

COUNCIL MEETING

MINUTES

(Open to the public)

Monday 29 March 2021

Council Chamber, 8 Inglesby Road, Camberwell and Delivered Online.

Commencement 6.33pm

Attendance

- Councillor Garry Thompson (Mayor)
- Councillor Jim Parke
- Councillor Felicity Sinfield
- Councillor Victor Franco
- Councillor Wes Gault
- Councillor Di Gillies
- Councillor Lisa Hollingsworth
- Councillor Jane Addis
- Councillor Cynthia Watson (via videolink)
- Councillor Susan Biggar
- Councillor Nick Stavrou

Apologies Nil

<u>Officers</u>	Phillip Storer	Chief Executive Officer
	Daniel Freer	Director Places and Spaces
	Nick Lund	Acting Director Community Support
	Shiran Wickramasinghe	Director Urban Living
	Chad Henry	Coordinator Facilities Maintenance
	David Thompson	Manager Governance and Legal
	Callista Clarke	Acting Chief Financial Officer
	Helen Pavlidis	Senior Governance Officer

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1. Adoption and confirmation of the minutes**MOTION****Moved Councillor Stavrou****Seconded Councillor Addis**

That the minutes of the Council meeting held on 22 February 2021 be adopted and confirmed.

CARRIED**2. Declaration of conflict of interest of any councillor or council officer**

Nil

3. Deputations, presentations, petitions and public submissions

Council has received three (3) petitions. Details of the petitions are set out below.

No.	Ref. no.	Title / Description	No. of signatures	Referred to
1	CAS-906952	Petition requesting the “ <i>Exclusion of Parkin st from the Glen Iris Heritage Gap Study</i> ”.	23	DUL
2	CAS-917442	Chang.org online petition requesting Council to “ <i>save Rocket Park</i> ”.	11,000+	DP&S
3	CAS-928959	Petition requesting Council to “ <i>provide 4 additional netball courts at the Boroondara Netball Centre, Macleay Park, using the \$1.2 million Federal Government Grant awarded to the Boroondara Netball Association in 2019</i> ”.	808	DCS

Legend:

DCS Director Community Support
 DC&T Director Customer and Transformation

DUL Director Urban Living
 DP&S Director Places & Spaces
 GOV Governance & Legal

MOTION**Moved Councillor Gault****Seconded Councillor Sinfield****That Council resolve:**

- 1. To receive and note the petitions.**
- 2. To note that the petitions have been referred to the relevant director for consideration.**
- 3. The first named signatory to the petition will receive a written response in due course advising of Council's action in response to the request.**

CARRIED**4. Informal Meetings of Councillors**

Chapter 6 of Council's Governance Rules requires that a summary of matters discussed at Informal Meetings of Councillors be reported to a Council meeting as soon as practicable.

The attached summary of Informal Meetings of Councillors (**Attachment 1**) is reported to Council in accordance with the requirements of the Governance Rules.

MOTION**Moved Councillor Biggar****Seconded Councillor Gillies****That Council resolve to receive and note the summary of Informal Meetings of Councillors, as annexed to the minutes.****CARRIED****5. Public question time****PQT1 Ian Hundley of Balwyn North**

The **Mayor, Councillor Thompson** read the following question submitted with notice. The question related to Item 7.3 - *Provision of Landfill Services Contract No 2021/39* and was allowed in accordance with Chapter 2 of the Governance Rules as it related to a matter on the agenda for the current Council meeting.

"Please advise of the average mass per capita of refuse disposed in landfill in each of the last five years 2016 to 2020 by the City of Boroondara and the average mass per capita forecast to be disposed of in landfill in each of the years 2021 to 2025, as targeted in Theme 3, Strategy 3.2. of the Boroondara Community Plan."

The **Director Places and Spaces** responded as follows:

The compilation of waste tonnages from 2016-21 (please note that the remaining financial period for 2021 has been forecast based upon recent activity and may be subject to change).

WASTE TONNAGES JULY 2016 - FEBRUARY 2021

2016-2017	36,641
2017-2018	35,732
2018-2019	35,797
2019-2020	33,931
2020-2021 (To February 2021)	17,278
Forecast end of year	27,000

The data captured shows a steady reduction in waste across the period with significant reduction captured in 2020-21 due to the instigation of Food Organics Garden Organics (FOGO).

Our forecasting for the 2021-22 financial year is 27,500 tonnes, which is giving consideration to continuation of waste tonnage trends experienced throughout 2020 with COVID related work and recreation habits in the community, the extended rollout of FOGO to multi unit developments and community adaptation of waste minimization strategies.

The **Mayor, Councillor Thompson** informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Hundley in due course.

PQT2 Ian Hundley of Balwyn North

The **Mayor, Councillor Thompson** read the following question submitted with notice. The question related to Item 7.1 - *January 2021 Monthly Financial Report (North East Link Project - Capital Income and Capital Payments)* and was allowed in accordance with Chapter 2 of the Governance Rules as it related to a matter on the agenda for the current Council meeting.

“Please advise the full details of the capital income received by Council from the North East Link Project and of other capital payments the Council has received and expects to receive from the North East Link Project”.

The **Director Places and Spaces** responded as follows:

As noted on page 18 of report 7.1 January 2021 Monthly Financial Report, Council has received capital grants of \$4,000,000 from the North East Link Project (NELP). These grants are for the following projects:

- \$300,000: To install the 40km/h shopping centre speed limit on Doncaster Road through the Greythorn Shopping Centre.
- \$500,000: For the finalisation and delivery of the Bellevue Shopping Centre improvement plan.

- \$700,000: For the design and construction of pedestrian operated signals on Balwyn Road, Balwyn, near Gordon Barnard Reserve.
- \$500,000: For the finalisation and delivery of the Freeway Golf Course maintenance and administration building upgrade works.
- \$2,000,000: For the civil works associated with the reconfiguration of the Freeway Golf Course.

Council will receive compensation from the NELP as a result of the Yarra East Main Sewer (YEMS) works currently occupying what was the first hole of the Freeway Golf Course. The amount Council will receive is not yet finalised as it is dependent on monthly rounds played at the course.

NELP are also paying Council a rental fee for the occupation of land for the early works. This fee has not been finalised and is subject to a decision by the Victorian Valuer General.

The **Mayor, Councillor Thompson** informed the meeting all councillors had received a copy of the question and a written response would be provided to Mr Hundley in due course.

6. Notices of motion

Nil

7. Presentation of officer reports

7.1 January 2021 Monthly Financial Report

The Monthly Financial Report for January 2021 is designed to identify and explain any major variances to budget at an organisational level for the period ending 31 January 2021.

Council's favourable operating result against year to date budget of \$87.07 million is \$13.80 million or 19% above the September Amended Budget of \$73.26 million primarily due to a number of factors which are outlined in **Section 2 of Attachment 1 - Financial Overview**.

Capital works actual expenditure is \$23.35 million which is \$17.53 million below year to date budget phasing of \$40.88 million, primarily due to timing of expenditure on multi-year projects. Priority projects expenditure of \$13.11 million is \$3.71 million below year to date budget phasing of \$16.82 million

Council's Balance Sheet and cash position are sound and depict a satisfactory result. At the end of January, Council's cash position stood at \$109.06 million or \$29.93 million above year to date budget.

MOTION**Moved Councillor Stavrou****Seconded Councillor Hollingsworth****That Council resolve to receive and note the Monthly Financial Report for January 2021 (Attachment 1).****CARRIED****7.2 Councillor Gift Policy**

In accordance with section 138 of the *Local Government Act 2020* (the Act), a Council must adopt a 'Councillor Gift Policy' (the Policy) within the period of 6 months after this section comes into operation (24 October 2020), namely 24 April 2021.

In accordance with section 138 of the Act, the Policy must include:

- (a) Procedures for the maintenance of a gift register; and
- (b) Any other matters prescribed by the regulations.

Officers in collaboration with councillors have developed the Policy (see **Attachment 1**) to ensure compliance with the Act.

The Policy is now presented to Council for adoption.

MOTION**Moved Councillor Addis****Seconded Councillor Sinfield****That Council resolve to:**

- 1. Adopt the Councillor Gift Policy (as annexed to the Minutes).**
- 2. Note a copy of the Councillor Gift Policy will be given to each councillor and published on Council's website.**

CARRIED

7.3 Provision of Landfill Services Contract No 2021/39

This report seeks Council endorsement for the award of Contract No. 2021/39, Provision of Landfill Services. This contract will provide Council with landfill services for an initial term of four years and with a potential to extend for two further terms of two years each, at Council's discretion, for a maximum contract term of eight years. This contract will be used in the short term for excess waste tonnages under the existing landfill contract and will then replace Council's existing landfill services contract which will expires in June 2022.

The estimated total Contract cost for an eight-year maximum contract term is \$8,388,113 (including GST), excluding any price adjustment due to rise and fall and the State Government Landfill Levy, which is in accordance with Council's current budget and long-term financial plan. The estimated cost to Council after the return of GST Input Tax Credits is \$7,625,558. The estimated cost is based on unit rates for waste deposited at landfill.

Given the value of the contract, it was publicly advertised in accordance with the requirements of Section 186 of the Local Government Act 1989 and the requirements of Sections 108 and 109 of the Local Government Act 2020.

MOTION

Moved Councillor Sinfield

Seconded Councillor Gillies

That Council resolve to:

- 1. Award Contract No. 2021/39, Provision of Landfill Services, to Cleanaway Pty Ltd (ABN 79 000 164 938), at its tendered schedule of rates, for an initial term of four years with two possible further extensions of two years each to a maximum contract term of up to eight years. The estimated value over the maximum contract term is \$8,388,113 (including GST), excluding any price adjustment due to rise and fall and the State Government Landfill Levy. The estimated cost to Council after return of GST Input Credits is \$7,625,558.**
- 2. Authorise the Director Places and Spaces to execute the contract agreement with the above contractor.**
- 3. To note that expenditure under this contract in 2020-21 is in accordance with Council's adopted budget and 2021-22 foreshadowed budget.**

CARRIED

8. General business

Nil

9. Urgent business

Nil

10. Confidential business

Nil

The meeting concluded at 6.55pm

Confirmed

Chairperson

Date

MINUTES ATTACHMENTS



Council

Monday 29 March 2021

Attachments annexed to the minutes for the following items:

4. Informal Meetings of Councillors

7.2 Councillor Gift Policy

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Planning Workshop 18 February 2021	Cr Garry Thompson Cr Jim Parke Cr Felicity Sinfield Cr Victor Franco Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Jane Addis Cr Cynthia Watson Cr Susan Biggar Cr Nick Stavrou	Phillip Storer (CEO) Carolyn McClean (DCS) Daniel Freer (DP&S) Bruce Dobson (DC&T) Shiran Wickramasinghe (DUL) Callista Clarke (aCFO) Paris Zenonos (MA&CP) Nathan Gee-Landman (TECH)	1. Proposed 2021-22 Council budget 2. Proposed fees and charges for 2021-22 Council budget 3. Proposed Capital Works Renewal Program 2021-22	Nil
Councillor Briefing & Discussion 15 February 2021	Cr Garry Thompson Cr Jim Parke Cr Felicity Sinfield Cr Victor Franco Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Jane Addis Cr Cynthia Watson Cr Susan Biggar Cr Nick Stavrou	Phillip Storer (CEO) Carolyn McClean (DCS) Daniel Freer (DP&S) Bruce Dobson (DC&T) Shiran Wickramasinghe (DUL) Carolyn Terry (EMPCD) David Thompson (MG&L) Andrew McHugh (MH&WS) Fiona Brown (MCP&D) Graeme Mawson (SCCY&F) Janet Shortal (CM&CH) Helen Pavlidis (SGO) Elizabeth Manou (SGO)	1. Child Safe Standards 2. Governance Rules 3. 2021 Australian Local Government Association (ALGA) Conference	Nil
Councillor Briefing & Discussion 22 February 2021	Cr Garry Thompson Cr Jim Parke Cr Felicity Sinfield Cr Victor Franco Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Jane Addis Cr Cynthia Watson Cr Susan Biggar Cr Nick Stavrou	Phillip Storer (CEO) Carolyn McClean (DCS) Bruce Dobson (DC&T) Shiran Wickramasinghe (DUL) Carolyn Terry (EMPCD) David Thompson (MG&L) Nicole White (MCP&D) Fiona Brown (MCP&D) Nick Lund (MLC) Lucinda Bakhach (LEL) Callista Clarke (aCFO) Rachel Ind (SRA) Alana Smith (SEDO) Helen Pavlidis (SGO)	1. Boroondara Community Plan 2. Overview of Shopping Centre Special Rate and Charge Schemes 3. Proposed Child Safe Policy 4. Proposed Boroondara City Council Motions to the Australian Local Government Association (ALGA) 5. Public Transparency Policy	Nil

Record of Informal Meetings of Councillors

Assembly details	Councillor attendees	Officer attendees	Matters discussed	Conflict of Interest disclosures
Councillor Briefing & Discussion 1 March 2021	Cr Garry Thompson Cr Jim Parke Cr Felicity Sinfield Cr Victor Franco Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Jane Addis Cr Cynthia Watson Cr Susan Biggar Cr Nick Stavrou	Phillip Storer (CEO) Daniel Freer (DP&S) Bruce Dobson (DC&T) Shiran Wickramasinghe (DUL) Carolyn Terry (EMPCD) David Thompson (MG&L) Mans Bassi (CT&TO) Jacqui Williamson (OD&CL) Elizabeth Manou (SGO)	1. Boroondara Customer First (BC1) 2. Proposed Councillor Gift Policy 3. Forthcoming MAV elections	Nil
Councillor Planning Workshop 12 March 2021	Cr Garry Thompson Cr Jim Parke Cr Felicity Sinfield Cr Victor Franco Cr Wes Gault Cr Di Gillies Cr Lisa Hollingsworth Cr Jane Addis Cr Cynthia Watson Cr Susan Biggar Cr Nick Stavrou	Phillip Storer (CEO) Carolyn McClean (DCS) Daniel Freer (DP&S) Bruce Dobson (DC&T) Shiran Wickramasinghe (DUL) Jennifer Reid (MS&P) Callista Clarke (aCFO)	1. Council's long term financial strategy 2. Proposed priority, new and upgrade capital works, new expenditure and planned major projects for the proposed 2021-22 Council budget	Cr Thompson

MINUTES ATTACHMENTS



Council

Monday 29 March 2021

Attachments as annexed to the resolution:

7.2 Councillor Gift Policy

Councillor Gift Policy

Responsible Directorate: Chief Executive Office

Authorised By: Council

Date of Adoption: 29 March 2021

Review Date: March 2025

Policy Type: Council

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1 Introduction

In accordance with section 138 of the *Local Government Act 2020*, this policy has been developed to provide guidance to councillors relating to the acceptance or otherwise of a gift or other benefits such as hospitality, favours, entertainment and services offered to a councillor.

This policy establish a framework and a clear understanding for the acceptance and declaration of gifts, benefits and hospitality by councillors to ensure the highest standard of integrity, transparency and accountability is maintained at all times.

1.1 Definitions

Conflict of Interest	<p>The <i>Local Government Act 2020</i> requires councillors to declare General or Material Conflicts of Interest.</p> <p>A conflict of interest is a conflict between a councillor's public duty to act in the best interest of the Council and their private interests (financial or non-financial). A conflict exists whether it is:</p> <ul style="list-style-type: none"> • Real – it currently exists • Potential – it may arise, given the circumstances • Perceived – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person's performance of their duty to the Council, now or in the future. <p>Material Conflict of Interest and Disclosable Gifts Section 128 - <i>Local Government Act 2020</i></p> <p>A person has a material conflict of interest in respect of a matter if an affected person would gain a benefit or suffer a loss depending on the outcome of the matter. An affected person for this section of the Act includes:</p> <ol style="list-style-type: none"> a family member of the relevant person; a body corporate of which the relevant person or their spouse or domestic partner is a Director or a member of the governing body; an employer of the relevant person, unless the employer is a public body; a business partner of the relevant person; a person for whom the relevant person is a consultant, contractor or agent; a beneficiary under a trust or an object of a discretionary trust of which the relevant person is a trustee; a person from whom the relevant person has received a disclosable gift <p>Disclosable gift means one or more gifts with a total value of, or more than, \$500 (or if an amount is prescribed for the purposes of this subsection, the prescribed amount), received from a person in the 5 years preceding the decision on the matter:</p>
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	<p>(a) if the relevant person held the office of councillor, was a member of Council staff or was a member of a delegated committee at the time the gift was received; or</p> <p>(b) if the gift was, or gifts were, or will be, required to be disclosed as an election campaign donation</p> <p>A disclosable gift does not include the value of any reasonable hospitality received by the relevant person at an event or function that the relevant person attended in an official capacity as a councillor.</p>
Gift	<p>Section 3 - <i>Local Government Act 2020</i></p> <p>Gift means any disposition of property otherwise than by will made by a person to another person without consideration in money or money's worth or with inadequate consideration, including:</p> <p>(a) the provision of a service (other than volunteer labour); and</p> <p>(b) the payment of an amount in respect of a guarantee; and</p> <p>(c) the making of a payment or contribution at a fundraising function.</p>
Gift Declaration Form	The form a councillor uses to declare reportable gifts (Attachment 1).
Gift disclosure threshold	<p>Section 3 - <i>Local Government Act 2020</i></p> <p>\$500 or a higher amount or value prescribed by the regulations.</p>
Gift Register	A register of gifts offered to councillors whether accepted or declined. It records the date a gift was offered /received, information about the donor and recipient, the nature of the gift, its estimated value and how it was handled. The register is maintained by the Governance and Legal Department.
Material value	Means reasonably valued at more than \$50.
Money or monetary	Means any form of cash, credit or cash-like item, including, but not limited to, cheques, money orders, bank deposits, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internal credit, memberships or entitlements to discounts, points in any reward scheme, regardless of the amount or value.
Official capacity	A councillor is acting in an official capacity if they are performing their responsibilities under relevant legislation and their attendance at the event or function is related to providing good local governance for the municipality.
Reportable gift	Means a gift valued at more than \$50.

1.2 Objective

The objective of this policy is to:

- provide guidance to councillors on the receipt of gifts and hospitality with an estimated material value over \$50; and
- provide a transparent and accountable process with regard to declaring gifts and benefits that promotes public confidence in the City of Boroondara.

1.3 Background

Councillors may be offered gifts or benefits for a variety of reasons, and while they may be offered as a genuine expression of appreciation or as a gesture of goodwill, the acceptance of any gift carries risks, for example:

- That the giver will expect favourable treatment.
- That the recipient will feel a sense of obligation to the giver.
- That the recipient will be perceived as having been influenced by the gift.

Perceptions of undue influence are difficult to combat, and can be affected by many factors, including:

- **Transparency and openness.** If a gift is given in a public forum it is less likely to be perceived as a gift of influence than if it were offered outside the public eye.
- **The value of the gift.** Expensive gifts are more likely to be perceived as gifts to win favours. The regularity of gifts, or the cumulative value of gifts received over time, is also likely to influence perceptions.

Therefore as a guiding principle, councillors should not accept a gift, hospitality or other benefit if it is likely to be perceived by a 'reasonable person', as intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of their duties as a councillor.

2 What may constitute a 'gift', 'benefit' or 'hospitality'

Councillors may be offered gifts or benefits for a variety of reasons which can be categorised as follows:

Benefits	<p>Benefits can take many forms, and are often non-tangible (i.e. not a physical item). Benefits include, but are not limited to:</p> <ul style="list-style-type: none"> • access to events or clubs • preferential treatment (e.g. priority service, access to benefits or services not usually available) • upgrades • discounts • access to confidential information • free services (e.g. accommodation or travel) • the promise of future employment or business opportunities
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	<p>The definition does not include:</p> <ul style="list-style-type: none"> discounted products or services that are reasonable and generally available or capable of being negotiated by others not connected with the City of Boroondara. a benefit or benefits received in relation to personal membership of any industrial or professional organisation, club or other association or body. a benefit or benefits received by a relative or associate a councillor had no knowledge of.
Gifts	<p>Gifts can take many forms, such as:</p> <ul style="list-style-type: none"> free or heavily discounted items tickets or passes to events, shows etc. enduring items, such as works of art consumables, such as food or stationery memberships property (real or otherwise) transfers or loans of money hospitality that exceeds common courtesy door prize or voucher if an individual has not personally paid to attend <p>The definition does not include:</p> <ul style="list-style-type: none"> discounted products or services that are reasonable and generally available or capable of being negotiated by others not connected with the City of Boroondara a gift or gifts received in relation to personal membership of any industrial or professional organisation, club or other association or body. a gift or gifts received by a relative or associate a councillor had no knowledge of. a gift, award or prize received from the City of Boroondara. <p>A reportable gift, whether <u>accepted or declined</u> includes:</p> <ul style="list-style-type: none"> of material value (i.e. valued at more than \$50); and/or a gift of influence; and/or a bribe or monetary gift; <p>A gift may be:</p> <ul style="list-style-type: none"> offered or given to a councillor. offered or given to a family member of the councilor. purchased, home-made or home-grown. of negligible, nominal, or significant value.

Gift types and purposes	<p><u>Token gifts or benefits</u> A gift that is offered in a business situation to a councillor for a practical purpose, or as a token or memento of an occasion.</p> <p>An example would be inexpensive stationery items such as pens or pads inscribed with a company logo handed out at a conference or training session.</p> <p><u>Gift of influence</u> A gift that is:</p> <ul style="list-style-type: none"> intended to generally ingratiate the giver with the recipient for favourable treatment in the future; and / or likely to affect, or be reasonably perceived to affect, the independent and impartial performance of the duties of a councillor. <p>An example would be tickets to a social, cultural or sporting event offered by a contractor, which could be seen as reward for engaging them on past contracts, and or an inducement to engage them again in the future.</p> <p><u>Gift of gratitude</u> A gift offered to a councillor in appreciation of the performance of specific tasks.</p> <p>Examples could include reasonably priced:</p> <ul style="list-style-type: none"> bottles of wine boxes of chocolates bunches of flowers <p><u>Ceremonial gifts</u> Ceremonial gifts are usually given from one organisation to another organisation, marking a special occasion, or at a special event.</p> <p>An example would be a gift given to Council by a visiting delegation. Gifts are often meaningful to organisations, for example Council has given other organisations a Boroondara flag as a ceremonial gift.</p> <p><u>Internal gift</u> Gift received by the councillor from the Council. For example, the receipt of a gift at the end of a Mayoral term (in accordance and as provided for by the Councillor & Member of a Delegated Committee Expenses Policy).</p>
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	<p><u>Bribes and cash gifts</u></p> <p>Offering or accepting a bribe has particularly serious, criminal consequences. Consequently, any offer of 'money' is a reportable gift which must be refused and reported immediately to the Chief Executive Officer and /or the Public Interest Disclosure Coordinator and where relevant, the Victoria Police.</p> <p>Bribes and cash gifts also include gift cards, vouchers, shares or anything else that can be easily converted into money.</p>
Hospitality	<p>Hospitality is the friendly reception and entertainment of guests. Hospitality includes free or subsidised meals, beverages or refreshments or travel and accommodation provided in conjunction with an official meeting, function or related events such as:</p> <ul style="list-style-type: none"> • training sessions and seminars. • workshops. • conferences. • council functions or events. • social functions organised by groups such as community organisations.

3 Accepting or declining a gift, benefit or hospitality

When considering whether to accept or decline a gift or benefit, in addition to other matters considered relevant by a councillor, consideration should include:

- Transparency - whether the gift is offered in public or private.
- The type of gift and the likely purpose (refer Section 2).
- The value of the gift, including the cumulative value of gifts from the donor.
- The \$500 disclosable gift threshold.
- The identity of the donor and their relationship with the recipient.
- How accepting the gift may be perceived by the Boroondara community.
- The proportionality of the gift or benefit in the context in which it was given.
- The public or Council benefit.
- Whether declining will cause offence or embarrassment.

In relation to receiving hospitality, councillors must give consideration to whether it:

- Is not excessive and directly relates to their public duty as a councillor (i.e. the councillor is performing a role in an official capacity at a function).
- It does not advantage the gift giver in dealings with Council.
- Does not compromise the impartiality of the councillor.
- Could be perceived as a conflict of interest.

Should hospitality be accepted, it must be of a standard and type that a 'reasonable person' would consider appropriate and not excessive.

Councillors should discourage the offers of gifts and benefits and should not take advantage of their position to secure an unreasonable personal advantage. Overall, councillors should not solicit gifts, hospitality or other benefits for themselves or others.

Councillors must declare any reportable gift they accept, but in the interests of transparency, are encouraged to declare any gift that is accepted or declined.

3.1 Accepting a gift, benefit and hospitality

All reportable gifts (whether accepted or declined) estimated to be over \$50 in value, are to be declared by completing a 'Councillor - Gift Declaration Form' (**Attachment 1**). It is the responsibility of the councillor accepting a gift to complete the form and forward it to the Manager Governance and Legal.

3.1.1 Treatment and retention of accepted gift

The following matters will be relevant to the treatment and retention of a gift once it has been accepted:

- Whether Council has an appropriate use for the gift.
- Whether a gift is of cultural or historical significance.
- Whether the gift or benefit received was as a consequence of the expenditure or dedication of Council funds or resources or labour.
- Whether it may be appropriate to donate the gift, or the proceeds from the gift, to charity.
- Whether it is possible or appropriate to return the gift.
- Where a gift has been received on behalf of Council, the gift becomes the property of the Council and is to become part of the civic collection. For transparency and accountability purposes, these gifts will be recorded in the Gift Register with a notation the gift is the property of Council. Where appropriate a letter of appreciation will be sent to the gift's donor or hospitality provider on behalf of the councillor.

3.2 Declining a gift, benefit or hospitality

Councillors must not accept (directly or indirectly) a gift, benefit or hospitality if:

- The gift is cash, credit or a cash-like item (refer to Definitions).
- If the gift is anonymous (section 137 of the Local Government Act 2020 and section 3.2.1 of this Policy).
- The gift could be perceived as intended to, or likely to, influence him or her in the fair, impartial and efficient discharge of his or her duties as a councillor.
- There is or may be, the perception of a conflict of interest with past, present or future duties or where the object of the gift is to maintain or return a favour.
- The gift may affect how a duty or function is performed at Council.
- Public disclosure of the gift would be embarrassing or damaging to Council.
- The nature of the gift or the integrity of the donor may bring Council into disrepute.
- The donor is engaged in a competitive tendering process with Council.
- The donor has applied for a Council permit or service or if any other statutory or regulatory process or activity is underway.

When declining a gift, care should be taken to avoid causing offence or embarrassment to the giver.

If a councillor refuses a gift on the basis they believe the gift was a deliberate attempt to receive 'special treatment' or offered for the purposes of influencing their behaviour, then such instances are to be reported to the Chief Executive Officer.

3.2.1 Anonymous gifts not to be accepted

Section 137 of the *Local Government Act 2020* outlined as follows, highlights it is an offence to accept an anonymous gift that has a value of more than the gift disclosure threshold (\$500).

Section 137 - Local Government Act 2020

(1) Subject to subsection (2), a Councillor must not accept, directly or indirectly, a gift for the benefit of the Councillor the amount or value of which is equal to or exceeds the gift disclosure threshold unless:

- a) the name and address of the person making the gift are known to the Councillor; or*
- b) at the time when the gift is made:*
 - i. the Councillor is given the name and address of the person making the gift; and*
 - ii. the Councillor reasonably believes that the name and address so given are the true name and address of the person making the gift.*

Penalty: 60 penalty units

- (2) If the name and address of the person making the gift are not known to the Councillor for whose benefit the gift is intended, the Councillor is not in breach of subsection (1) if the Councillor disposes of the gift to the Council within 30 days of the gift being received.*
- (3) In addition to the penalty specified in subsection (1), a Councillor who is found guilty of a breach of that subsection must pay to the Council the amount or value of the gift accepted in contravention of that subsection.*

Where an anonymous gift is received, Councillors should disclose the receipt and disposal of such anonymous gifts. This information will be recorded on the Gift Register.

3.3 Procedures for the maintenance of the Gift Register

Following the receipt of the 'Councillor - Gifts Declaration Form', the Manager Governance and Legal is responsible for the following information to be recorded on the Gift Register:

- The name of the councillor who received the gift, benefit or hospitality.
- The date the gift, benefit or hospitality was offered or received.
- The estimated dollar value of the gift, benefit or hospitality.
- The name of the individual or organisation who was the donor of the gift, benefit or hospitality.

- How the gift was allocated (i.e. declined, retained, donated to the civic collection etc.).

In accordance with Council's Public Transparency Policy, the Gift Register will be available on Council's website and may be made available for public inspection upon request.

3.4 Reporting to the Audit and Risk Committee

The Manager Governance and Legal is to monitor the Gift Register and report to the Audit and Risk Committee annually, on any identified systematic patterns of gifts offered and accepted.

3.5 Election campaign donations

Election campaign donations are outside the scope of this policy. Election campaign donations must be accounted for and disclosed in accordance with the provisions in the *Local Government Act 2020*.

4 Accountabilities

Person/s responsible	Accountability
All councillors	<p>All councillors are responsible for:</p> <ul style="list-style-type: none"> • Declaring a reportable gift, whether accepted or declined. • Refusing a gift or benefit that may result in them having an actual or perceived conflict of interest. • Refusing a gift or benefit that could be reasonably perceived as undermining the integrity and impartiality of the City of Boroondara or themselves. • Refusing bribes. • Refusing any monetary gift or items easily converted to money. • Taking reasonable steps to ensure that family members do not receive gifts and benefits that give rise to the appearance of being an attempt to gain favourable treatment.
Manager Governance and Legal	<p>Manager Governance and Legal is responsible for:</p> <ul style="list-style-type: none"> • Being available to give advice on the interpretation of the policy. • Implementing this policy, including monitoring the effectiveness of the policy. • Maintaining the Gift Register.
Chief Executive Officer	<p>Chief Executive Officer is responsible for:</p> <ul style="list-style-type: none"> • Ensuring councillors are aware of the policy and any associated Guidelines.

For all queries or feedback regarding the Councillor Gift Policy, please use the contact details for the responsible department below.

Position Title	Contact number	Contact department email
Manager Governance and Legal	9278 4470	boroondara@boroondara.vic.gov.au

5 References

5.1 Legislation

This policy does not remove any other obligations under the *Local Government Act 2020* and any other legislation, or relevant codes, guidelines and policies adopted from time to time by Council and/or the Chief Executive Officer.

This policy should be read in conjunction with the:

- Local Government Act 2020
- Local Government (Governance and Integrity) Regulations 2020
- Councillor Code of Conduct
- Councillor and Member of a Delegated Committee Expenses Policy
- Public Transparency Policy
- Guidelines - Councillor Gift Policy

6 Review

This policy and any associated guidelines should be reviewed as required, but at least every four years.

Councillor - Gift Declaration Form

All Gifts over \$50 are to be declared.
To be completed by councillors
(Completed forms to be given to the Manager Governance and Legal for the Gift Register)

Name:

Date gift received or offered: / / 20 **Estimated dollar value: \$**

What is the gift / hospitality?

Who is the gift / hospitality from?

When & how was the gift / hospitality received? (i.e. what setting – at a function, on site...)?

To my knowledge the gift giver is not currently subject to any tender, permit application process or matter under consideration, for which this gift may be perceived as exercising a beneficial interest.

Councillor's Signature: **Date :** / / 20

Manager Governance and Legal Comments:

CEO Comments (where applicable):

Gift Allocation

☐ Gift to be retained by councillor

☐ Gift to be retained and provided to an appropriate charity

☐ Gift to be returned to donor

☐ Gift to be retained and included in the Civic Collection

☐ Other

Privacy Statement: The personal information requested on this form is being collected by Council for the purpose of maintaining the Council Gift Register. The personal information will be used by Council for that primary purpose or directly related purposes. As the Gift Register will be available for public inspection, some information (including the name of the donor) will be disclosed to the public. Failure to provide the requested information may result in a breach of the Councillor Gift Policy. The councillor understands the personal information provided is for purpose of maintaining the Council Gift Register and that he or she may apply to council for access to and/or amendment of the information. Requests for access and/or correction should be made to Council's Privacy Officer.