



Advisory Committee Policy

Purpose

Under the *Local Government Act 1989*, (majority now repealed) Council was able to form Advisory Committees. The *Local Government Act 2020*, (*the Act*) is silent on Advisory Committees, but does not preclude their establishment. *The Act* specifies only three types of committees, and the powers and administrative arrangements relating to those committees. The recognised Committee types are the Audit and Risk Committee, Community Asset Committees and Delegated Committees.

Baw Baw Shire Council has a long history of utilising advisory committees to provide advice and recommendations to Council. This policy supports Council in ensuring good governance and appropriate management of Advisory Committees. It outlines how Advisory Committees can be formed, how such committees are to be governed and operate through a standardised Terms of Reference (ToR) and the limits of an Advisory Committees power.

This policy ensures that the management of Advisory Committees is in accordance with the Act and meets the Act's principles of:

- Achieving the best outcomes for the municipal community;
- Engaging the municipal community in strategic planning and strategic decision making; and
- Ensuring public transparency.

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.

Advisory Committee means an Advisory Committee established under this policy.

Advisory Committee Meeting means a Meeting of an Advisory Committee.

Advisory Committee Report means a formal report produced by an Advisory Committee.

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Committee Meeting means a meeting of an Advisory Committee.

Community means groups of connected people. It is used to describe people of a municipality generally, including individuals or groups who live, work, play, study, visit, invest in or pass through the municipality. More specifically, it can refer to everyone affiliated with the municipality, or smaller groups defined by interest, identity or location, and not necessarily homogenous in composition or views.

Council means Baw Baw Shire Council.

Councillor means a current elected Councillor of Council.

Terms of Reference means a document which outlines the scope, purpose, authority and protocols of a Committee.

Quorum means the absolute majority of members present at the meeting and must include at least one Councillor; a Quorum is required to hold a formal meeting of an Advisory Committee where decisions can be made.

Scope

This policy applies to all members of Advisory Committees, Councillors while remaining members of an Advisory Committee, and employees responsible for Advisory Committees. The policy is also relevant to all staff and community members who may interact from time to time with an Advisory Committee.

Legislative context

This policy relates to the Local Government Act 2020 (the Act) and the Local Government Act 1989; and results directly from amendments incorporated when the Act received Royal Assent on 24 March 2020 and when sections of the Local Government Act 1989 were subsequently repealed.

The following Acts also have relevance to this policy:

- *Charter of Human Rights and Responsibilities Act 2006,*
- *Equal Opportunity Act 2010.*
- *Freedom of Information Act 1982,*
- *Local Government Act 1989,*
- *Local Government Act 2020, and*
- *Privacy and Data Protection Act 2014*

Related policies and documents

Council's:

- Governance Rules;
- Public Transparency Policy, and
- Community Engagement Policy (when adopted).
- Advisory Committee Standard Terms of Reference

Policy Detail

Formation of an Advisory Committee

The formation of, appointment to, and administration of Advisory Committees is subject to input from the Council.

Advisory Committees must be formed (and rescinded) by Council Resolution, and the Terms of Reference (ToR), and membership must also be endorsed by Council.

Powers and Functions of an Advisory Committee

Advisory Committees do not have any executive, financial or delegated powers. Advisory Committees do not have the power to sub-delegate or form sub-committees.

The role of an Advisory Committee generally is to report to the Council and provide appropriate advice and recommendations on matters relevant to its Terms of Reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.

An Advisory Committee can offer specialised advice and assistance with research on issues of interest to Council and the Community.

Advisory Committee Governance

Advisory Committees are subject to a Terms of Reference (ToR). There is a standard ToR attached to this policy, and the ToR may be amended slightly, but must be adopted at the time the Committee is formed and/or reviewed at the commencement of each Council Term.

Advisory Committees are assigned to the responsible member of Council's Management Team, to provide administrative support, ensure that the ToR are met and that the Committee functions appropriately and in accordance with Council's Governance Rules. The Manager has no delegated power and is not a voting member of the committee.

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The staff liaison for an advisory will always be a member of Council's Management Team, unless otherwise authorised by the CEO in writing. The CEO may also elect to assign more than one responsible staff member to an Advisory Committee.

Council must review, within the period of 6 months after a general election, all Advisory Committees and Advisory Committee membership.

Advisory Committee Meeting Agenda's and Minutes

The agendas and minutes of all Advisory Committee Meetings will be completed in the appropriate Corporate Template, as prescribed by the CEO.

Membership

All Advisory Committees must have a minimum of five members, comprising of:

- A minimum of two Councillors; and
- A minimum of three external independent members.

Advisory Committee memberships will be capped at ten, being a minimum of two Councillors, and a maximum of three, and a minimum of three independent members, with a maximum of eight. Where a Committee has two Councillor representatives, up to eight independent members can be appointed, but where a Committee has three Councillor representatives, up to seven independent members can be appointed. Any Committees currently in existence that exceed this membership limit may continue to operate, but as members vacate the positions, they will not be replaced to allow the Committee to transition to the recommended membership.

Membership should aim to be equitable in gender, diversity and include local indigenous representation wherever possible.

Any community member may become a member of an Advisory Committee if appointed by Council (or the CEO pursuant to the ToR), and any such member will have the same entitlement to participate as a Councillor. Weight will be given to ensuring diversity of membership and skills on an Advisory Committee.

All Advisory Committees will have an elected Chairperson, who must be a Councillor, and will, where necessary, have the casting vote.

Where appropriate, representatives of peak bodies may be required members of Advisory Committees, and where this is applicable, it will be written into the Terms of Reference.

Advisory Committee members must adhere to the same standards of conduct as the Council, as defined in the Councillor Code of Conduct.

Advisory committee meetings will be included in the Councillors Calendar. Any Councillor is able to attend a meeting of any advisory committee. Only Councillors who are appointed to the committee may vote.

Advisory Committee Meetings

Council has elected to apply Section 61 of *the Act* to Advisory Committee Members as if they were Councillors, the relevant provisions are outlined below:

- A quorum at an Advisory Committee Meeting is an absolute majority;
- Each member present at an Advisory Committee Meeting who is entitled to vote is entitled to one vote;
- Voting at a meeting must not be in secret, a member is not required to divulge their vote to the public;
- 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;
- Unless the vote relates to the Election of a Chair, or to declare the seat of Chair vacant, the Chair has the casting vote; and
- 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.

The Lyrebird Room, at the West Gippsland Arts Centre is the recommended space for Committees to meet.

The staff liaison (member of Council's Management Team responsible for the Committee) will manage the costs for Committee operations in their existing operating budget.

Catering is limited to tea, coffee and a light food item such as biscuits or whole fruit.

Conflict of Interest

Any member who has a conflict of interest in their role as a member of the Advisory Committee must:

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- Disclose the conflict of interest in the manner outlined below; and
- Exclude themselves from the discussion in relation to that matter, including any vote on the matter and any action in relation to the matter.

A guide for the disclosure of a Conflict of Interest at an Advisory Committee Meeting is included below. A member of an Advisory Committee who has a conflict of interest in a matter being considered at an Advisory Committee Meeting at which they:

- Are present must disclose that conflict of interest by explaining the nature of the conflict of interest to those present at the Advisory Committee Meeting immediately before the matter is considered; or
- Intend to present must disclose that conflict of interest by providing to the Chair before the Advisory Committee Meeting commences a written notice:
 - advising of the conflict of interest;
 - explaining the nature of the conflict of interest; and
 - detailing, if the nature of the conflict of interest involves a member of an Advisory Committee’s relationship with or a gift from another person the name of the other person; and the nature of the relationship with that other person or the date of receipt, value and type of gift received from the other person; and
 - nature of that other person’s interest in the matter,
 - then immediately before the matter is considered at the meeting announcing to those present that they have a conflict of interest and that a written notice has been given to the Chair.

The member of an Advisory Committee must, in either event, leave the Advisory Committee Meeting immediately after giving the explanation or making the announcement (as the case may be) and not return to the meeting until after the matter has been determined.

Failure to meet these requirements can result in termination of the Member’s appointment.

Current Advisory Committees

At present, Council recognises the following Advisory Committees:

Committee
Arts and Culture Advisory Committee

Access and Inclusion Advisory Committee (Formerly the Disability and Positive Ageing Advisory Committees)
Early Years Advisory Committee
Environmental Voice Advisory Committee
Healthy in Baw Baw Advisory Committee
Place Names Advisory Committee
Roads Infrastructure Advisory Committee (Formerly the Roads and Drainage Advisory Committee)

Public Transparency and Reporting

In the interests of public transparency, all Advisory Committee's will report to Council on an annual basis, including the following detail:

- Meeting Minutes;
- Declarations of Conflicts of Interests; and
- An activity summary lodged by the Chair.

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 Advisory 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	10 February 2021
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Next review date	August 2024
Responsible position	Manager Governance
Responsible Director	Corporate and Community Services
Version	1

Advisory Committee Standard Terms of Reference (ToR)

1. Objectives and Purpose

- 1.1 The Baw Baw Shire Council (the Council) Advisory Committee (the Committee) is a formally appointed Advisory Committee of the Council.
- 1.2 The Committee's role is to report to the Council and provide appropriate advice and recommendations on matters relevant to this Terms of Reference in order to facilitate decision making by the Council in relation to the discharge of its responsibilities.
- 1.3 The Committee does not have any executive powers nor does it have any delegated financial responsibility.
- 1.4 The Committee does not have the authority to delegate tasks to subcommittees.
- 1.5 The Committee is to assist the Council by offering specialised advice and assistance with research on issues of interest to Council and the Community.

Items specific to Committee can be inserted here.

2. Duties and Responsibilities

The Committee will carry out the following duties and responsibilities:

- 2.1 Items specific to Committee can be inserted here.
- 2.2 Council Officer Referrals
 - 2.2.1 Provide appropriate advice and recommendations to Officers when requested, specific items can be listed here.
- 2.3 Reporting Responsibilities
 - 2.3.1 Report at least annually to the Council about committee activities, issues, and related recommendations through the circulation of minutes and committee chair reporting at Council Meetings.
 - 2.3.2 A review will take place at least once every four years at which time the Terms of Reference will also be reviewed.
 - 2.3.3 A review will be conducted on a self-assessment basis (unless otherwise determined by Council) with appropriate input sought from the Council, the CEO, all Committee members, management and any other relevant stakeholders, as determined by Council.
- 2.4 Other Responsibilities
 - 2.4.1 Perform other activities related to this Terms of Reference as requested by Council

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resolution.

3. Membership

- 3.1. The Committee will be a minimum of five members, consisting of:
 - 3.1.1. A minimum of two Councillors, with a maximum of three, appointed by the Council
 - 3.1.2. A minimum of three external independent members, and a maximum of eight, with a view to maximising diversity and inclusion.
 - 3.1.3. A minimum of one representative from the following organisations: (if applicable).
- 3.2. Council Officers will support the Committee and will consist of representatives from the following internal Council Departments: List as appropriate for Committee.
- 3.3. All members except Council Officers shall have full voting rights, with the Chairperson having a casting vote as required.
- 3.4. Appointments and Tenure
 - 3.4.1. The Council will appoint the external independent Committee members at the beginning of each Council term.
 - 3.4.2. The CEO, in consultation with the Mayor, can appoint external independent Committee members to fill any vacancy that occurs within the Council term and cannot reasonably be left vacant until the beginning of the next Council term.
 - 3.4.3. The Committee will nominate the Committee Chair on an annual basis.
 - 3.4.4. The Chair of the Committee must be a Councillor Representative.
 - 3.4.5. Tenure of the external independent members shall be a maximum of four years.
 - 3.4.6. Appointment of external members shall be made by the Council by way of a public advertisement, and Council Resolution, and be to the end of that current Council Term.
 - 3.4.7. Appointment to the Committee may be decided by factors such as suitability, experience, expertise, and with a view to ensuring a diverse and well balanced Committee.
 - 3.4.8. People wishing to serve as an external independent member may nominate for successive terms without restriction.
- 3.5. Disqualification of a Member

- 3.5.1. If the Council proposes to remove a member from the Committee, it must give written notice to the member of its intention to do so and provide that member with the opportunity to be heard if that member so requests.
- 3.5.2. If a member misses two consecutive committee meetings without an accepted approval of absence they will have disqualified themselves from membership.
- 3.6. Members are expected to:-
 - 3.6.1. Contribute the time needed to study and understand the papers provided;
 - 3.6.2. Apply good analytical skills, objectivity and judgement; and
 - 3.6.3. Express opinions frankly, ask questions that go to the fundamental core of the issue and pursue independent lines of enquiry.

4. Meetings

- 4.1. Conduct of Meetings
 - 4.1.1. The Chief Executive Officer will provide the support required to enable the meetings of the Committee and invite members of staff or others to attend meetings to provide pertinent information as necessary.
- 4.2. Attendance and Quorum
 - 4.2.1. All Committee members are expected to attend each meeting.
 - 4.2.2. Quorum will be a majority of Committee members with a least two external independent members and at least one Councillor.
 - 4.2.3. In the absence of the Chairperson from a meeting, the meeting shall appoint an acting Chairperson from the independent or Councillor Representatives present.
- 4.3. Meeting Administration
 - 4.3.1. The Committee will meet once a quarter, with authority from the CEO (which will not be unreasonably withheld) to convene additional meetings, as circumstances require.
 - 4.3.2. To facilitate the operation of the Committee, the Chief Executive Officer has responsibility to provide secretariat services and officer advice in respect of matters before the Committee.
 - 4.3.3. Meeting agendas will be prepared and provided at least one week in advance to members, along with appropriate briefing materials electronically.

4.3.4. Minutes will be prepared and distributed within one week of the relevant meeting.

5. Conflicts of Interest

- 5.1. In accordance with Sections 126 to 130 of the Local Government Act 2020, members of the Committee are required to disclose all conflicts of interests and may not be eligible to vote on a matter or attend a meeting at which the subject of the conflict will be considered, depending on the nature of the conflict.
- 5.2. Members of the Committee are to comply with the provisions of the Local Government Act 2020, and any supporting Regulations, concerning conflicts of interest.
- 5.3. Failure to comply with provisions of the Local Government Act 1989 with regard to conflicts of interest may result in termination of the Member's appointment.

6. Confidentiality

- 6.1. All Members are subject to Section 125 of the Local Government Act 2020 in terms of information that the person knows, or should reasonably know, is confidential information as defined by the Act.
- 6.2. Failure to comply with provisions of the Local Government Act 2020 with regard to confidentiality may result in termination of the Member's appointment.
- 6.3. The Terms of Reference and Reports from the Committee to Council where appropriate, will be available on the Council's website.
- 6.4. All independent members of the Committee shall sign a confidentiality agreement as shown below:

THIS AGREEMENT is made on the _____ day of _____ 20 __

BETWEEN

AND

I herewith agree that I must not whether during or after my membership of the Baw Baw Shire Council Committee Name Advisory Committee, unless expressly authorised by the Chief Executive Officer or in accordance with the law, make any disclosure or use of:-

1. Any information or trade secrets of the Council;
2. The position of the Council or of any Councillor or Council Officer on any confidential matter;
or
3. Any other information whatsoever, the disclosure of which may be detrimental to the interest of Council or of any other person who has provided it to the Council on a confidential basis, unless I am required to disclose the information by law. I must use my best endeavours to prevent the improper publication or disclosure or use of any such information by anyone else.

The termination or expiry of my membership of the Committee, for whatever reason, does not affect or derogate from my obligations of confidentiality set out above.

Signed by:

Date:

ADVISORY COMMITTEE MEMBER

Signed by:

Date:

(On behalf of Baw Baw Shire Council)

CHIEF EXECUTIVE OFFICER

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