



# Section 355 Access and Inclusion Advisory Committee Guidelines

**2017 to 2020**

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This document has been deliberately published in larger text format.

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## 1. Introduction

- 1.1 Bega Valley Shire Council (the Council) has over many years supported an Access Advisory Committee as a mechanism to engage with people from diverse backgrounds and abilities to provide advice and guidance into access issues across the Bega Valley Shire (the Shire).
- 1.2 In 2014, the NSW Government introduced new legislation titled the Disability Inclusion Act 2014 (NSW). The Disability Inclusion Act contains general principles which align with the UN Convention and acknowledge the human rights of all people with disability. The definition recognises that disability results from barriers in society that prevent or limit inclusion. The Act also requires local councils to develop and implement a Disability Inclusion Action Plan. In developing and reviewing their plans, public authorities must consult with people with disability.<sup>1</sup>

For this reason the Committee has been renamed the Access and Inclusion Advisory Committee (AIAC).

- 1.3 These Guidelines detail the status of the committee, as well as the roles and responsibilities of committee members.

## 2. Legal definition of the committee and its appointment

- 2.1 Under the Local Government Act 1993 (NSW), Councils are given extensive functions in respect to the operation of a wide range of community facilities.

Section 8 of the Local Government Act provides that a Council has the following charter:

- a) to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- b) to have regard to the long term and cumulative effects of its decisions;
- c) to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible; and

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<sup>1</sup> <https://www.adhc.nsw.gov.au/data/assets/file/0018/300348/DIA-Factsheet-1-Overview-of-the-Act.pdf> accessed October 2016

- d) to facilitate the involvement of Councillors, members of the public, users of facilities and services and Council staff in the development, improvement and co-ordination of local government.

It is the latter of the points detailed above that outlines the broad functions of committees.

- 2.2 Section 355 of the Local Government Act provides that a function of a Council may be exercised by a Committee of the Council. Council has created the Access and Inclusion Advisory Committee under this section as a way of incorporating the community in the conduct of Council's affairs.
- 2.3 Under the terms of Section 355:
  - a) Council is solely responsible for the appointment of Committee members;
  - b) A register of members shall be maintained by Council; and
  - c) Council may at any time dissolve a Committee without notice.
- 2.4 It is important to be mindful that whilst acting in their capacity as Council committee members, individuals are representing their community and the Council. Maintaining and improving public confidence in local government must remain of the highest priority.

### **3. Role and responsibilities of the Access and Inclusion Advisory Committee**

- 3.1 The AIAC is a formal advisory body of Council for the purposes of considering, discussing and advising on specific access and inclusion issues.
- 3.2 The AIAC shall have a strategic focus, liaising with Council on a range of access and inclusion issues, making recommendations to Council as required.
- 3.3 The AIAC shall assist Council to reduce barriers and improve access and inclusion to Council premises, public buildings and services for residents and visitors, including people with a disability, older and frail people, parents with prams and other community members.
- 3.4 The AIAC may at times be asked to provide advice and recommendations on Council policies, procedures and processes that impact on access and inclusion matters.

- 3.5 Advice and comments may be sought on major projects being undertaken by Council and significant development applications to ensure access and inclusion issues have been fully explored and resolved; however the ultimate responsibility, decision and accountability rests with Council.
- 3.6 Members of the AIAC are Council's 'eyes and ears' in the community, identifying and reporting access and inclusion issues that require attention. This at times will see members liaising with key stakeholders throughout the Shire.
- 3.7 The AIAC oversees the Access and Inclusion Improvement Grants program including making recommendations to Council.
- 3.8 Council has a requirement under the Disability Inclusion Act to have a Disability Inclusion Action Plan (DIAP) linked with Council's Integrated Planning and Reporting (IP&R) framework. The AIAC plays a pivotal role in supporting Council to achieve its DIAP.
- 3.9 The AIAC will liaise across Council on access and inclusion matters with senior Council officers in attendance at AIAC meetings.

#### 4. Committee structure

- 4.1 The AIAC is a strategic level committee and Council will seek to appoint people that can work in partnership with Council to bring about improvements to access and inclusion issues.
- 4.2 Council will seek to appoint a diverse membership from across the Shire including people living with a disability, older people, people with impairment and/or people from the disability, business, community, and tourism sectors.
- 4.3 Council will publicly call for nominations for the AIAC in the local paper, Council's website and through social media. Selection of members will be based on assessment of nominations against selection criteria by the Councillor delegate and Director Community, Relations and Leisure and the past Access and Inclusion Advisory Committee Chair. Shortlisted nominations for the AIAC will be reported to Council for resolution.
- 4.4 A person will be appointed to the AIAC for the term of Council (approx. 4 years).
- 4.5 The AIAC will comprise up to a total of twelve (12) members consisting of ten (10) community members of which no more than four (4) will be

from agencies or organisations, two (2) from local business and tourism organisations, a Councillor delegate as appointed by Council and senior Council officers. A spread of age and gender will also be sought.

- 4.6 From time to time working groups may be formed on specific projects or tasks that need additional focus. These working groups will report back to the AIAC at each meeting.

## 5. Governance/Accountability

- 5.1 The responsibility for the facilitation of the AIAC is the Director Community, Relations and Leisure, who will ensure that minutes and agendas are prepared and actions tracked.
- 5.2 The AIAC will appoint a Chairperson and Deputy Chairperson after calling for nominations and taking a vote. In the event of there being more than one nominee for each position, Council's Code of Meeting Practice will be used to determine the Chair.
- 5.3 A quorum will consist of seven (7) members.
- 5.4 Minutes will be taken by a Council staff member and copies will be provided to all members in an easy to read format and available on Council website – [www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)
- 5.5 Members of the AIAC may be called on to vote on certain matters. Only a member may vote not their advocate. The Councillor delegate may vote. Council staff may not vote. In the case of a tied vote the Chair has a casting vote.
- 5.6 Any AIAC member who absents themselves without apology for three (3) consecutive meetings shall automatically cease to be a member. The Chair will attempt to make contact following two absences without apology.
- 5.7 In the case of an extraordinary vacancy on the AIAC the Council shall advertise the vacancy by notice in local newspapers and on the internet. The Chair, Councillor Delegate and Director Community, Relations and Leisure shall shortlist and recommend a replacement member for Council's consideration.
- 5.8 AIAC members will be reimbursed out of pocket expenses including mileage, for any AIAC related activities; however these must be clearly related to actions discussed at meetings or by approval of the Director Community, Relations and Leisure.

- 5.9 All members must adhere to the Bega Valley Shire Council's Model Code of Conduct. Alleged breaches of the code by AIAC members will be investigated by the Director Community, Relations and Leisure in line with Council policy and procedures.

## 6. Meetings Schedule

- 6.1 Meetings will be held at least quarterly and generally held in February, May, August and November.
- 6.2 The day and times of the meeting will be determined by the AIAC members.
- 6.3 In the event that working groups are established, the meeting schedule will be determined by its members.

## 7. Meeting Procedure

Council's Code of Meeting Practice covers all Committees. A summary of matters that can be readily referred to for the convenience of members:

- 10.1 Notice of Meetings are to be given to all members of the AIAC at least five (5) working days before the intended date of the meeting unless a time and date for meetings has been established by resolution of the AIAC.
- 10.2 The Chair or Deputy Chair, or in their absence, the Councillor delegate or a Council Officer shall preside at all meetings of the AIAC.
- 10.3 The Chair or Deputy Chair, or in their absence, the Councillor delegate or a Council Officer shall in the case of equality of voting at any meeting be entitled to a casting vote.
- 10.4 The Quorum of a meeting shall be a majority of members of the AIAC. The majority is taken to be one half of the number of the Committee members rounded up to the next number. (I.e. in the case of twelve members, the quorum is seven (7)).
- 10.5 Each member present at a meeting of the Committee who does not have a Pecuniary Interest in the matter under discussion is entitled to one vote and any matter before the Committee shall be determined by a majority of the votes of members present.

## 8. Restrictions on the Committee

- 7.1 Section 377 of the Local Government Act provides the following restrictions on Committees:
- a) The making of any fees or charges for use of Council facilities;
  - b) The borrowing of money;
  - c) The purchase or sale of any property, or granting the lease of any land or building;
  - d) Acceptance of Tender; and
  - e) The adoption of a financial statement.
- 7.2 Council also imposes the following restrictions on the Committee:
- a) The employment of staff without Council approval; and
  - b) Entering into any contract without Council approval;

## 9. Correspondence and communication

The following guidelines have been developed in relation to correspondence and communication (from the AIAC to other organisations or individuals) or supporting and/or implementing Council policy.

- 8.1 The AIAC is able to write to any person, body, organisation or agency in the pursuit of information which, in the AIAC's opinion, is an integral part of information and data gathering and collecting to enable the AIAC to be best placed to advise the Council on a matter properly within the AIAC purview.
- 8.2 The AIAC is able to write or otherwise communicate with any person, body, organisation or agency on any other matters within the AIAC purview, which are not of a contentious nature. A contentious matter is taken to be a matter which has (at least) the potential to be derogatory, unseemly, not in the public interest or likely to erode public confidence in the Council.
- 8.3 All correspondence or other communication in connection with the business of the AIAC should be authorised by the AIAC wherever circumstances permit and would generally be distributed under the signature of the Chair or Deputy Chair.

## 10. Accessing government information in NSW (GIPA)

- 9.1 The Government Information (Public Access) Act (GIPA Act) came into effect on 1 July 2010 and replaces the Freedom of Information Act.
- 9.2 Under the Act, Council's Section 355 committees will be required to make AIAC documents publically available. This will mean that the AIAC will have their meeting notices, agendas and minutes published on Council's website and made available at Council's Bega offices.

## 11. Purchasing of goods and services

- 11.1 The AIAC are **not permitted** to invite or accept Tenders or Quotations for the purchase of goods or services, or commit Council to the purchase of goods or services.

## 12 Code of conduct - Conflict of interest and pecuniary interests

- 12.1 Council recognises the importance of Committees as being transparent in all its dealings, and has adopted a Code of Conduct and Code of Meeting Practice which shall be observed by all Council Committees.

A full copy of the Code is available for all AIAC members, which details the full obligation of members should a conflict of interest or pecuniary interest arise.

- 12.2 In order to assist members Conflict of Interest and Pecuniary Interest are defined below:

- (a) A **Conflict of Interest** exists when a Committee person has to deal in a matter in their public capacity, which is also a matter where the person:
  - has a private interest arising out of kinship, friendship, membership of an association, society or trade union, or involvement or interest in an activity; or
  - could reasonably be perceived by others as one in which a conflict of interest could possibly exist.
- (b) A **Pecuniary Interest** is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom that person is associated.

12.3 If a Committee member feels that they may have a Conflict of Interest or Pecuniary Interest, it is their obligation to ensure that they comply with the Council Code of Conduct that has been submitted to all members. In summary, the person is to declare that interest and is to depart the meeting taking no part in discussion or voting on the matter under discussion. There are serious consequences for breaches.

## 13. Insurance

### Public Risk Insurance

13.1 As Committees are appointed under the provisions of the Local Government Act, members of the AIAC are automatically included in Council's Public Risk Insurance cover which extends to all properties owned or leased by Council.

13.2 Council has taken Public Risk Insurance cover to the value of \$100 million. Members of Committees should note that they are only covered by Public Risk Insurance when acting within the scope of their delegation.

13.2 The following general information applies to the Public Risk policy:

- a) The Public Risk policy covers Council and the Committee against claims made by members of the public for personal injury or injury to personal property arising from a negligent act or omission of Council and/or the Management Committee;
- b) When an accident occurs, members of the Committee are instructed that they are not empowered to admit liability. For action to be taken in these circumstances see paragraph (c);
- c) Members of the public who wish to make a claim should be requested to state their claim in writing setting out full particulars of the accident (where, when and how) and the grounds on which they hold the Committee (or Council) responsible;
- d) When a Committee receives a claim from a member of the public, the Secretary of the Committee should question the member/s involved and submit a report in writing to Council concerning the particular accident as remembered by the Committee member, together with a copy of the letter of claim. Specific reference will have to be made of the points raised in the claimant's claim; and
- e) Council's Human Resources manager is available to discuss any problems associated with this insurance.

### Personal Accident Insurance

13.3 Council has arranged a Personal Accident Policy to cover all members of Committees appointed under the provisions of Sections 355 and 377 of the Local Government Act 1993 (NSW).

13.4 The following benefits relate to the Personal Accident Insurance Policy:

- a) Capital           \$300,000
- b) Weekly           \$1,250
- c) Non-Medical   \$20,000.

## 14. Assistance to committees

14.1 Council is committed to ensuring that Committees have the support of Council staff to fulfil their roles and responsibilities detailed in these guidelines. Questions about these Guidelines should be directed to the Director Community, Relations and Leisure on 6499 2222.

14.2 Copies of the Model Code of Conduct and/or Council's Code of Meeting Practice are available upon request or from Council's website – [www.begavalley.nsw.gov.au](http://www.begavalley.nsw.gov.au)