

Appointment of Councillors to external bodies

Policy, procedure, protocol	Policy
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Related documents	
Author	Governance Officer
Section / Department	Organisation Performance & Governance
Linkage to Our Community Plan	5 Our Leadership
Objective	5.1 We will have a strong, accountable and representative Government
Strategy	5.1.8 Undertake the civic duties of Council with the highest degree of ethics

1. Purpose

- 1.1 To provide guidelines for Council when appointing Councillors as delegates to external bodies.
- 1.2 To ensure that Councillors appointed as Council delegates are not exposed to personal liability.
- 1.3 To provide direction for external bodies that are considering requesting a Council representative on their board or committee.

2. Definitions

‘External Body’ is any company, incorporated or unincorporated body or body corporate that is independent of Council.

‘Management Committee’ is any committee that is independent of Council and is responsible for the management of an external body.

‘Advisory Committee’ is a committee that is advisory or consultative in nature and has no managerial responsibilities for the external body that it is associated with.

3. Background/legislative requirements

Local Government Act

Corporations Act

Work Health and Safety legislation

Trade Practices Act

Directors, and members of Management Committees, of external bodies owe a duty of care to that body, its shareholders, employees, creditors and contractors as well as to its customers and the public at large. They are required to act honestly, to exercise due care and diligence as well as exercising sound business judgement.

Under the Commonwealth Corporations Act, they are also required:

- (a) to ensure that their organisations do not continue to trade while they are insolvent, and
- (b) not to engage in insider trading.

Failure to observe these requirements is a criminal offence.

In addition, directors may also be personally liable if their organisation breaches the WH&S legislation or the Trade Practices Act.

4. Policy, protocol or procedure statement

- Council may from time to time invite Councillors to nominate to act as its delegate on an external body.

- Council may appoint a Councillor as its delegate on an external Advisory Committee.
- Council shall not appoint any delegate as a director, or as a member of a Management Committee, of an external body unless:
 - (a) the majority of that body's recurrent funding is provided by Council, or
 - (b) the external body is established by local government to promote or service local government exclusively and the board comprises a majority of local government representatives.
- Council shall only appoint a Councillor as a delegate:
 - (a) with the concurrence of that Councillor, and
 - (b) if it is satisfied that such appointment will be of benefit to both Council and the Clarence Valley community.
- Councillors nominated as delegates to an external body have an unfettered discretion to resign from it at any time.
- Council may terminate the appointment of a delegate at any time.
- Nothing in this policy prevents Councillors, in their private capacity, from accepting positions on external bodies provided that such positions are declared on their annual Declaration of Interest forms and that, where appropriate, they declare their interest at Council meetings.