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| Name of Policy: | Third Party Risk Management & Insurance Requirements | | |
| Adoption by Council: | 27 September 2023 | Minute Number: | 394/2023 |
| Last Review Date: | February 2023 | | |
| Review Timeframe: | 4 years | | |
| Next Scheduled Review Date: | February 2027 | | |
| Related legislation: | <i>Local Government Act 1993 (NSW)</i> <i>Civil Liability Act 2002 (NSW)</i> <i>Roads Act 1993 (NSW)</i> | | |
| Associated policies/documents: | MCC Risk Management Framework & Policy Work Health & Safety Policy & System | | |
| Responsible Division: | Corporate Services | | |

Policy objective

To ensure that third parties conducting activities on MidCoast Council controlled property or providing services to or on behalf of Council demonstrate sound risk management practices and hold and maintain appropriate insurance so as to protect Council and members of the public in the event that a loss is suffered.

Policy statement

Council will assess and determine the risk management and insurance requirements applicable to third parties based on the type and scope of the proposed activity or service, the level of associated risk, and in line with the requirements of this Policy and Council's associated policies and documents.

Coverage of the policy

This policy applies to third parties conducting activities on Council controlled property and contracted to provide services to or on behalf of Council.

Strategic Plan link

Community Outcome 4 - Strong Leadership and Good Governance.

Policy content

1. Risk management requirements

- 1.1 Council requires all reasonable actions are taken by third parties to manage risks associated with the proposed activity or service. As deemed necessary Council may require third parties to submit a formal risk management plan to Council. Third parties must also comply with any other relevant legislation, Council policies, procedures or conditions that apply to the proposed activity or service.

2. Insurance requirements

2.1 Council requires third parties to:

- 2.1.1 Provide adequate documentation to evidence that Council's insurance requirements have been met prior to Council approval or engagement and as requested during the course of the agreed activity or engagement.
- 2.1.2 As requested by Council, arrange for Council's interests to be noted on relevant insurance policies, or for Council to be a Named Insured or Insured Principal.
- 2.1.3 Ensure the required insurance policies remain effective for the duration of the activity, approval or engagement.
- 2.1.4. Ensure any sub-contractors undertaking works also hold the required insurance where applicable and provide evidence of such insurance to Council upon request.
- 2.1.5 Depending on the type and scope of the proposed activity or service and the level of associated risk, Council's insurance requirements may vary, however generally the following minimum insurance requirements (shown in Table 1) will apply where the insurance type is determined necessary for the particular activity or service.

Table 1

| Insurance type | Minimum requirement |
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| Workers Compensation Insurance | As required by the <i>Workers Compensation Act 1987</i> |
| Personal Illness & Accident Insurance | Weekly benefits of at least 75% of weekly income, death and capital benefits of at least \$250,000, and minimum benefit period of 104 weeks. |
| Public Liability Insurance | \$20 million any one occurrence, noting Council's interests (or as otherwise required by Council) |
| Products Liability Insurance | \$20 million any one occurrence, noting Council's interests (as required by Council) |
| Professional Indemnity Insurance | \$10 million any one claim and in the aggregate (or as determined necessary based on the responsible Council officer's assessment of the level of associated risk) |
| Motor Vehicle / Plant Insurance | Comprehensive insurance, including minimum \$20 million indemnity limit |
| Marine Insurance | Minimum \$10 million indemnity limit, and boat hull replacement |
| Contract Works Insurance | MidCoast Council may nominate to hold this insurance policy as Principal controlled insurance, in which case the contractor will be notified as part of contract arrangements. |

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| | <p><i>Where the contractor is required to hold contract works insurance, the minimum requirement will generally be contract value + 20% escalation (may vary depending on contract) and note Council as a Named Insured or Insured Principal (or as otherwise agreed).</i></p> |
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2.1.6 Council's minimum requirements do not act to limit the liability of the third party.

3. Requests to vary insurance requirements

3.1 Requests to vary insurance requirements will be considered on a case-by-case basis with consideration of the type and scope of the proposed activity or service, the level of associated risk and in line with the requirements of this policy.

4. Responsibilities

- 4.1 All Council staff are responsible for ensuring the requirements of this Policy are met.
- 4.2 Council's Risk & Insurance Co-ordinator is responsible to review this Policy in line with established timeframes and as deemed necessary; and provide advice to Council staff in meeting the requirements of this Policy.

Definitions

Third Party is defined as including, but not limited to, the following:

- All hirers of Council owned / managed facilities and controlled property who are not covered by Council's *Casual Hirer's Liability Policy*;
- Lessees and licensees of Council controlled property;
- Developers, contractors or external authorities carrying out activities within Council's road reserve, e.g. s138 Activities such as hoarding, construction or private driveways within the road reserve or the like;
- Service Providers engaged to provide services to or on behalf of Council such as contractors, consultants and suppliers; and
- Any other person/entity where it is deemed that insurance should be held due to the nature of the proposed activity.

Activities are defined as including events, commercial hire activities, markets, sporting activities/events, s138 Activities within the road reserve, construction works and the like proposed to be conducted on Council controlled property.

Service is defined as any service or works supplied to or on behalf of Council, including but not limited to, the supply of goods, services and equipment, consultancy services, construction works or the like.

Approval is defined as any type of consent issued or agreement or contract entered into by Council for an activity or service to be conducted on Council controlled property, including but not limited to approvals for activities or events, permits, licences, leases for occupation, contract arrangements, s138 activity approvals, hirer and user agreements and the like.

Council controlled property is defined as any land, facility or infrastructure owned and/or managed by Council, including but not limited to, parks, reserves, beaches, pools, roads, footpaths, public halls and buildings.

Persons covered by Council's Casual Hirer Liability insurance are defined as Casual and Regular Private Hirers (of facilities owned by Council) being any person or group of persons (not being a sporting body, club, association, corporation or incorporated body), who hires a Council facility for non-commercial or non-profit making purpose, subject to the Statewide Casual Hirers Liability terms and conditions.

References and related documents

Nil

Responsible officer

Manager Governance

Attachments

Nil