

# Instrument of sub-delegation from the Chief Executive Officer to community asset committees

Responsible Officer	Adoption Date	August 2020
Governance and Reporting Advisor	Approved By	Council
	Review Date	October 2021
Authorising Officer	Policy Type	Council Policy
Director Corporate Services		

## Instrument of Sub-Delegation

In exercise of the power conferred by s 47(1)(b) of the *Local Government Act 2020* (Act), I, as Chief Executive Officer of Wangaratta Rural City Council (the Council), by this instrument of sub-delegation:

1. delegate to each person who is from time to time appointed as a member of a community asset committee, established by resolution of Council passed on 25 August 2020 and set out in Column 1 of Schedule 1 (the committee), each power and/or function and/or duty set out in Schedule 2; declare that this instrument of sub-delegation comes into force immediately upon its execution;
- 3.2. remains in force until Council resolves to vary or revoke it;
- 3.3. is subject to the conditions and limitations set out in paragraph 4 and 5, and in Schedule 2; and; and
4. declare that the delegate must comply with specified governance requirements to ensure appropriate standards of probity are met and monitor and report on the activities and performance of the committee;
5. declare that the delegate must not determine the issue, take action or do the act or thing if the determining of the issue, the taking of the action or the doing of the act or thing cannot be the subject of a lawful delegation, whether on account of section 47 of the Act or otherwise

This instrument of sub-delegation is dated ##date and is made by the Chief Executive Officer.

Signed by the Chief Executive Officer:

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in the presence of:

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Witness

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Date

**Schedule 1**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Committee</b>	<b>Community asset</b>	<b>User Groups</b>
Bowmans-Murmungee Memorial Hall and Tennis Reserve Community Asset Committee	Bowmans-Murmungee Memorial Hall and Tennis Reserve situated at Part Crown Allotment 1, Section 3, Parish of Murmungee and contained in Certificate of Title, Volume 5676, Folio 120	Bowmans-Murmungee Tennis Club
Carboor Soldiers Memorial Hall and Recreation Reserve Community Asset Committee	Carboor Soldiers Memorial Hall and Recreation Reserve situated at Lots 1 & 2 PS316389G Parish of Carboor, and contained in Certificates of Title, Volume 10219 Folio 280 and Volume 10219, Folio 281	
Edi Upper Hall and Recreation Reserve Community Asset Committee	Edi Upper Hall and Recreation Reserve situated at Crown Allotment 9C, Section 1, Parish of Edi, and contained in Certificate of Title, Volume 6576, Folio 176 and Volume 9389, Folio 953	
Eldorado Memorial Hall Community Asset Committee	Eldorado Memorial Hall" situated at Crown Allotments 4 7 6, Parish of Tarrawingee, Township of Eldorado and contained in Certificates of Title, Volume 6047, Folio 400 and Volume 357 Folio 257	
Everton Hall & Sports Complex Community Asset Committee	Everton Hall and Sports Complex situated at Part Crown Allotment E, Parish of Everton, and contained in Certificate of Title, Volume 2706, Folio 541006	
Milawa Public Hall and Park Community Asset Committee	Milawa Public Hall and Park situated at Part Crown Allotment 6, Section 16, Parish of Oxley	

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Committee</b>	<b>Community asset</b>	<b>User Groups</b>
Moyhu Soldiers Memorial Hall Community Asset Committee	Moyhu Soldiers Memorial Hall situated at Part Crown Allotment 1B, Section 13, Parish of Moyhu and contained in Certificate of Title, Volume 4909, Folio 632 and Volume 5088, Folio 419	
Myrree Soldiers Memorial Hall Community Asset Committee	Myrree Soldiers Memorial Hall" situated at Part Crown allotment 12, Section 3, Parish of Whitfield and contained in Certificates of Title, Volumes 7109, 4593, 8184 Folios 620, 550	
North Wangaratta Sports Reserve Community Asset Committee	North Wangaratta Sports Reserve situated at Part Crown Allotments 1 & 2 Section H, Parish of Wangaratta North	North Wangaratta Football Netball Club Wangaratta Clay Target Club
Old Murmungee Hall Community Asset Committee	Old Murmungee Hall situated at Crown Allotment 4B, Section 13, Parish of Murmungee and contained in Volume, 9700, Folio 879	
Oxley Shire Hall Community Asset Committee	Oxley Shire Hall situated at Crown Allotment 8, Section 9, Parish of Oxley and contained in Memorial No. 579, Book 650	
Whitfield Recreation Reserve Community Asset Committee	Whitfield Recreation Reserve situated at Part C/A 19, Section 1, Parish of Whitfield and contained in Certificates of Title Volume 7109, Folio 620, Volume 4593 Folio 550 and Volume 8184, Folio 613	King Valley United Football Netball Club; King Valley Action Association; Whitfield Tennis Club; King Valley Grape Growers Association; Whitfield District Primary School; Country Fire Authority; King Valley Tourist Association

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Committee</b>	<b>Community asset</b>	<b>User Groups</b>
Whorouly Public Hall Community Asset Committee	Whorouly Public Hall situated at Crown Allotment 4 & 5, Parish of Whorouly and contained in Certificate of Title, Volume 1927, Folio 220	Australian Red Cross; Country Women's Association Whorouly Branch; Whorouly and District Pre School Committee; Whorouly Primary School
Whorouly Memorial Park Community Asset Committee	Whorouly Memorial Park situated at Crown Allotment 35C, Parish of Whorouly and contained in Certificate of Title, Volume 5758, Folio 445	Whorouly Football Netball Club; Whorouly Lawn Tennis Club; Whorouly Cricket Club; Whorouly Junior Football Club

## Schedule 2

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## **1. Powers and functions**

Each committee described in Column 1 of Schedule 1 is to manage the corresponding community asset, set out in Column 2 of Schedule 1, and for that purpose:

### **1.1 Objective**

To control, manage and maintain the community asset in an efficient and effective manner, in the best interests of Council, the local community and users of the community asset.

### **1.2 Administration**

The power to do all things necessary or convenient to be done for or in connection with the performance of the following functions, duties and powers:

### **1.3 Management**

- (1) The duty to manage, operate and control the community asset efficiently and economically in association with Council;
- (2) The duty to avoid waste and extravagance;
- (3) The duty to act as a coordinating body between Council and the community, clubs, schools, users and potential users of the community asset;
- (4) The duty to be the point of contact for the public with respect to the operation of the community asset;
- (5) The duty to promote public interest in and support for the management and development of the community asset;
- (6) The duty to promote the use of the community asset by the residents of the local community and neighbouring areas, by sporting groups, schools, community organisations, business organisations and other interested bodies;
- (7) The duty to promote the use of the community asset as a venue for entertainment, recreational and cultural events, both locally and regionally;
- (8) The duty to maintain the highest level of cooperation between Council, the committee and the local community;
- (9) The duty to advise and assist Council to maintain all of the assets of the community asset;
- (10) The duty to ensure that the decisions and policies of Council are implemented and adhered to without delay;

### **1.4 Community asset use**

- (1) The power to make and implement policies, terms and conditions for the use and hire of the community asset;
- (2) The power to negotiate and enter into agreements with casual hirers of the community asset in accordance with conditions of hire developed by the Committee;

- (3) The power to set dates and times for opening and closing the community asset;
- (4) The duty to ensure that the community asset is used only for purposes appropriate to the community asset;
- (5) The duty to ensure that users of the community asset comply with the policies, terms and conditions for the use and hire of the community asset established by the Committee and relevant Council policies and Local Laws;
- (6) The duty to ensure that users of the community asset make good any wilful or accidental damage caused during use;

### **1.5 Maintenance**

- (1) The duty to carry out regular inspections of the community asset to identify, report and remedy, if practical, any risk issues, non-compliance with laws and regulations relating to the use and occupation of the community asset and to ensure that relevant maintenance programs are implemented;
- (2) The duty to engage qualified personnel, relative to the task being performed, on maintenance tasks;
- (3) The duty to forward to Council all certificates of compliance upon completion of maintenance tasks;

### **1.6 Risk**

- (1) The duty to protect and maintain the community asset;
- (2) The duty to make security arrangements for money collected;
- (3) The duty to ensure that all liabilities incurred by the committee are properly authorised;
- (4) The duty to maintain a register of keys issued by the committee;
- (5) The duty to provide Council with a full set of keys to all external and internal locks;
- (6) The power to implement changes to the locking system of the community asset which must be in accordance with Council's general locking system;
- (7) The duty to ensure that the community asset is maintained in a manner that meets all legal obligations;

### **1.7 Planning**

- (1) The power to carry out research, investigations, surveys or inquiries into the use and operation of the community asset;
- (2) The power to convene, or arrange to be convened, meetings, seminars, workshops, forums, lectures and other events which will assist the Committee to understand the future needs of the community asset;



- (3) The power to consult with organisations who use the community asset, to consider and recommend on proposals to update facilities or provide new facilities; and ensure that any new facilities are planned and coordinated with existing facilities;
- (4) The power to prepare strategic plans and reports for the future development of the community asset;
- (5) The power to establish working groups of members to advise on the most efficient and effective means of performing its powers, duties and functions and of attaining its objectives;
- (6) The duty to advise Council by 31 March each year on the need and desirability of making capital improvements to the community asset;

#### **1.8 Finance**

- (1) The duty to maintain accounts in a form that generally complies with the Australian Accounting Standards;
- (2) The function of recommending to Council a Schedule of Fees and Charges to be levied for the use of the community asset for the following financial year by 31 March each year that will enable the Committee to meet all of its liabilities and to return an annual surplus on its operations;
- (3) The power to institute an efficient and effective system of collection and recording of fees and charges;
- (4) The power to collect, retain and expend all fees paid for the use of the community asset;
- (5) The duty to ensure that moneys due are properly collected;
- (6) The power to accept and retain donations, grants and endorsements made to the Committee and to ensure that the funds are expended for the purposes for which they are provided;
- (7) The duty to recommend to Council items for inclusion in Council's annual budget for the community asset and to advise Council on the budget prior to its being adopted by Council;
- (8) The duty to ensure that the Committee's financial decisions do not affect the integrity of Council's budget;
- (9) The duty to prepare annually a budget of the Committee's operations and to manage expenditure within the limits of that budget which covers the Committee's financial year commencing on 1 July in each year and ending on 30 June in the following year;
- (10) The power to enter into contracts, and to incur expenditure, up to \$5,000;
- (11) The duty to refer any capital works, extensions or additions proposed which materially alter the buildings or surrounds of the community asset or exceed the amount of \$5,000 to Council for approval;
- (12) The power to open and maintain a bank account at a bank and branch approved by Council, into which all monies received by the Committee shall be paid;

- (13) The power to draw all cheques and transactions on the Committee's bank account following authorisation of payments by any two of the following office bearers:
  - (a) President;
  - (b) Vice President;
  - (c) Secretary; or
  - (d) Treasurer.
- (14) The duty to authorise expenditure correctly and expend money correctly;
- (15) The power to establish reserve funds for capital works, into which can be paid the net surplus of the Committee, obtained in the previous financial year;
- (16) The duty to pay all utility, municipal and water charges incurred in operating the community asset;
- (17) The duty to undergo an annual financial audit;

### **1.9 Meetings**

- (1) The duty to prepare an agenda and record the minutes for each meeting of the Committee;
- (2) The duty to distribute, or arrange to be distributed, copies of the agenda of Committee meetings to members of the Committee and to Council;
- (3) The duty to distribute, or arrange to be distributed, copies of the minutes of Committee meetings to members of the Committee and to Council;
- (4) The duty to ensure that a financial report is included in the agenda of each Committee meeting and recorded in the minutes of each Committee meeting;
- (5) The duty to ensure that the financial report includes a list of accounts for payment for the Committee's approval;
- (6) The duty to hold an Annual General Meeting of the Committee between 1 July and the 31 August each year unless circumstances related to safety and wellbeing do not permit, in which case the annual general meeting should be held as soon as circumstances permit after 1 July;
- (7) The duty to conduct meetings of the Committee in accordance with the Council Local Law governing meeting procedures;

### **1.10 Reporting**

- (1) The duty to provide Council with an agenda and minutes of each meeting of the Committee;
- (2) The duty to prepare an annual report and annual statement of accounts of the operations of the Committee in the preceding financial year for presentation at the Annual General Meeting of the Committee prior to 31 August each year. The annual report should include information and commentary regarding:
  - (a) Patronage;

- (b) User groups;
  - (c) Risk incidents and issues;
  - (d) Maintenance and improvements;
  - (e) Evaluation of effectiveness;
  - (f) Any other matter considered relevant by the Committee;
- (3) The duty to forward to Council a copy of the annual report and annual statement of accounts of the operations of the Committee in the preceding financial year by 31 August each year;

#### **1.11 Review**

- (1) The duty to conduct an evaluation of the effectiveness of the operations and management of the committee in the preceding financial year prior to 31 August each year;
- (2) The power to request that Council carry out a special review of this instrument of sub-delegation;

## **2. Exceptions, Conditions And Limitations**

The committee is not authorised by this Instrument to:

- (1) enter into contracts, or incur expenditure, for an amount which exceeds the approved budget;
- (2) enter into contracts, or incur expenditure, for an amount which exceeds \$5,000;
- (3) spend Council funds other than funds expressly allocated by Council to the Committee for Committee purposes;
- (4) undertake any capital works, extensions or additions to the community asset which materially alter the buildings or surrounds of the community asset or exceed the amount of \$5,000 without Council approval;
- (5) make and implement policies, terms and conditions for the use and hire of the community asset without Council's approval of such policies, terms and conditions;
- (6) prepare strategic plans for the future development of the community asset without Council's approval of such strategic plans;
- (7) promote and undertake research in all matters associated with the planning, marketing and management of the activities of the community asset;
- (8) employ people without the prior consent of Council;
- (9) enter into leases without the prior consent of Council;
- (10) exercise the powers which, by force of section 47 of the Act, cannot be delegated.

### **3. Governance**

#### **3.1 Membership**

- (1) Each committee shall have up to twenty-five members comprising:
  - (a) not less than four representatives of the local community that is served by the community asset; and
  - (b) up to one representative from each of the user groups of the community asset corresponding to each committee set out in Column 3 of Schedule 1;
- (2) Any person appointed to the committee shall hold office for a period of three years;
- (3) Members of the committee shall be eligible for re-appointment for a further term or terms;
- (4) A member of the committee may resign their position at any time;
- (5) If a member of the committee resigns, the committee shall follow the procedure as outlined in Clause 3.1(8) of this charter to fill the vacancy;
- (6) If any member fails to attend more than three consecutive meetings of the committee without leave of the committee, that member may be deemed to have resigned their position on the committee. The committee shall follow the procedure as outlined in Clause 3.1(8) of this charter to fill the vacancy;
- (7) Any person appointed to fill a vacancy on the committee shall hold office for the unexpired portion of the previous member's term of office;
- (8) All appointments to the committee will be made by Council in accordance with the Council policy governing appointments to Council committees;
- (9) If any member representing an organisation specified in Clause 3.1(1) is unable to attend a meeting of the Committee, that organisation may appoint another person to attend the meeting as an observer. The chairperson may permit the observer to speak on matters relating to the organisation he or she represents, but the observer must not move, second or vote upon any motion;
- (10) Council may at any time remove a member from a committee in accordance with the Council policy governing appointments to Council committees;
- (11) The Chief Executive Officer of Council may appoint an officer or officers of Council to attend meetings of the committee from time to time. The Chief Executive Officer shall advise the committee of such appointments. The Council officers attending meetings of the committee do not have voting rights;
- (12) The Chief Executive Officer of Council shall appoint an officer of Council to liaise with the committee on financial and accounting matters;

#### **3.2 Office Bearers and Sub-Committees**

- (1) The Committee at each Annual General Meeting shall elect the following office bearers:

- (a) President;
  - (b) Vice President;
  - (c) Secretary; and
  - (d) Treasurer.
- (2) The role of the President includes the following:
- (a) chair all meetings of the committee which are attended by the chairperson;
  - (b) act as the liaison person between the committee and the Council;
  - (c) arrange dates for all the committee meetings;
  - (d) sign minutes of meetings upon them being confirmed by the committee;
  - (e) act as a signatory for the committee's bank account;
  - (f) vote on all matters before the chair. Where there is a tied vote, the chairperson has a casting vote; and
  - (g) arrange for an annual report of the committee to be prepared for presentation at the Annual General Meeting and to Council.
- (3) The role of the Secretary includes the following:
- (a) provide notice of each meeting to all Committee members, Council and the public;
  - (b) prepare and distribute an agenda for each meeting of the Committee to members of the committee and Council;
  - (c) take minutes at each meeting of the committee;
  - (d) forward minutes of each meeting of the Committee to Council;
  - (e) manage the administration and correspondence of the committee; and
  - (f) prepare the annual report and submit to Council the annual report and annual statement of accounts of the operations of the committee;
- (4) The role of the Treasurer includes the following:
- (a) keep proper books of accounts showing all monies received and paid by, or on account of the committee in the exercise of its functions, duties and powers;
  - (b) provide to the committee at the annual general meeting a statement of accounts of the operations of the committee as at 30 June and a full statement of all monies received and paid during the period of twelve months ending on 30 June;
  - (c) pay all monies received by the committee into the committee bank account;
  - (d) present all accounts received by the committee to the committee which may authorise payment thereof;
  - (e) arrange payment of accounts authorised for payment by the committee;
  - (f) keep all books of accounts and documents relating to the activities of the Committee open for inspection by the Chief Executive Officer of Council or any other person authorised by the Council;

- (5) If an office bearer is not present at a meeting of the committee, the committee shall appoint another person to undertake the duties of the person who is absent for that meeting;
- (6) The committee at each Annual General Meeting may establish any sub-committees which it considers necessary to carry out its functions;

### **3.3 Dissolution**

- (1) The committee may, at any meeting of the committee, resolve to recommend to Council that the committee be dissolved. In this event the committee must notify Council in writing of the committee's resolution as soon as practicable before dissolution;
- (2) Council may dissolve the committee at any time in accordance with the Council policy governing Council committees;
- (3) The President of the committee is obliged to make the following arrangements within one month of dissolution of the committee:
  - (a) a statement of accounts must be prepared and presented to Council;
  - (b) the committee's bank account must be closed and the balance immediately forwarded to Council;
  - (c) books of accounts and minutes of the committee must be forwarded to Council;

### **3.4 Audit**

- (1) Council shall arrange for the annual audit of the committee's accounts;
- (2) Council shall bear the costs of the audit;

### **3.5 Insurances**

Council shall arrange and maintain an insurance portfolio to cover risks, including a Personal Accident Policy for members, a Volunteer Worker's Policy and an Indemnity Policy for members of the Committee;

### **3.6 Referenced Documents**

- (1) The following documents are to be read in conjunction with this Schedule:
  - (a) Sections of the Act relevant to community asset committees and members of community asset committees;
  - (b) Wangaratta Rural City Council Governance Rules;