



Delegated Committee Policy

Purpose

Under the *Local Government Act 2020 (the Act)* Council may form Delegated Committees, which are defined as a committee exercising any power of a Council under *the Act*. This policy supports Baw Baw Shire Council in ensuring good governance and appropriate management of Delegated Committees. It outlines how Delegated Committees can be formed and how such committees are to be governed and operated.

Governance Principles

Section 9 of the *the Act* specifies the overarching governance principles and supporting principles that Council must adhere to in the performance of its role and functions.

This policy gives effect to the following overarching governance principles outlined in Section 9(2) of *the Act*:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- The municipal community is to be engaged in strategic planning and strategic decision making;
- Innovation and continuous improvement is to be pursued;
- Collaboration with other Councils and Governments and statutory bodies is to be sought;
- The transparency of Council decisions, actions and information is to be ensured.

This report also takes into account the following supporting principles defined in Section 9(3) of *the Act*:

- The community engagement principles (Community Engagement Policy);
- The public transparency principles (Public Transparency Policy)

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Definitions

For the purposes of this policy, Council adopts the following definitions:

The Act means the Local Government Act 2020. Where reference is made to the Local Government Act 1989, this will be specified.

Committee Meeting means a meeting of a Delegated Committee.

Community means the people of Baw Baw Shire

Council means Baw Baw Shire Council.

Councillor means a current elected Councillor of Council.

Delegate means a member of Council staff to whom powers, functions and duties have been Delegated by an instrument of delegation.

Delegated Committee means a Delegated Committee established under section 63 of *the Act*.

Delegated Committee Meeting means a Meeting of a Delegated Committee.

Delegate Committee Report means a formal report produced by a Delegated Committee.

Governance Rules means the policy outlining the procedures of Council Meetings, which also apply to Delegated Committees (developed in accordance with Section 60 of *the Act*).

Quorum means the absolute majority of members present at the meeting and must include at least two Councillors; a Quorum is required to hold a formal meeting of a Delegated Committee.

Scope

This policy applies to all members of Delegated Committees and Councillors while remaining members of a Delegated Committee. The policy is relevant to all staff and community members who may interact from time to time with a Delegated Committee.

Legislative Context

The following Acts have relevance to this policy:

- *Local Government Act 2020,*
- *Charter of Human Rights and Responsibilities Act 2006,*
- *Freedom of Information Act 1982,*
- *Local Government Act 1989, and*

- *Equal Opportunity Act 2010.*

Related Policies and Documents

Council's:

- Governance Rules,
- Information Privacy Policy,
- Complaints Handling Policy,
- Customer Service Charter,
- Public Transparency Policy, and
- Community Engagement Policy

Policy Detail

1. Formation of a Delegated Committee

- 1.1. Delegated Committees must be formed by Council Resolution, and the instrument of delegation conferring powers to that Delegated Committee must also be executed by Council Resolution.

2. Powers of a Delegated Committee

- 2.1. Council, by instrument of delegation, may delegate certain powers to a Delegated Committee.
- 2.2. A Delegated Committee may exercise a power or undertake a duty or function as if it is the Council.
- 2.3. A resolution of a Delegated Committee holds the same weight as a resolution of Council (provided it falls within the committees delegated powers).
- 2.4. Section 11 of the Act identifies the limitations of powers that can be conferred to a Delegated Committee. The instrument of delegation made to the Delegated Committee will set the conditions and limitations of the committees' power.
- 2.5. A delegation that includes the power to enter into a contract or make any expenditure must specify a maximum monetary limit that cannot be exceeded.
- 2.6. Delegations can only be made to legal entities, therefore instruments of delegation must be made to "the members of" a committee, not to the committee itself. It is not

necessary to name the members or remake the instrument of delegation every time membership changes.

- 2.7. A member of a Delegated Committee to whom a delegation is made can only exercise the delegation while acting as a member of the Delegated Committee at a formal meeting of the Delegated Committee.
- 2.8. Council must review, within the period of 12 months after a general election, all delegations which have been made under *the Act* and are still in force.

3. Delegated Committee Governance

- 3.1. Delegated Committees are subject to the same Governance Rules as Council.

4. Membership

- 4.1. Section 63 of *the Act* states that a Delegated Committee established by Council must include at least two Councillors.
- 4.2. Any other community member may become a member of a Delegated Committee if appointed by Council, and any such member will have the same entitlement to vote as a Councillor.
- 4.3. Delegated Committee members must adhere to the same as defined in the Model Councillor Code of Conduct.

5. Delegated Committee Meetings

- 5.1. Section 63 of *the Act* states that a Delegated Committee established by Council must be chaired by a Councillor who has been appointed to the role by the Council or the Mayor, in accordance with *the Act*.
- 5.2. Section 61 of *the Act* applies to Delegated Committee Members as if they were Councillors, these provisions are outlined below:
 - 5.2.1. A quorum at a Delegated Committee Meeting is an absolute majority and must include at least two Councillors;

- 5.2.2. Each member present at a Council meeting who is entitled to vote is entitled to one vote;
 - 5.2.3. Voting at a meeting must not be in secret, but if the meeting is closed to the public, a member is not required to divulge their vote to the public;
 - 5.2.4. If an item at a meeting is determined in the affirmative by a majority of the members present at a meeting at the time the vote is taken, the vote is considered in favour;
 - 5.2.5. Unless the vote relates to the Election of a Chair, or to declare the seat of Chair vacant, if the number of votes in favour of the question is half the number of Councillors present at the meeting at the time the vote is taken, the Chair has a casting vote; and
 - 5.2.6. For the purpose of determining the result of a vote, a member present at the meeting who does not vote is to be taken to have voted against the motion.
- 5.3. The Governance Rules are also an essential reference for the management of Delegated Committee Meetings, as Delegated Committees must adhere fully to these Rules, as if they were the Council.

6. Conflict of Interest

- 6.1. Any member who has a conflict of interest in their role as a member of the Delegated Committee must:
- 6.2. Disclose the conflict of interest in the manner required by the Council's Governance Rules; and
- 6.3. Exclude themselves from the decision-making process in relation to that matter, including any discussion or vote on the matter and any action in relation to the matter.
- 6.4. Failure to meet these requirements can result in penalties for the member.

7. Joint Delegated Committees

- 7.1. Under Section 64 of *the Act*, Council may form Joint Delegated Committees.
- 7.2. A joint Delegated Committee is formed by resolution of two or more Councils and consists of a Delegated Committee from each Council, including at least one Councillor from each Council present at the meeting.

7.3. This is not, in effect, a different committee as it is established by joining existing Delegated Committees.

8. Public Transparency

8.1. Delegated Committees have specific roles and powers by delegation, and therefore must meet the requirements of *the Act* in ensuring public transparency in their operations and declaring interests.

8.2. Delegated Committee members are subject to many of the same requirements as Councillors, such as the disclosure of conflicts of interest, and personal interest returns.

8.3. A Council must keep a public register of delegations made to Delegated Committees under Section 11 of *the Act*.

Monitoring and Review

Council is committed to monitoring the overall level of success of the policy's implementation.

A periodic review of this policy will be undertaken to ensure its relevance aligns with public interest. As a minimum, a review will occur in line with a new Council Term.

However, a Council can amend its policy at any time. The formation of any future Delegated Committees will require a decision of Council; therefore, it is likely that this policy would be reviewed and adopted by Council at this time.

Approval date	26 February 2025
Approval authority	Council
Effective from	26 February 2025
Review term	Council term
Next review date	March 2029
Responsible position	Manager Governance
Responsible Director	Director Governance and Information Services
Version	2

Revision History

Approval date	Version	Revision description
19 August 2020	1	Policy as adopted by Council
X March 2025	2	<p>Inclusion of the policies adherence to the Governance Principles as defined in Section 9 of the <i>Local Government Act 2020</i>.</p> <p>Update to the “Related Policies and Documents” section to remove reference to the impending of the adoption of the Community Engagement Policy, as this is now endorsed by Council.</p> <p>Update to the “Delegated Committee Meeting” section to clarify that a Councillor must be appointed to the role of Chair by the Council or the Mayor, clarified terminology around casting vote and quorum.</p> <p>Update to the “Conflict of Interest” section to remove the outline of the procedure for declaring a conflict, and simply state that conflicts of interest must be declared in the manner required by the Council's Governance Rules, to avoid inconsistencies between the two policies in the event the Governance Rules are updated.</p> <p>Inclusion of this 'Revision History' table to comply with Governance best practice and offer greater transparency of policy changes.</p>