



Section 355 Cemeteries Advisory Committee Guidelines

2022 to 2025

Adopted by Council 14 January 2022



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Contents

1. Introduction	1
2. Review	1
3. Legal definition of the Committee and its appointment	1
4. Role and responsibilities of the Committee	2
5. Committee structure	3
6. Governance/Accountability	3
7. Meetings Schedule	4
8. Restrictions on the Committee	4
9. Correspondence and communication	4
10. Accessing government information in NSW (GIPA)	5
11. Meeting Procedure	5
12. Purchasing of goods and services	5
13. Code of conduct - Conflict of interest and pecuniary interests	6
14. Insurance	6
Public Risk Insurance.....	6
Personal Accident Insurance.....	7
15. Assistance to Committees	7

1. Introduction

Bega Valley Shire Council (the Council) recognises the important role that cemeteries have in our communities. They are places that bring the community together, often when they are at their most vulnerable, to lay to rest and remember their loved ones.

The cemeteries are also important historical records of the people of our Shire and an important resource from a local history and genealogy perspective.

The Council is responsible for 14 Cemeteries across the Shire from Bermagui in the North to Wonboyn in the South.

It is important that Council has a formal mechanism to consult and to seek feedback, advice and recommendations from the community on the strategic level management and future direction of our cemeteries. The Cemeteries Advisory Committee (CAC) will fulfil that role.

These Guidelines detail the status of the Committee, as well as the responsibilities of Committee members.

2. Review

This document will be reviewed and amended by Council as required.

Document History

Document No.	Date Amended	Comments
D17/32426	17/12/2016	S355 Cemetery Advisory Committee Guidelines

3. Legal definition of the Committee and its appointment

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 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

- 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.

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 Cemeteries Advisory Committee under this section as a way of incorporating the community in the conduct of Council's affairs. 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.

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.

4. Roles and responsibilities of the Committee

The CAC is a formal advisory body of Council for the purposes of considering, discussing and advising on specific issues related to the management and future direction of Council's cemeteries.

The CAC shall have a strategic focus, liaising with Council on a range cemetery issues, making recommendations to Council as required.

The CAC will have the opportunity to provide input on strategic level cemetery management issues including the setting of fees and charges at Council cemeteries.

The CAC may at times be asked to provide advice and recommendations on Council policies, procedures and processes that impact on cemetery management.

Advice and comments may be sought on major projects being undertaken by Council in its cemeteries.

The ultimate responsibility, decision making and accountability for cemetery management decisions rests with Council.

The CAC will liaise on cemetery matters with relevant Council officers in attendance at CAC meetings.

The Cemeteries that Council manage are: -

1. Bega Cemetery
2. Bemboka Cemetery
3. Bermagui Cemetery
4. Candelo Cemetery
5. Cobargo Cemetery
6. Eden Cemetery
7. Pambula Cemetery
8. Quaama Cemetery
9. Rocky Hall Cemetery

10. Tantawangalo Cemetery
11. Towamba Cemetery
12. Wolumla Cemetery
13. Wonboyn Cemetery
14. Wyndham Cemetery

5. Committee structure

The CAC is a strategic level committee and Council will seek to appoint people that can work in partnership with Council to bring about improvements to the management of Council's cemeteries.

Council will seek to appoint a diverse membership from across the Shire including people that can demonstrate a knowledge of, and commitment to, Council's cemeteries and experience in an area that adds value to the committee in its advisory role (this can include, but is not limited to, experience in local history, genealogy, tourism, cemetery management or horticulture/landscape architecture).

Applicants, including funeral directors, monumental masons and other contractors that have a potential conflict of interest will not be considered.

Council will publicly call for nominations for the CAC in the local media, 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 the Property Services Manager. Shortlisted nominations for the CAC will be reported to Council for resolution.

A person will be appointed to the CAC for the term of Council.

The CAC will comprise of nine community members and a Councillor delegate as appointed by Council.

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 CAC at each meeting.

6. Governance/Accountability

The responsibility for the facilitation of the CAC is the Cemeteries and Halls Officer who will ensure that minutes and agendas are prepared, and actions tracked.

The CAC will be chaired by the Councillor delegate, as appointed by Council, or in their absence a Council officer.

A quorum will consist of five members.

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.

Members of the CAC 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.

Any CAC member who absents themselves without apology for three (3) consecutive meetings shall automatically cease to be a member. Council officers will attempt to make contact following two absences without apology.

In the case of an extraordinary vacancy on the CAC the Council shall advertise the vacancy by notice in local media and on the internet. The Councillor Delegate and Property Services Manager shall shortlist and recommend a replacement member for Council's consideration.

CAC members will be reimbursed out of pocket expenses including mileage, for any CAC related activities; however, these must be clearly related to actions discussed at meetings or by approval of the Property Services Manager.

All members must adhere to the Bega Valley Shire Council's Model Code of Conduct. Alleged breaches of the code by CAC members will be investigated by the Property Services Manager, in line with Council policy and procedure.

7. Meetings Schedule

Meetings will be held at least quarterly and generally held in February, May, August and November.

The day and times of the meeting will be determined by the CAC members.

8. Restrictions on the Committee

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 tenders.
- e) The adoption of a financial statement.

Council 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 CAC to other organisations or individuals) or supporting and/or implementing Council policy.

The CAC can write or otherwise communicate with any person, body, organisation or agency on any other matters within the CAC 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.

All correspondence or other communication in connection with the business of the CAC should be authorised by the CAC.

10. Accessing government information in NSW (GIPA)

The Government Information Public Access Act (GIPA Act) came into effect on 1 July 2010 and replaces the Freedom of Information Act.

Under the Act, Council's Section 355 committees will be required to make CAC documents publicly available. This will mean that the CAC will have their meeting notices, agendas and minutes published on Council's website and made available at Council's Bega offices.

11. 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: -

- a) Notice of Meetings are to be given to all members of the CAC 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 CAC.
- b) The Chair, or in their absence a nominated Council officer, shall preside at all meetings of the CAC.
- c) The Chair shall in the case of equality of voting at any meeting be entitled to a casting vote.
- d) The Quorum of a meeting shall be the majority of members of the CAC. 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 nine members, the quorum is five).
- e) 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 the majority of the votes of members present.

12. Purchasing of goods and services

The CAC are not permitted to invite or accept tenders or quotations for the purchase of goods and services or commit Council to the purchase of goods or services.

13. Code of conduct - Conflict of interest and pecuniary interests

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 CAC members which details the full obligation of members should a conflict of interest or pecuniary interest arises.

To assist members, Conflict of Interest and Pecuniary Interest are defined below: -

- a) A **Conflict of Interest** exists when a Committee person must 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.

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.

14. Insurance

Public Risk Insurance

As Committees are appointed under the provisions of the Local Government Act, members of the CAC are automatically covered under Council's Public Risk cover.

Members of these Committees should note that they are only covered when acting within the scope of their delegation.

The following general information applies to the Public Liability protection policy in the event of a claim being made. The Public Liability 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: -

- a) When an accident occurs, members of the Committee are instructed that they are not empowered to admit liability.
- b) In the first instance, any circumstances the Committee believes may lead to a claim should be notified to the Property Services Manager. From that point arrangements

can be made to best deal with the circumstances. Committees are encouraged to document such circumstances in a diary or similar type system.

- 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. It should be investigated as soon as possible, and a report immediately provided to the Property Services Manager. A copy of the letter of claim should be provided with specific reference in the report to the points raised in the claimant's claim. Council's Property Services Manager is available to discuss any problems associated with this insurance.

Personal Accident Insurance

Council has arranged a Personal Accident Policy to cover voluntary workers performing duties for and on behalf of Council, appointed under the provisions of Sections 355 and 377 of the Local Government Act, 1993.

Personal Accident Insurance will cover Committee members and volunteers for personal bodily injury which results in the persons' disablement or death where the injury or death has arisen in the performance of their duties as a volunteer. Cover extends to when a committee member is on or travelling to or from a Council activity.

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

- a) Capital - \$300,000 for committee members.
- b) Weekly - \$3,000.

15. Assistance to Committees

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 Cemeteries and Halls Officer on 6499 2222.

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