetings;
Council Volunteer	a person who has been accepted by Council to be a volunteer with an approved Council Committee or Service, and has been entered into Council's "Committees and Volunteers Register". This includes, but is not limited to, volunteers with 355(c) Committees, Sports Councils, Advisory Panels, Libraries and Visitor Information Centre;
EPA Act	The <i>Environmental Planning and Assessment Act, 1979</i> (as amended);

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Executive Member	A Council Volunteer who is a General Member of a Committee who holds a <i>position of office</i> of that Committee, whose appointment has been approved by Council in accordance with Clause 6 of the Terms of Reference. There can be no less than three (3) Executive members;
Financial year	The period from 1 January to 31 December in a calendar year;
General Manager	The person appointed or acting in the position of General Manager of Port Stephens Council;
General Member	A Council Volunteer of that Committee. There can be up to fifty (50) General Members. Executive and Advisory Members are considered General members of the Committee;
Group Manager	The manager of the Group set out in Item 10 of the Appendix;
Intellectual Property	Includes copyrights, trademarks, registered designs, patents and databases. In particular, it refers to a range of Council resources including written material, design drawings, maps and plans, computer programs and databases;
Law	Any statute along with any regulation, rule, planning instrument, policy or plan having effect under any such statute;
LGA	The <i>Local Government Act, 1993</i> (as amended);
Personal Information	Privacy and Personal Information Act (PPIPA) 1998, Section 4;
Record	Recorded information, in any form, including data, in computer systems, created or received and maintained by an organization or person in the transaction of business or the conduct affairs and kept as evidence of such activity;

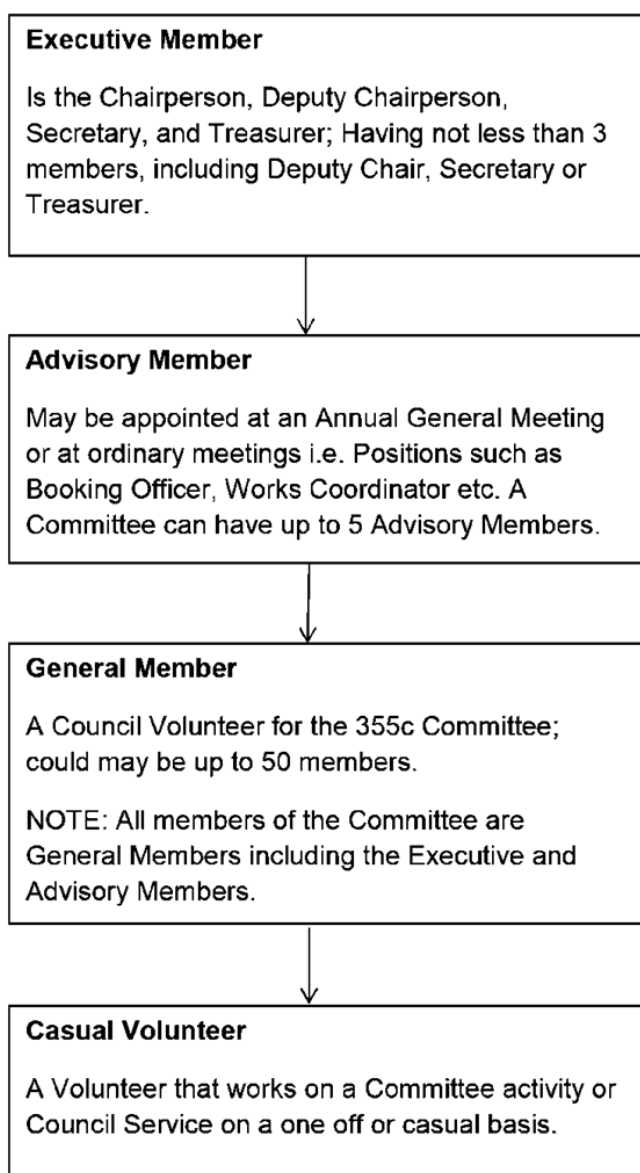
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Responsible Manager	The person nominated by the General Manager as specified in Item 10 of Appendix;
Responsible Officer	The Council staff officer nominated by the Group Manager or other delegated person/s as specified in Item 10 of the Appendix;
Secretary	The Secretary of the Committee who ensures the meetings are effectively organised and Minuted;
Terms of Reference	Includes this document along with all Appendices referred to in this document, including but not limited to any policy adopted by Council and set out in Item 5 of the Appendix;
Treasurer	The Treasurer of the Committee who manages all aspects of the Committees finances;
Committees & Volunteers Register	The database managed by Council for all Council's committees and volunteers;
WHS	Work Health and Safety documentation relating to Work Health and Safety legislation. This includes procedures, processes or manual or other document forming part of or associated with Council's Work Health and Safety commitment;

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Committee Structure

All members must be Council Volunteers (i.e. an approved volunteer who has been registered with Council)



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1. Name of the Committee

- 1.1 The name of the Committee shall be set out in item 1 of the Committee's Appendix.

2. Purpose of the Committee

- 2.1 Under the Local Government Act, 1993 Council is able to delegate some of its functions to a Committee of Council. A Committee is appointed and reappointed in accordance with the provisions of s355 and s377 of the Local Government Act, 1993.
- 2.2 A Committee of Council is acting on Council's behalf, the Committee is part of Council and any action which the Committee undertakes is Council's responsibility.
- 2.3 The Terms of Reference provides a mandatory set of rules that defines the functions that Council has delegated to the Committee, the manner in which those delegated functions are to be undertaken by the Committee, and an administrative structure and procedures to ensure that the Council is able to monitor the conduct and performance of the Committee. This is particularly in regard to managing potential liabilities that might arise as a result of the activities of the Committee, in a similar manner to that which Council monitors others performing Council's functions under delegation.
- 2.4 The specific purpose of each Committee is set out in Item 2 of the Committee's Appendix.

3. Functions of the Committee

- 3.1 The Committee may, subject to sub-clauses 3.2 - 3.5 (inclusive), exercise any function of Council set out in Item 3 of the Appendix subject to any restrictions set out in Item 4 of the Appendix.
- 3.2 The Committee must comply with any law, including but not limited to the LGA, in exercising any function delegated by sub-clause 3.1.
- 3.3 The Committee must comply strictly with the Terms of Reference and any Council Policy or Legislation set out in Item 5 of the Appendix when exercising any function delegated by sub-clause 3.1.
- 3.4 Notwithstanding anything contained in Item 3 of the Appendix, the Committee may engage a contractor or person for goods and or services, subject to written approval from the Responsible Officer of Council and the administration of such contractor or person being in accordance with Council's Procurement Management Directive as amended.
- 3.5 Notwithstanding sub-clause 3.1, the Committee:
- Must not, give or purport to give any consent or approval (under the EP& A Act, the LGA or any other law) to any development or building works on any land but may, if requested to do so by Council, make

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recommendations in respect of any such development or building works for consideration by Council; and

- Must not, by virtue of s355 of the LGA, undertake or perform any of the following functions of Council:
 - the appointment of a General Manager;
 - the making of a rate under the LGA;
 - a determination under s549 of the LGA as to the levying of a rate;
 - the making of a charge or the fixing of a fee;
 - the borrowing of money;
 - the voting of money for expenditure on works, services or operations of Council;
 - the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (not including the sale of items of plant or equipment);
 - the acceptance of any tender that Council is required to invite under the LGA;
 - the adoption of an operational plan under s405 of the LGA; Management Plan under the LGA;
 - the adoption of a Financial Statement included in an Annual Financial Report under LGA;
 - a decision to classify or re-classify public land under Division 1 of Part 2 of Chapter 6 of the LGA;
 - the fixing of an amount or rate for the carrying out by Council of work on private land;
 - the decision to carry out work on private land for an amount that is less than the amount or rate fixed by Council for the carrying out of such work;
 - the review of a determination made by Council, and not by a delegate of Council, or an application for approval;
 - the power of Council to authorise the use of reasonable force for the purpose of gaining entry to premises under s194 of the LGA;
 - the decision under s356 of the LGA to contribute money or otherwise grant financial assistance to persons;
 - a decision under s234 of the LGA to grant leave of absence to the holder of a civic office;
 - the making of an application, or giving of notice, to the Governor of New South Wales or Minister this power of delegation, and
 - any function that is expressly required to be exercised by resolution of Council.
 - Must not, unless the Committee has obtained written approval from the Responsible Officer of Council, provide or deliver goods and or services for a payment of any consideration or fee.
- 3.6 The Committee must not do anything or allow any person acting under its direction to do anything contrary to the interests of Council. For the purposes of this sub-clause this includes but is not limited to prohibiting the following:
- a) Acting contrary to any direction from Council, which includes a

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direction from the General Manager, Responsible Manager or Responsible Officer.

- b) Acting contrary to Council's policies, whether as contained in Item 4 of the Appendix or otherwise.
- c) Advising any person that they may have a legal right or action against Council or any Councillor, Council employee or Council contractor exercising a function of Council.
- d) Making any admission of liability or accepting liability on behalf of Council or the Committee.
- e) Acting contrary to Council's Code of Conduct.
- f) Acting outside the limits of the Committee's delegation.
- g) Acting or presenting the Committee as independent of Council.

4. Term

- 4.1 This Terms of Reference operates for a term commencing from the date on which Council, by resolution, adopts this Terms of Reference and concluding on the date set out in Item 6 of the Appendix, or three months after the date of the Council election immediately following the date of commencement of this Terms of Reference (whichever occurs first), unless terminated earlier in accordance with this Terms of Reference.
- 4.2 Membership is on a quadrennial basis for the term of Council. Committees are formally appointed by the Councillors in office, therefore three months after the General Election of Councillors, all Members will cease to hold office. Committees must then hold their first Annual General Meeting by the end of March that follows the General Election of Councillors and following the adoption of the 355(c) Committee Terms of Reference at the first Council meeting of the new Council.
- 4.3 If a Committee does not have any nominations for Committee membership, then the Council will determine the process for the future management of the Committee. A Committee can only be dissolved by a resolution of Council, and in the instance that it is dissolved, all financial monies and equipment and/or assets of that Committee shall be returned to Council.

5. The Committee

- 5.1 There shall be no more than fifty (50) General Members of the Committee and not less than three.
- 5.2 Each member of the Committee is entitled to one vote on any issue put to the vote of members at any meeting of the Committee.
- 5.3 No member is permitted to participate in any debate before the Committee or vote put to the Committee where that member has, either directly or indirectly, a pecuniary interest in the issue(s) debated or subject of that vote.

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- 5.4 Each member is required to notify the Committee in writing of the nature of any pecuniary interest referred to in sub-clause 5.4.
- 5.5 Council may, either by resolution of Council or by written notice signed by the General Manager, terminate any person's membership of the Committee. Such written notice must be provided to each Executive Member of the Committee and to the person whose membership has been terminated pursuant to this sub-clause. Such termination takes effect on the date specified in the notice regardless of any request under this sub-clause for a review. The General Manager may, at his or her absolute discretion, withdraw any notice issued pursuant to this sub-clause without prejudice to the General Manager's ability to issue further notices under this sub-clause. Any member of the Committee may seek a review of the General Manager's termination of any membership pursuant to this sub-clause by submitting notice in writing to the General Manager, who will then refer the matter to the next available meeting of Council for determination of that review by Council.
- 5.6 The Committee must contain at least the number of Councillors and/or the number of Council employees set out in Items 9 and 10 of the Appendix.
- 5.7 Each Executive, Advisory and General Member of the Committee provides any labour on an honorary and voluntary basis. No member of the Committee shall be entitled to any remuneration or wage from Council as a result of that person's membership of the Committee.

6. The Executive and Advisory Positions

- 6.1 The Committee must, at its first meeting, elect an Executive having not less than three members.
 - a) The Committee, at a minimum, must appoint a Chair/Deputy Chair, Secretary and a Treasurer in accordance with Item 8 of the Committee's Appendix.
 - b) The Committee may appoint General Members to Advisory positions, such as Bookings Officer and Works Coordinator up to a maximum of five Advisory Members for one Committee in any twelve (12) month term, in accordance with Item 8 of the Appendix.
 - c) The Committee may appoint a combined Secretary/Treasurer position if the minimum requirement of three Executive positions is met.
 - d) The Committee, in the case of Sports Councils, may vary the positions of the Executive to include President, Vice Presidents, Booking Officers, although a Booking Officer may not necessarily be on the Executive. These positions will be specified in Item 8 of the Sports Council's Appendix.
 - e) The Committee, in the case of a Sports Council, may form a Management Committee (sub-committee). This sub-committee will be specified in Item 8 of the Appendix.

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- 6.2 The appointment of Advisory Members to identified roles does not operate as a delegation to such members or sub-committees of any function of Council for the purposes of the LGA and all such members remain subject to the terms of this Terms of Reference.
- 6.3 Only General Members of the Committee may be members of the Executive. All Executive and Advisory members are considered General Members.
- 6.4 Where the Mayor or a Councillor is a member of the Committee and that Mayor/Councillor indicates that he or she wishes to be Chair of the Committee, that Mayor/Councillor shall be the Chair of the Committee. Where no Mayor/Councillor expresses a desire to be Chair of the Committee any other member of the Committee willing to accept appointment as Chair of the Committee, any such person may, by a vote of the majority of the members of the Committee, be appointed Chair of the Committee.
- 6.5 Subject to sub-clause 6.3, each member of the Executive shall hold the position on the Executive for at least a period of twelve (12) months from the date of such appointment or on the expiration of the Terms of Reference, whichever occurs first.
- 6.6 A General Member shall not hold a position of Executive Membership for longer than three consecutive years, unless there are no alternative nominations. They can hold an Executive position again in twelve (12) months' time.
- 6.7 One Executive Member should remain as an Executive Member in each election to retain Committee knowledge. The Executive Members decide on which Executive Member retains the position. If a decision cannot be reached, a vote is undertaken by the Executive prior to the Committee being dissolved and all positions being declared vacant at the Annual General Meeting.

7. Work Health & Safety

- 7.1 A volunteer is a *worker* under Work Health and Safety (WHS) legislation. Council has a primary duty of care to all workers under the WHS Act. This duty includes, but is not limited to, ensuring as far as reasonably practicable while the workers are at work, the health and safety of:
 - a) Workers engaged or caused to be engaged by Council.
 - b) Workers whose activities in carrying out work are as directed or influenced by Council.
- 7.2 Council will ensure that Council Volunteers and Casual Volunteers are provided the highest level of protection against harm to their health, welfare and safety at work, so far as is reasonable practicable.
- 7.3 Council staff, in consultation with Council Volunteers, will undertake a risk assessment of the volunteer activity by using the hierarchy of risk control to determine if:

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- a) The activity is suitable for the volunteer(s).
 - b) The activity does not place the volunteer(s) at risk to their health and safety.
 - c) The volunteer has the physical capacity to undertake the activity.
 - d) The volunteer has the knowledge and skills required to undertake the activity in a safe manner.
- 7.4 All members of the Committee and other Casual Volunteers undertaking work or activities on Council land are subject to Work Health & Safety Legislation.
- 7.5 The Committee must ensure that any member of the Committee or Volunteer on the work site meets the requirements of the Work Health & Safety Act, 2011 and the Work Health & Safety Regulations, 2011. This includes:
- a) Cooperate with Council by complying with all health and safety initiatives.
 - b) Ensure all activities undertaken are supported by sound Work Health and Safety practices and follow the risk management approach developed by Council.
 - c) Take reasonable care for the health and safety of themselves and others, including those who may be affected by the work site or the actions of another.
 - d) Utilise information instruction, training and supervision from Council to ensure volunteers understand Work Health and Safety and how it relates to the work undertaken.
 - e) Participate, in consultation within the committee about Work Health & Safety matters, to contribute to decisions affecting their health, safety and welfare.
- 7.6 Ensure all Members and other Casual Volunteers comply with the following before undertaking activities on any work site:
- a) The person is aged not less than fifteen (15) years unless the person is part of a group (supervised by an adult/s), or is supervised by a parent or guardian.
 - b) The person is aged not less than ten (10) years unless the person is part of a group (supervised by an adult/s) which is covered by its own insurance and is prepared to indemnify Council. Council's personal accident insurance does not cover anyone less than ten (10) years of age.
 - c) The person is aged no more than ninety (90) years. Council's personal accident insurance does not cover a person over ninety (90) years of age.

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- d) Refer to Council's Procedures and the Committees Safe Work Method Statements on the relevant activity before any activity is undertaken.
 - e) Not undertake activities under the influence of alcohol or any other drug that will prevent them from performing duties in a safe manner.
 - f) The work site and activity/activities are approved by a Council Responsible Officer.
 - g) A copy of the Work Health & Safety Handbook for Volunteers and other WHS documentation is available at relevant activities (eg Specific Worksite Assessment Toolbox Form, Safe Work Method Statements, Safety Alerts, and Daily Attendance Form).
 - h) All Volunteers (Council Volunteers and Casual Volunteers) involved in work activities must be inducted to the site, activity or project prior to the initial commencement of work. This is to be documented using the Specific Worksite Assessment Toolbox Form (SWAT Form), which is to be completed by a Council Responsible Officer in conjunction with committee representatives.
 - i) All Volunteers must use the Daily Attendance Form each time they volunteer for activities, such as working bees, to sign on and off from the activity.
 - j) A minimum of two people from the General Membership of each Committee would need to have a current Working With Children Check, with at least one to be available at activities where a volunteer under the age of eighteen (18) years and over the age of fifteen (15) years, requires supervision from the Committee. Committees, in the case of Sports Councils, are exempt from this Clause as they operate under their individual Clubs when on site.
- 7.7 Report to the Responsible Officer, within 24 hours, any incident, accident, illness, or near miss that relates to the health and safety of the voluntary activity:
- a) Council's Incident Report Form must be completed according to instructions inside the Risk Incident/Hazard Report book. The Risk Incident/Hazard Report book must be on site at Committee activities.
 - b) Where there are witnesses to the injury or incident, the Committee must attempt to obtain and record the name, address and contact telephone number of each such witness.
- 7.8 The Committee shall ensure that all documents and records of compliance required by Council shall be tendered at the next ordinary meeting of the committee and shall form part of the minutes of that meeting.
- 7.9 Provide the General Manager or their delegated officer with information, documents and records of compliance in accordance with Council's requirements and the State Records Act, 1998.

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8. Meetings

- 8.1 The Chair shall preside at all meetings of the Committee at which the Chair is present, and in the absence of the Chair, the Deputy Chair shall preside. If both the Chair and the Deputy Chair are absent, the first business of every such meeting shall be to elect an Acting Chair to preside over that meeting and, for the purpose of so presiding, that person shall have all the powers of the Chair.
- 8.2 The Chair shall have a second casting vote in the case of an equal number of votes in any resolution put to the meeting.
- 8.3 At the Annual General Meeting of the Committee, a quorum is 50% plus one of all members, or at least ten (10) members, whichever is the smaller number. At ordinary meetings, the quorum is the Executive Members.
- 8.4 a) The Committee shall hold meetings at least three times per year on a day and at a time to be decided upon by the Committee, of which all Executive and Advisory Members are required to attend.
- b) All Executive, Advisory and General Members of the Committee must be invited to the Annual General Meeting, with the option to attend the ordinary meetings, with all Members having voting rights.
- c) The Committee shall hold an Annual General Meeting by the end of March to receive annual reports and elect a Committee of Executive and Advisory Members once every twelve months.
- 8.5 a) The Secretary may, upon receipt of written authority of the Chair or on receipt of a written request signed by no less than three members of the Committee, call a special meeting at a time and at a place determined by the Secretary provided that the time is not less than forty eight (48) hours prior to the giving of notice of this special meeting by the Secretary. Any such notice must specify the agenda for the special meeting. Failure to receive notice of a special meeting shall not affect the validity of a special meeting.
- b) Unless all members of the Committee unanimously consent to business other than that contained in the agenda for the special meeting being determined at that special meeting, no special meeting shall consider any business other than that for which the special meeting was convened and as contained in the agenda for that special meeting.
- 8.6 The minutes of the Committee Meetings must be distributed to the elected Councillor/s for that Committee. Where any Councillor objects to a resolution carried at a meeting of the Committee, such objections must be received by the Secretary of that Committee within two weeks of the date of receipt of the minutes. Any such resolution shall not be valid (and so must not be acted upon or implemented by the Committee) until the Committee meets to discuss the objection, with the Councillor/s present that has made the objection.

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- 8.7 The majority of the members of a Committee may resolve that a General Member of the Committee is to be disqualified. Such resolution shall be recorded in the minutes of any such meeting and those minutes must be submitted to the General Manager by the Secretary within seven days of the meeting at which the Committee made that resolution. Such resolution is of no effect unless confirmed by resolution of the General Manager of Council whose determination shall be final and absolute.
- 8.8 If any Executive Member of the Committee is absent, without leave of the Committee, from three consecutive meetings (other than special meetings) of the Committee, such member shall be disqualified from acting as an Executive Member of the Committee but shall be eligible for re-appointment in the following twelve (12) month term, and shall be notified in writing.

9. Finances

- 9.1 Committees appointed under s355(c) of the Local Government Act are subject to the same standards of financial accountability as Council, and it is therefore important that Committees manage their finances well. All funds and assets held by the Committee belong to Council. The Committee is responsible for the care and control of these funds.
- 9.2 Committees who handle funds, on behalf of Council, are required to comply with Council procedures and instructions, which are designed to ensure that records and day-to-day transactions are handled according to required standards and in accordance with Item 13 of the Appendix.
- 9.3 The Treasurer of a Committee is responsible for monthly and annual financial reporting to Council's Responsible Officer for Finance.

10. Records and Record Keeping**10.1 Creation of retention of records:**

- a) The Australian Standard on Records Management (AS 4390-1996, Part 1.Clause 4.2.1) defines a record as Recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.

10.2 The Secretary is responsible for:

- a) Preparing agendas, notices of meetings and circulating same and minutes of meetings.
- b) Recording the minutes of all meetings. In respect of any meeting of the Committee, each committee member shall be required to sign an attendance sheet, which will form part of the minutes.
- c) Conducting all correspondence on behalf of the Committee.
- d) Retaining copies of all outgoing correspondence that is external of Council.

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- e) Retaining the original of all incoming correspondence that is external of Council.

10.3 Committees need to be aware of the importance of minutes because of their legal status and their liability to subpoena in court cases:

- a) An agenda is to be sent out to all Members and Committee's appointed Councillor/s at least one week prior to the meeting.
- b) Minutes of the matters discussed will be kept and a copy forwarded to the Committee's Responsible Officer for administration, and to all Members and Committee's Councillor/s.
- c) The Chair/Deputy Chair is required to pass a motion to accept the minutes of a meeting as the true record of proceedings of the meeting. The minutes must record all motions and amendments put to the meeting, and the results. There is no need to record what members said at the meeting, but there may be occasions when it is appropriate to record the thrust of the debate.
- d) The Chair/Deputy Chair and the Secretary are responsible for the form of the minutes for proper confirmation, and must check that there have been no unauthorised alterations to those minutes. The motion to confirm the minutes can only be moved and seconded by a person in attendance at that meeting to which the minutes relate.

10.4 Ownership and legislation:

- a) In respect to record keeping, the Committee must act in accordance with Council's Records Management Directive, and associated procedures as determined by Council's Business Systems Support Section Manager.
- b) The Management Directive and procedures reflect the requirements of public offices in the creation, management and protection of their records as legally required by the State Records Act of 1998.
- c) As determined by the State Records Act 1998, neither the Committee nor Council is the owner of records created and maintained by them. As a public office Council's records are officially records of the state and must be managed by Council and Committees accordingly.

10.5 Destruction of records:

- a) No incoming or outgoing correspondence that is external of Council may be destroyed, with the exception of advertising material, newsletters, and magazines.

10.6 Storage and custody of records:

- a) Records should be stored in an area away from potential hazards, eg fuel, water, fire and vermin.

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- b) Records should be stored in a secure location eg locked cupboard or room.
- c) Release of original or photocopied records to any person, other than a current Committee Member or an authorised officer of the Council, is prohibited.

10.7 Access to records by persons:

- a) Access to records by persons other than current members or an authorised officer of the Council is prohibited.
- b) Request for access to records, for persons other than those stated above, must be made through Council's Freedom of Right to Information Officer.
- c) The Committee acknowledges it has a responsibility under the Privacy and Personal Information Protection Act 1998 to protect the personal information and privacy of individuals in general. The Committee will not provide to any person other than a Committee Member or Council any personal information unless it has been specifically collected for the purposes for which it is being requested. This includes contact details for a member of the Committee unless that member has agreed those details can be provided to members of the public.

10.8 Return of records to Council:

- a) Any records still held by a Committee must be returned to Council for archival storage. Access to these records can be arranged through Council's Responsible Officer for administration.
- b) Electronic and other records, other than previously submitted agendas/ minutes, annual and financial reporting are to be provided to the Responsible Officer for administration.
- c) Return of records to Council is to be done annually following each individual Committee's Annual General Meeting.

10.9 Access to Committee records and information:

- a) Any Committee that falls under this Terms of Reference will be required to provide Council with any records, documents or other information that is held by the Committee for the purposes of Council meeting its obligations under the *Government Information (Public Access) Act 2009*.

11. Reports

As specified in Item 13 of the Appendix.

12. Intellectual Property

12.1 The Committee acknowledges and agrees:

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- a) It is important for Council to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
- b) The Committee, as a delegate of Council, has a duty to observe and help protect Council's intellectual property by not copying or supplying such property without the express permission of Council.
- c) Council retains ownership of all intellectual property created by Members in the course of their Committee work.
- d) Council will acknowledge the Committee or Committee Member if publishing or reproducing copy of a Committees research, including images and historical data.

12.2 The Committee refers to the Responsible Officer any questions relating to intellectual property rights or the use of another organisation's document.

13 Dispute Resolution

Where the Committee is unable to reach a determination of any issue, the Committee must refer that issue to the Responsible Officer for determination. Where the Committee resolves that it is dissatisfied with the resolution of that dispute by the Responsible Officer it may, by notice in writing to the Responsible Manager, request that the matter be referred to the Responsible Manager for determination of the dispute. Where the Committee resolves that it is dissatisfied with the resolution of that dispute by the Responsible Manager it may, by notice in writing to the General Manager, request that the matter be referred to Council for determination of the dispute by resolution of Council, whose determination of the dispute shall be final and binding upon the Committee.

14 Termination

Notwithstanding any other provision of the Terms of Reference Council may, by resolution and in its absolute discretion, terminate membership of any or all members of the Committee, and may resolve to withdraw or modify any delegation of any function of Council to the Committee.

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15. Amendment of the Terms of Reference

15.1 The Terms of Reference may only be altered by resolution of the Council and noted at Item 14 of the Appendix.

15.2 The Committee may request Council to consider an amendment to their Terms of Reference Appendix once the proposed alteration is submitted to an ordinary meeting of the Committee and the notice convening such a meeting contains the proposed alteration or the effect thereof and such proposed alteration is approved by at least three quarters of the members present at such an ordinary meeting.

16. Additional clauses

As specified in Item 15 of the Appendix.

ITEM 13 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE APPENDIX TEMPLATE

DRAFT APPENDIX TO 355(c) COMMITTEE TERMS OF REFERENCE

Item 1	Name of Committee	
Item 2	Purpose of Committee	Reference Council's Strategic Plan
Item 3	Functions delegated by Council to committee (Objectives)	Will also include an attached map or defined area if applicable
Item 4	Restrictions on functions delegated	Will also include Working With Children Check Will not subsidise or waive fees
Item 5	Policies, legislation the committee is required to comply with	Principle policies & legislation including but not limited to: Local Government Act 1993 WHS Act 2011 Privacy and Personal Information Act 1998 State Records Act, 1998 PSC Code of Conduct 2014, Min No 043 PSC Code of Meeting Practice 2013, Min No322 PSC WHS Statement of Commitment Accessing Information Policy Volunteers Strategy Framework 2012 PSC Disability Policy 2010, Min No 321
Item 6	Term of Committee	September of Council Election each four years. Council to re adopt constitution within three months following election.
Item 7	Maximum number and make up of committee members	
Item 8	Executive and Advisory members	This is where SC Management Committee would be outlined List positions for each Committee
Item 9	Councillors	As resolved by Council
Item 10	Council employees	Responsible Group Responsible Section Responsible Manager Responsible Officer/s (e.g. Finance, Volunteer Coordinator, Recreation Liaison Officer) Financial Account signatories
Item 11	Name of financial institution and type of account/s	
Item 12	Name of any account operated by the committee	
Item 13	Reporting	Financial Reporting 1. Committees must spend their annual allocation from Council only on items and works that enable them to exercise their Functions delegated to them from Council pursuant to Clause 3 and outlined in Item 3 of the

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		<p>Appendix.</p> <p>2. With the introduction of the Goods and Services Tax effective from 1 July 2000, all Section 355 Committees are obliged to comply with the new tax system.</p> <ul style="list-style-type: none"> a) All committees are covered under Council's Australian Business Number. b) Committees are responsible for administering the requirements of GST Legislation that is, charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO. c) Accordingly each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS). d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office. <p>3. The Treasurer shall be responsible for ensuring:</p> <ul style="list-style-type: none"> a) The proper keeping of the books and accounts of the Committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager. b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the Committee. c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager. <ul style="list-style-type: none"> i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format. ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements. iii. The totals of each month is entered onto the Annual Summary Reporting page which is forwarded to Council annually. d) Receiving monies on behalf of the Committee and maintaining accurate records of the receipt of such monies. e) Attending to the payment of accounts and other expenses approved by the Committee on behalf of
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ITEM 13 - ATTACHMENT 2 DRAFT 355(C) COMMITTEE APPENDIX TEMPLATE

		<p>the Committee, and maintaining an accurate record of such payments.</p> <p>f) Issuing of tax invoices.</p> <p>4. All monies received by the Committee shall be deposited, within seven (7) days of receipt into an account in the financial institution set out in Item 11 of the Appendix. Any such account must have the names of the account/s set out in Item 12 of the Appendix.</p> <p>a) All financial accounts held by the Committee must include the words "A 355c Committee of Port Stephens Council" in the account name.</p> <p>5. The Committee may only operate those accounts set out in Item 11 and 12 of the Appendix or as directed in writing by the General Manager.</p> <p>a) Any cheques drawn on behalf of the Committee or withdrawals from any account operated by the Committee shall be signed by any two (2) of the Executive as determined by the Committee.</p> <p>b) All financial accounts must have two Council staff signatories, including all term deposit accounts in accordance with Item 10 of the Appendix.</p> <p>c) All Committees are required to advise Council of the details of the persons who are authorised signatories of the Committee's bank account, when a new account is opened, and when changes to the signatories occurs.</p> <p>d) The Committee is also required to provide documentation at the Annual General Meeting, from the financial institution, listing the current signatories, on each account held. This documentation will form part of the Minutes of the Annual General Meeting.</p> <p>6. The Committee must not, at any time, incur any expenditure in excess of the amount held in the Committee's credit in the account operated by the Committee. In any event, no expenses of any member of the Committee or the Committee shall be paid unless authorised by resolution of the Committee.</p> <p>7. The Committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the Committee.</p> <p>8. The financial year shall be the period from the 1 January to 31 December in a calendar year.</p> <p>General Reporting</p>
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		<ol style="list-style-type: none"> 1. Monthly - Financial Reporting and attachments To be forwarded to Council's Responsible Officer for finance each month in a format as provided by Council. 2. Annual - Financial Summary Statement To be forwarded prior to 31 January each year to Council's Responsible Officer for finance, for submission to Council in a format as provided by Council. 3. Annual Reports To be forwarded prior to 31 March each year to Council's Responsible Officer for Volunteers and must include; <ul style="list-style-type: none"> • <u>Committee Annual Report</u> - a summary of activities and projects undertaken by the Committee during the previous financial year and proposed projects and activities to be undertaken by the Committee during that current financial year. • Elected Executive Updated list of all Committee Members, including notification of the elected Executive and account signatories. • Updated List of Account Signatories • Completed AGM checklist 4. Recommendations for Fees and Charges to be forwarded to Council by 1st December each year. <ol style="list-style-type: none"> a) The fees and charges is set by Council, taking into consideration the recommendations of the Committee and the operating requirements of the facility. b) The Committee is not able to provide subsidies or waive hire fees as specified in Item 4 of the Appendix.
Item 14	Changes to constitution or Schedule – Adopted by Council Meeting Date Minute No Resolution	Constitution Adopted at Council Meeting Minute No
Item 15	Additional clauses or amendments to Standard Constitution or Schedule To be listed in full – body of constitution not to be altered	



355(c) Committee Standard Constitution

Adopted by Council 24 June 2003

Minute No 251

Amended by Council 13 September 2011

Minute No 329

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ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

1. Name of Committee

The name of the Committee shall be as set out in Item 1 of the Schedule.

2. Definitions

The following words have the following meanings in this document:

"Constitution"	means and includes this document along with all schedules and attachments referred to in this document, including but not limited to any policy adopted by Council and set out in Item 5 of the Schedule;
"Chair"	means the Chair of the Committee;
"committee member"	means a member of the committee whose appointment has been approved by Council,
"Council"	means Port Stephens Council,
"Councillor"	means a Councillor of Port Stephens Council;
"Deputy Chair"	means the Deputy Chair of the Committee;
"Executive"	means those members elected from time to time in accordance with clause 7 of the Constitution;
"EPA A"	means the <i>Environmental Planning and Assessment Act, 1979</i> (as amended);
"financial year"	means the period from 1 January to 31 December in a calendar year;
"General Manager"	means the person appointed or acting in the position of General Manager of Port Stephens Council from time to time;
"Group Manager"	means the manager of the Group set out in Item 2 of the Schedule;
"Intellectual Property"	means and includes copyrights, trademarks, registered designs, patents and databases. In particular, it refers to a range of Council resources including written material, design drawings, maps and plans, computer programs and databases.
"law"	means any statute along with any regulation, rule, planning instrument, policy or plan having effect under any such statute;
"LGA"	means the <i>Local Government Act, 1993</i> (as amended);
"O H & S Policy"	means any Occupational Health and Safety Policy or Procedure/s adopted by Council and includes any Manual or other document forming part of, or associated with any such Policy;
"Personal Information"	means "...information or an opinion...about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion". Privacy and Personal Information Act (PPIPA) 1998, Section 4.

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

"Record"	means recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.
"Responsible Officer"	means the person nominated by the Group Manager;
"Schedule"	means the Schedule to Constitution of s.355 (b) Committee attached to this Constitution.
"Secretary"	means the Secretary of the Committee,
"Treasurer"	means the Treasurer of the Committee,
"volunteer"	means a person who assists the committee (either on a regular or casual basis) in a voluntary capacity but is not a member of the committee.

3. Purpose of the Constitution

- 3.1 Under the Local Government Act, 1993 Council is able to delegate some of its functions to a Committee of Council. A Committee is appointed and reappointed in accordance with the provisions of Section 355 and Section 377 of the Local Government Act, 1993.
- 3.2 A Committee of Council is in fact acting on Council's behalf, the Committee is 'Council' and any action which the Committee undertakes is Council's responsibility.
- 3.3 The Constitution provides a mandatory set of rules that defines the functions that Council has delegated to the Committee, the manner in which those delegated functions are to be undertaken by the Committee, and an administrative structure and procedures to ensure that the Council is able to monitor the conduct and performance of the Committee, particularly with regard to managing potential liabilities that might arise as a result of the activities of the Committee, in a similar manner to that which Council monitors others performing Council's functions under delegation

4 Functions of the Committee

- 4.1 The Committee may, subject to sub-clauses 4.2 - 4.5 (inclusive), exercise any function of Council set out in Item 3 of the Schedule subject to any restrictions set out in Item 4 of the Schedule;
- 4.2. The Committee must comply with any law, including but not limited to the LGA, in exercising any function delegated by sub-clause 4.1;
- 4.3 The Committee must comply strictly with the terms of the Constitution and any Council Policy or Legislation set out in Item 5 of the Schedule when exercising any function delegated by sub-clause 4.1;
- 4.4 Notwithstanding anything contained in Item 3 of the Schedule, the Committee must not permit or cause any contractor or person to undertake any work on behalf of or at the direction of the Committee unless they are registered on Council's list of service contractors who:
 - a) Have contracted with Council to provide services at quoted prices
 - b) Have undergone Council's Contractors OH&S Induction Process
 - c) Carry all appropriate insurances
 - d) Have provided Council with an ABN
 - e) Supply Tax Invoices.
 - f) Agree to abide by Workcover and Council policies

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.**4.5. Notwithstanding sub-clause 4.1, the Committee**

Must not, give or purport to give any consent or approval (under the EPA A, the LGA or any other law) to any development or building works on any land but may, if requested to do so by Council, make recommendations in respect of any such development or building works for consideration by Council; and

Must not, by virtue of s.355 of the LGA, undertake or perform any of the following functions of Council

- the appointment of a General Manager
- the making of a rate under the LGA
- a determination under s.549 of the LGA as to the levying of a rate
- the making of a charge or the fixing of a fee
- the borrowing of money
- the voting of money for expenditure on works, services or operations of Council
- the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (not including the sale of items of plant or equipment)
- the acceptance of any tender that Council is required to invite under the LGA
- the adoption of a Management Plan under the LGA
- the adoption of a Financial Statement included in an Annual Financial Report under the LGA
- a decision to classify or re-classify public land under Division 1 of Part 2 of Chapter 6 of the LGA
- the fixing of an amount or rate for the carrying out by Council of work on private land
- the decision to carry out work on private land for an amount that is less than the amount or rate fixed by Council for the carrying out of such work
- the review of a determination made by Council, and not by a delegate of Council, or an application for approval
- the power of Council to authorise the use of reasonable force for the purpose of gaining entry to premises under s.194 of the LGA
- the decision under s.356 of the LGA to contribute money or otherwise grant financial assistance to persons
- the power of Council under s.455 of the LGA in relation to attendance at meetings of Council
- the making of an application, or giving of notice, to the Governor of New South Wales or the power of delegation under s.355 of the LGA
- any function that is expressly required to be exercised by resolution of Council

Must not, unless the Committee has obtained prior written approval from the General Manager, engage or contract with any person or corporation to provide any good or service for payment of any consideration or fee.

4.6 The Committee must not do anything or allow any person acting under its direction to do anything contrary to the interests of Council. For the purposes of this sub-clause this includes but is not limited to prohibiting the following:

- a) Acting contrary to any direction from Council, which includes a direction from the General Manager or the Manager;

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

- b) Acting contrary to Council's policies, whether as contained in Item 5 of the Schedule or otherwise;
 - c) Advising any person that they may have a legal right or action against Council or any Councillor, Council employee or Council contractor exercising a function of Council;
- Making any admission of liability or accepting liability on behalf of Council or the Committee.
- e) Acting contrary to Council's Code of Conduct.
 - f) Acting outside the limits of the Committee's delegation.
 - g) Acting or presenting the Committee as independent of Council.

5. Term

- 5.1 This Constitution operates for a term commencing from the date on which Council, by resolution, adopts this Constitution and concluding on the date set out in Item 6 of the Schedule or three months after the date of the Council election immediately following the date of commencement of this Constitution (whichever occurs first), unless terminated earlier in accordance with this Constitution.
- 5.2 Committee membership is on a quadrennial basis for the term of Council. Committees are formally appointed by the Councillors in office, therefore three months after the General Election of Councillors, all committee members will cease to hold office.

6. The Committee

- 6.1 There shall be not less than four (4), but no more than the number set out in Item 7 of the Schedule, members of the Committee, who have been duly appointed by Council.
- 6.2 Each member of the Committee is entitled to one (1) vote on any issue put to the vote of members at any meeting of the Committee.
- 6.3 No member is permitted to participate in any debate before the Committee or vote put to the Committee where that member has, either directly or indirectly, a pecuniary interest in the issue(s) debated or subject of that vote.
- 6.4 Each member is required to notify the Committee in writing of the nature of any pecuniary interest referred to in sub-clause 6.3.
- 6.5 The General Manager may, by notice in writing, terminate any person's membership of the Committee. Such written notice must be provided to each member of the Committee and to the person whose membership has been terminated pursuant to this sub-clause. Such termination takes effect on the date specified in the notice regardless of any request under this sub-clause for a review. The General Manager may, at his or her absolute discretion, withdraw any notice issued pursuant to this sub-clause without prejudice to the General Manager's ability to issue further notices under this sub-clause. Any member of the Committee may seek a review of the General Manager's termination of any membership pursuant to this sub-clause by submitting notice in writing to the General Manager, who will then refer the matter to the next available meeting of Council for determination of that review by Council.
- 6.6 The Committee must contain at least the number of Councillors and/or the number of Council employees set out in Items 8 & 9 of the Schedule.
- 6.7 The Committee may, subject to clause 7, appoint members to identified roles and/or form sub-committees to undertake the work of the Committee.

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

- a) The formation of any sub-committees or appointment of members to identified roles does not operate as a delegation to such members or sub-committees of any function of Council for the purposes of the LGA and all such sub-committees or members remain subject to the terms of this Constitution.
 - b) The Committee, in the case of a Sports Council, may form a Management Committee (sub committee). This sub committee will be specified in Item 7 of the Schedule.
- 6.8 Each member of the Committee exercises that capacity, and provides any labour, on an honorary and voluntary basis. No member of the Committee shall be entitled to any remuneration or wage from Council as a result of that person's membership of the Committee, and there is no employer - employee relationship between Council and any member as a result of that membership.

7. The Executive

- 7.1 The Committee must, at its first meeting, elect an Executive having not less than three members.
- a) The Committee, at a minimum, must appoint a Deputy Chair, Secretary and a Treasurer.
 - b) The Committee, may appoint members to other positions, such as, Bookings Officer, Work Co-ordinator as determined by the membership.
 - c) The Committee, may appoint a combined Secretary/Treasurer position if the minimum requirement of three Executive positions is met.
 - d) The Committee, in the case of Sports Councils, may vary the positions of the Executive to include President, Vice Presidents, Booking Officers. These positions will be specified in Item 7 of the Schedule.
- 7.2 Only members of the Committee may be members of the Executive.
- 7.3 Where a Councillor is a member of the Committee and that Councillor indicates that he or she wishes to be Chair of the Committee, that Councillor shall be the Chair of the Committee. Where no Councillor expresses a desire to be Chair of the Committee any other member of the Committee willing to accept appointment as Chair of the Committee, any such person may, by a vote of the majority of the members of the Committee, be appointed Chair of the Committee.
- 7.4 Notwithstanding the provisions of sub-clauses 7.1, 7.2, or 7.3 Council may, either by resolution of Council or by written notice signed by the General Manager, terminate the appointment of any member of the Executive.
- 7.5 Subject to sub-clause 7.4, each member of the Executive shall hold the position on the Executive for a period of twelve (12) months from the date of such appointment or on the expiration of the Constitution, whichever occurs first.

8. Occupational Health & Safety

- In undertaking all of its activities Council will seek to ensure that the obligations of the Occupational Health & Safety Act, 2000 are observed. As an employer Council will endeavour to set a high standard of compliance.
- 8.1 Committee members and volunteers undertaking work or activities on Council land are subject to Occupational Health & Safety Legislation.
- 8.2 The Committee must ensure that any member of the Committee or volunteer on the work site meets the requirements of the Occupational Health & Safety Act, 2000 and Occupational Health & Safety Regulations, 2001. This includes:

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- a) Cooperate with Council by complying with all health and safety initiatives.
 - b) Ensure all activities undertaken are supported by sound Occupational Health and Safety practices and follow the risk management approach developed by Council.
 - c) Take reasonable care for the health and safety of others, including those who may be affected by the work site.
 - d) Utilise information instruction, training and supervision from Council to ensure volunteers/committee members understand Occupational Health and Safety and how it relates to the work undertaken.
 - e) Participate, in consultation within the committee about Occupational Health & Safety matters, to contribute to decisions affecting health, safety and welfare.
- 8.3 Ensure all committee members or volunteers comply with the following before undertaking activities on any work site:
- a) The person must be a committee member or a volunteer registered with Council.
 - b) The person is aged not less than 15 years unless the person is part of a group (supervised by an adult/s) which is covered by its own insurance and is prepared to indemnify Council.
 - c) The person is aged no more than 90 years. Council's personal accident insurance does not cover a person beyond 90 years.
 - d) The person must sign on/off each time they participate in activities.
 - e) Refer to Council's Lone Worker Policy before any activity is undertaken by a person working alone.
- 8.4 Ensure all committee members or volunteers comply with the following before undertaking activities on any work site:
- a) The work site and activity/activities are Council approved.
 - b) A HROC (Hunter Councils) Induction has been completed.
 - c) A copy of the HROC (Hunter Councils) Occupational Health and Safety Manual has been made available.
 - d) A Site Specific Occupational Health & Safety Induction has been completed on site (using a *Site/Toolbox Meeting Pro Forma*).
 - e) Council's Safe Working Processes must be undertaken and related documentation must be completed and signed by all participants (*Risk Treatment Plan/Work Method Statements/SOP's*).
- 8.5 The committee shall ensure that the *Volunteer/Committee Work Attendance Form* is completed, in each person's handwriting, where any work or activity is undertaken by any person (including members of the Committee or registered volunteers).
- 8.6 Any incidents or injuries to persons or property, including potential incidents or injuries, must be reported to Council within 24 hours.
- a) Council's *Incident Report Form* must be completed according to instructions inside the book.
 - b) Where there are witnesses to the injury or incident, the Committee must attempt to obtain and record the name, address and contact telephone number of each such witness.

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

- 8.7 The committee shall ensure that all documents and records of compliance required by Council shall be tendered at the next ordinary meeting of the committee and shall form part of the minutes of that meeting.
- 8.8 Provide the General Manager or their delegated officer with information, documents and records of compliance in accordance with Council's requirements and the State Records Act, 1998.

9 Meetings

- 9.1 The Chair shall preside at all meetings of the Committee at which the Chair is present, and in the absence of the Chair, the Deputy Chair shall preside. If both the Chair and the Deputy Chair are absent, the first business of every such meeting shall be to elect an Acting Chair to preside over that meeting and, for the purpose of so presiding, that person shall have all the powers of the Chair.
- 9.2 The Chair at any meeting shall, in the case of an equal number of votes in any resolution put to the meeting, have a second or casting vote.
- 9.3 At all meetings of the Committee 50% of the members shall constitute a quorum. Proxy votes from members of the Committee shall be accepted if in writing and seconded by another member of the Committee.
- 9.4 a) The Committee shall hold ordinary meetings at least once in every quarter, on a day and at a time to be decided upon by the Committee.
- b) The Committee shall hold an Annual General Meeting, to receive annual reports and elect a Committee Executive once every twelve months.
- 9.5 The Secretary may, upon receipt of written authority of the Chair or on receipt of a written request signed by no less than three members of the Committee, call a special meeting at a time and at a place determined by the Secretary provided that the time is not less than forty eight (48) hours prior to the giving of notice of this special meeting by the Secretary. Any such notice must specify the agenda for the special meeting. Failure to receive notice of a special meeting shall not affect the validity of a special meeting.
- 9.6 Unless all members of the Committee unanimously consent to business other than that contained in the agenda for the special meeting being determined at that special meeting, no special meeting shall consider any business other than that for which the special meeting was convened and as contained in the agenda for that special meeting.
- 9.7 Where any Councillor member objects to a resolution carried at a meeting of the Committee, such objections must be recorded in the minutes of the Committee and such resolution shall not be valid (and so must not be acted upon or implemented by the Committee) until Council resolves to confirm the resolution of the meeting of the Committee.
- 9.8 The majority of the members of a Committee may resolve that a member of the Committee is to be disqualified. Such resolution shall be recorded in the minutes of any such meeting and those minutes must be submitted to the General Manager by the Secretary within seven (7) days of the meeting at which the Committee made that resolution. Such resolution is of no effect unless confirmed by resolution of Council, whose determination shall be final and absolute.
- 9.9 If any member of the Committee is absent, without leave of the Committee, from three (3) consecutive meetings (other than special meetings) of the Committee, such member shall be disqualified from acting as a member of the Committee but shall be eligible for re-appointment.

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.**10. Finances**

10.1 Committees appointed under Section 355(b) of the Local Government Act are subject to the same standards of financial accountability as Council, and it is therefore important that Committees manage their finances well. All funds and assets held by the Committee belong to Council. The Committee is responsible for the care and control of these funds.

10.2 Committees who handle funds, on behalf of Council, are required to comply with Council procedures and instructions, which are designed to ensure that records and day-to-day transactions are handled according to required standards.

10.3 With the introduction of the Goods and Services Tax effective from 1 July 2000, all Section 355 Committees are obliged to comply with the new tax system.

- a) All committees are covered under Council's Australian Business Number.
- b) Committees are responsible for administering the requirements of GST Legislation that is, charging GST on taxable supplies and correctly identifying input tax credits claimable from ATO.
- c) Accordingly each committee must supply Council with details of GST applicable to all financial transactions for inclusion in Council's monthly Business Activity Statements (BAS).
- d) Compliance with this request will ensure Council's obligation is met on time and will avoid any interest or penalty chargeable by Australian Taxation Office.

10.4 The Treasurer shall be responsible for ensuring:

- a) The proper keeping of the books and accounts of the Committee, which shall be kept as directed by the General Manager and made available to the Council when required for that purpose by the General Manager.
- b) Accounts must be accessible by the General Manager who must be able to authorise, in his or her own right, withdrawals from any account held by the Committee.
- c) Forwarding monthly financial and GST reporting to Council's designated Responsible Officer each month in a format as directed by the General Manager.
 - i. This includes a cash book style financial record keeping system (manual or electronic) supplied by Council, which is set up to record income, expenditure, GST and reconciliations in a simple format.
 - ii. The cash book is completed each month and the original forwarded to Council with copies of tax invoices, tax input receipts and bank statements.
 - iii. The totals of each month is entered onto the Annual Summary Reporting page which is forwarded to Council annually.
- d) Receiving monies on behalf of the Committee and maintaining accurate records of the receipt of such monies.
- e) Attending to the payment of accounts and other expenses approved by the Committee on behalf of the Committee, and maintaining an accurate record of such payments.
- f) Issuing of tax invoices.

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

- 10.5 a) All monies received by the Committee shall be deposited, within seven (7) days of receipt into an account in the financial institution set out in Item 10 of the Schedule. Any such account must have the names set out in Item 11 of the Schedule.
b) All financial accounts held by the Committee must include the words "A 355c Committee of Port Stephens Council" in the account name.
- 10.6 The Committee may only operate those accounts set out in Item 11 of the Schedule or as directed in writing by the General Manager.
a) Any cheques drawn on behalf of the Committee or withdrawals from any account operated by the Committee shall be signed by any two of the Executive as determined by the Committee.
b) All Committees are required to advise Council of the details of the persons who are authorised signatories of the Committee's bank account.
- 10.7 The Committee must not, at any time, incur any expenditure in excess of the amount held in the Committee's credit in the account operated by the Committee in compliance with this Constitution. In any event, no expenses of any member of the Committee or the Committee shall be paid unless authorised by resolution of the Committee.
- 10.8 The Committee may authorise the transfer of an amount not exceeding the sum of \$50.00, to be known as "petty cash", which shall be held by the Treasurer subject to any direction by the Committee.
- 10.9 The financial year shall be the period from the 1st January to 31st December.

11. Records and Record Keeping

- 11.1 Creation and retention of records
The Australian Standard on Records Management (AS 4390-1996, Part 1. Clause 4.2.1) defines a record as *Recorded information, in any form, including data in computer systems, created or received and maintained by an organisation or person in the transaction of business or the conduct of affairs and kept as evidence of such activity.*
- 11.2 The Secretary is responsible for;
a) Preparing agendas, notices of meetings and circulating same and minutes of meetings.
b) Recording the minutes of all meetings. In respect of any meeting of the Committee, each committee member shall be required to sign an attendance sheet, which will form part of the minutes.
c) Conducting all correspondence on behalf of the Committee.
d) Retaining copies of all outgoing correspondence.
e) Retaining the original of all incoming correspondence.
- 11.3 Committees need to be aware of the importance of minutes, because of their legal status and their liability to subpoena in court cases.
a) An agenda is to be sent out to all Committee members and Committee's appointed Councillor at least one week prior to the meeting.
b) Minutes of the matters discussed will be kept and a copy forwarded to Council and to all Committee members and Committee's Councillor.
c) The Chair/Deputy Chair is required to sign the minutes of a meeting as the true record of proceedings of the meeting. The minutes must record all motions and amendments put to the meeting, and the results. There is

ITEM 13 - ATTACHMENT 3 355(C) COMMITTEE STANDARD CONSTITUTION.

no need to record what members said at the meeting, but there may be occasions when it is appropriate to record the thrust of the debate.

- d) The Chair/Deputy Chair and the Secretary are responsible for the form of the minutes for proper confirmation, and must check that there have been no unauthorised alterations to those minutes. The Chair/Deputy Chair signs the minutes after they have been confirmed by the appropriate meeting (usually the next committee meeting). The signing must not take place until the motion for confirmation has been completed. The motion to confirm the minutes can only be moved and seconded by a person in attendance at that meeting to which the minutes relate.

11.4 Ownership and legislation

- a) In respect to record keeping, the Committee must act in accordance with Council's Records Management Directive, and associated procedures as determined by Council's Information & Customer Services Coordinator.
- b) The Management Directive and procedures reflect the requirements of public offices in the creation, management, and protection of their records as legally required by the State Records Act of 1998.
- c) As determined by the State Records Act 1998, neither the Committee nor Council is the owner of records created and maintained by them. As a public office Council's records are officially records of the state and must be managed by Council and Committees accordingly.

11.5 Destruction of records

- a) No incoming or outgoing correspondence may be destroyed, with the exception of advertising material, newsletters, and magazines.

11.6 Storage and custody of records

- a) Records should be stored in an area away from potential hazards, e.g. fuel, water, fire, vermin.
- b) Records should be stored in a secure location, e.g. locked cupboard or room.
- c) Release of original or photocopied records to any person, other than a current Committee member or an authorised officer of the Council, is prohibited.

11.7 Access to records

- a) Access to records by persons other than current Committee members or an authorised officer of the Council is prohibited.
- b) Request for access to records, for persons other than those stated above, must be made through Council's Freedom of Information Officer.
- c) The Committee acknowledges it has a responsibility under the *Privacy and Personal Information Protection Act 1998* to protect the personal information and privacy of individuals in general. The Committee will not provide to any person other than a committee member any personal information unless it has been specifically collected for the purposes for which it is being requested. This includes contact details for a member of the Committee unless that member has agreed those details can be provided to members of the public.

11.8 Return of records to Council

Any records still held by a Committee prior to 2002 must be returned to Council for archival storage. Access to these records can be arranged through Council's 355(b) Committee Responsible Officers.

- a) Return of original records to Council is to be done annually following each individual Committee's AGM.

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- b) Photocopies of returned records will be provided, within reason, if required for on going business activities. Arrangements can be made through Council's 355(b) Committee Officers.

12 Reports**12.1 Monthly - Financial Reporting and attachments**

To be forwarded to Council's designated Responsible Officer each month in a format as provided by Council.

12.2 Annual - Financial Summary Statement

To be forwarded prior to 31 January each year to the General Manager, for submission to Council in a format as provided by Council.

12.3 Annual Reports

To be forwarded prior to 31 March each year to Council's designated Responsible Officer.

- Committee Annual Report - a summary of activities and projects undertaken by the Committee during the previous financial year proposed projects and activities to be undertaken by the Committee during that current financial year.

- Elected Executive

- Updated List of Account Signatories

12.3. Recommendations for Fees and Charges

To be forwarded to Council by 1st December each year.

- a) 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.
- b) The Committee is not able to provide subsidies or waive hire fees.

13. Intellectual Property**13.1 The Committee acknowledges and agrees:**

- a) It is important for Council to develop, maintain, protect and manage the organisation's intellectual property including copyrights, trademarks, registered designs, patents and databases.
- b) The Committee, as a delegate of Council, has a duty to observe and help protect Council's intellectual property by not copying or supplying such property without the express permission of Council.
- c) Council retains ownership of all intellectual property created by Committee members in the course of their Committee work.

13.2 The Committee refer to the Responsible Officer any questions relating to intellectual property rights or the use of another organisation's document.**14. Dispute Resolution**

Where the Committee is unable to reach a determination of any issue, the Committee must refer that issue to the Responsible Officer for determination. Where the Committee resolves that it is dissatisfied with the resolution of that dispute by the Responsible Officer it may, by notice in writing to the Department Manager, request that the matter be referred to the Department Manager for determination of the dispute. Where the Committee resolves that it is dissatisfied with the resolution of that dispute by the Department Manager it may, by notice in writing to the General Manager, request that the matter be referred to Council for determination of the

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dispute by resolution of Council, whose determination of the dispute shall be final and binding upon the Committee

15. Termination

Notwithstanding any other provision of the Constitution Council may, by resolution and in its absolute discretion, terminate membership of any or all members of the Executive or of the Committee, and may resolve to withdraw or modify any delegation of any function of Council to the Committee

16. Amendment of the Constitution

- 16.1 The Constitution may only be altered by resolution of the Council.
- 16.2 The Committee may request Council to consider an amendment their Constitution Schedule once the proposed alteration is submitted to a General Meeting of the Committee and the notice convening such a meeting contains the proposed alteration or the effect thereof AND such proposed alteration is approved by at least three-fourths of the members present at such a General Meeting.