

# **ATTACHMENT TO AGENDA ITEM**

**Ordinary Meeting**

**20 June 2017**

**Agenda Item 8.4      Adoption of Various Policies**

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# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL5

## Civic Recognition Policy Version 2.1

Adopted 15 December 2009

Last Reviewed XXXX

<b>Business Unit:</b>	Corporate Services
<b>Responsible Officer:</b>	Team Leader Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	Within six months of a Council election

**PURPOSE**

This Civic Recognition Policy is intended to recognise appropriate achievements by residents of Greater Shepparton in twofields.

**OBJECTIVE**

The Greater Shepparton City Council will, under appropriate circumstances, recognise and provide official recognition to individual(s) and group(s) for outstanding achievement or service to the community through the bestowing of the titular honour of "Milestone Achievement".

**SCOPE**

This Policy establishes the circumstances in which the Greater Shepparton City Council may present the honour of the "Milestone Achievement" to recognise residents of Greater Shepparton.

This will provide members of the community with the opportunity to appropriately recognise milestones made by residents within the community.

**DEFINITIONS**

Reference term	Definition
Former Resident	This is to the discretion of the Chief Executive Officer

**POLICY****1. Milestone Achievement Award**

The "Milestone Achievement" is awarded to individuals and organisations that have reached a significant milestone. Community members can provide relevant information to Council so it can be considered.

Upon written request from a member of the community, a letter signed by the Mayor and will be provided to individuals or organisations under the following criteria:

- Any individual who has reached 100 years of age
- Any couple who has been married for 50 years or more
- Any business that has been operating within Greater Shepparton for over 25 years
- Any other milestone to be considered appropriate by the Chief Executive Officer.

All recommendations for the "Milestone Achievement" must be received in writing addressed to the CEO. If the CEO does not believe that the recommendation meets the selection criteria, that person will be advised in writing by the CEO as to the reasons why the recommendation has been rejected.

**RELATED POLICIES AND PROCEDURES**

- Nil

**RELATED LEGISLATION**

- Nil

**REVIEW**

The Civic Recognition Policy is to be reviewed by the Team Leader Governance within six months after the General Election. Any suggested changes will be presented to the Executive Leadership Team and Council for consideration.

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**Peter Harriott**  
**Chief Executive Officer**

**Date**

Civic Recognition Policy

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL7

## Live Streaming and Publishing Recordings of Council Meetings

Version 1.0

Adopted 20 September 2016

Last Reviewed

<b>Business Unit:</b>	Corporate Governance
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	Within six months of a General Election

**PURPOSE**

This Policy outlines the requirements associated with the live streaming and publishing recordings of Ordinary and Special Council Meetings via Councils website. This policy will inform members of the public and Councillors on Councils processes, the potential benefits and any mitigation action to manage potential risks.

**OBJECTIVE**

Council is committed to improving accessibility and community participation in Council Meetings. It is anticipated that the live streaming of meetings and making recordings available on Councils website will provide greater flexibility and convenient access for residents, as it will allow the public to watch the meeting in real time via the internet without the need to attend in person.

This gives the community greater access to Council decisions and debate, and eliminates geographic and time barriers which may prevent the public from attending meetings in person.

**SCOPE**

This Policy will apply to all public Ordinary and Special Council Meetings conducted by the Greater Shepparton City Council (Council). The policy does not extend to any meetings closed to the public in accordance with Section 89(2) of the *Local Government Act 1989*.

**DEFINITIONS**

Reference term	Definition
Chairperson	Chair of an Ordinary or Special Council meeting, usually the Mayor.
Council	Refers to the 'Greater Shepparton City Council'.
Ordinary Meeting	An Ordinary Meeting of the Council, as defined in Section 83(a) of the <i>Local Government Act 1989</i> .
Special Meeting	A Special Meeting of the Council, as defined in Section 83(b) of the <i>Local Government Act 1989</i> .
Confidential Council Meeting	A Meeting of the Council which has been closed to members of the public under Section 89(2) of the <i>Local Government Act 1989</i> .
Defamation	Intentional false communication which damages the reputation of another individual.
Privacy Breach	Unauthorised access to, or collection, use or disclosure of personal information.

**POLICY****1. Meetings to be Streamed Live and Recorded**

All public Ordinary and Special Council Meetings will be streamed live and made available to the public via Council's official Facebook page. The recording will then be uploaded to Council's website. While Confidential Council Meetings may also be recorded, these files will not be made publicly available.

#### Technical Disclaimer

There may be situations where, due to technical difficulties a live stream may not be available. Whilst every effort will be made to ensure the live streaming and website are up and running smoothly, the Council takes no responsibility for and cannot be held liable for, the live streaming or Council website being temporarily unavailable due to technical issues beyond its control.

Technical issues may include, but are not limited to, the availability of the internet connection, device failure or malfunction, unavailability of social media platforms or power outages.

Every effort will also be made to notify the community if live streaming is subject to any disruptions via Facebook and Twitter.

The Chair has the discretion and authority at any time to direct the termination or interruption of live streaming if they believe it is advisable to do so. Such direction will only be given in exceptional circumstances, where the content of debate is considered misleading, defamatory or potentially inappropriate to be published.

#### **2. Notice to the Public**

At the commencement of each meeting, the Chair shall notify those present that the meeting will be streamed live via Council's Facebook page and that the recording will be made publicly available on Council's website.

Appropriate signage will also be placed at the entrance to the meeting location notifying all attendees that the meeting will be streamed live. Notice will also be given on Council's website and printed in the meeting agenda.

#### **3. Access and Storage of Files**

All recordings will be uploaded to the Council website within five business days of the meeting. Following a Council meeting, members of the public will be able to access and watch the recording via links on Council's website. These files will remain on the website for a period of up to 12 months and on Council's Facebook page indefinitely.

Council reserves the right not to upload or publish a recording if it is believed it may contain information that could be considered misleading, offensive and/or defamatory. Council may, from time to time, also direct staff to remove recordings or portions of recordings from the website where it considers it appropriate or advisable to do so.

#### **4. Identified Risks and Mitigation Action**

Public Council meetings are an open forum of statements, questions and answers. Occasionally, comments could be made which may be regarded as offensive, defamatory or contrary to law.

By live streaming and publishing recordings of Ordinary and Special Council meetings, the potential audience is significantly increased, which also increases the likelihood and/or severity of potential liability.

No protection will be afforded to Councillors, staff or the public for comments made during meetings which are subsequently challenged in a court of law and determined to be slanderous.

While individuals are liable for any defamatory comments they make, the act of publishing such material on Council's website may see the organisation as partially liable.

To avoid any such occurrences, the Chair may at any time during a meeting request that a live stream and/or recording be terminated.

Following the meeting, all recordings will be vetted. The Director Corporate Services may choose to exclude part or all of any meeting recording which he or she deems to be inappropriate.

Material considered as inappropriate may include, but is not limited to:

- Defamation
- Infringement of Copyright
- Breach of Privacy / Disclosure of Personal Information
- Offensive Behaviour including Discrimination
- Vilification or Inciting Hatred
- Confidential or Privileged Council Information

#### **Privacy and Defamation Disclaimer**

A privacy and defamation disclaimer has been developed to ensure that gallery attendees are aware of possible privacy concerns regarding the live streaming of meetings. Privacy disclaimer signage will be posted at the entrance of the meeting location to advise attendees [Refer to Attachment 1].

The disclaimer relating to defamation will ensure Councillors are fully aware of the possible legal consequences arising from making defamatory statements and/or comments.

#### **Privacy**

The audio-visual recording equipment will be configured in a way which avoids coverage of the public gallery area and Council will endeavour to ensure images in this area are not streamed. However, Council expressly provides no assurances to this effect and in the event your image is webcast, by remaining in the public gallery area it is assumed that consent has been given to the Council to broadcast your image.



### Defamation

The opinions or statements made during the course of the Council meeting are those of the particular individuals, and not necessarily the opinions or statements of Council. The Council does not necessarily endorse or support the views, opinions, standards or information contained in the live streaming/recording of the Council meetings

The Council does not accept any responsibility for the comments made or information provided during Council meetings and does not warrant nor represent that the material or statements made during the streamed meetings are complete, reliable, accurate or free from error. The Council does not accept any responsibility or liability for any loss, damage, cost or expense you might incur as a result of the viewing, use or reliance of information or statements provided in the live streaming/recording of Council meetings.

### **RELATED POLICIES AND DIRECTIVES**

- *Councillor Code of Conduct*
- *Employee Code of Conduct*
- *Local Law No.2 – Processes of Local Government (Meetings and Common Seal)*

### **RELATED LEGISLATION**

- *Local Government Act 1989*
- *Privacy and Data Protection Act 2014*
- *Freedom of Information Act 1982*

### **REVIEW**

This Policy will be reviewed within six months of a general election by the Team Leader Governance in conjunction with the Executive Leadership Team.

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**Peter Harriott**  
**CHIEF EXECUTIVE OFFICER**

### **ATTACHMENTS**

**Public Gallery Notice**  
**Meeting Chair's Statement**  
**Agenda and Website Disclaimer Statement**

**Attachment 1**  
**Public Gallery Notice**

The following is what will be posted at the Council Meeting location.

This public meeting is being streamed live on the internet via Greater Shepparton City Council's Facebook page. The recording will be made available on Council's website [www.greatershepparton.com.au](http://www.greatershepparton.com.au) after the meeting.

All care is taken to maintain your privacy; however as a visitor in the public gallery, your presence may be recorded. By remaining in the public gallery it is assumed your consent is given in the event that your image is broadcast.

**Attachment 2**  
**Meeting Chair's Statement – to be read at the commencement of each Council Meeting**

Please note that this Council meeting is being streamed live and recorded in accordance with the Council's Live Streaming and Recording of Council Meetings Policy.

All care is taken to maintain your privacy; however as a visitor in the public gallery, your presence may be recorded. By remaining in the public gallery it is assumed your consent is given in the event that your image is broadcast.

For more information the policy is available on the Greater Shepparton City Council's website.

**Attachment 3****Agenda and Website Disclaimer****Agenda Disclaimer**

No responsibility whatsoever is implied or accepted by the Greater Shepparton City Council for any act, omission or statement occurring during the live streaming of the Ordinary and Special Council meetings.

**Website Disclaimer (Live Streaming)**

There may be situations where, due to technical difficulties a live stream may not be available. Whilst every effort will be made to ensure the live streaming and website are up and running smoothly, the Greater Shepparton City Council takes no responsibility for and cannot be held liable for, the live streaming or Council website being temporarily unavailable due to technical issues beyond its control.

Technical issues may include, but are not limited to the availability of the internet connection, device failure or malfunction, unavailability of social media platforms or power outages.

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL6

## Conflict of Interest Policy

Version 1.1

Adopted: 17 March 2015

Last Reviewed XXX

<b>Business Unit:</b>	Corporate Governance
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	Within Six Months of a General Election

**PURPOSE**

This Conflict of Interest Policy (Policy) has been developed to ensure that all Council employees and representatives act with integrity in their dealings with members of the public and in carrying out their public duties.

Members of the public should be confident that their elected representatives and staff act with the best interest of the community in mind, and that all dealings are done so in a way which is both honest and ethical.

**OBJECTIVE**

It is essential that Council operates in a manner that is transparent and accountable, and promotes ethical decision making.

In order to achieve effective governance standards, full disclosure of all actual or perceived conflicts of interest are mandatory.

To ensure that there is no bias, or appearance of bias, in decision making, this policy aims to:

- Ensure that all Council employees understand what Conflict of Interest is and why it is relevant to their role
- Make employees aware of their duty to make decisions free of bias and with the highest ethical standard
- Remove any public perception of bias, and as such maintain public confidence
- Keep a record of any declared conflict of interest
- Compliance with the Councillor code of conduct and the Employee Code of Conduct
- Compliance with *the Local Government Act 1989 (the Act)*

**SCOPE**

This policy applies to all representatives of Greater Shepparton City Council (Council). This includes, but is not limited to, Councillors, employees, volunteers, contractors and consultants.

**DEFINITIONS**

Reference term	Definition
Applicable Gift	One or more gifts with a total value of, or more than, the gift disclosure threshold, received from a person or persons whom have a direct or indirect interest in the matter, and which were received in the 5 years preceding the decision or exercise of power, duty or function (exclusions apply – refer 78C of <i>the Act</i> ).
Conflict of Interest	A Conflict of Interest is a situation whereby your ability to make a decision may be influenced by personal interests. This influence creates a bias between a person's private interests and their public duty, involving a lack of impartiality, whether or not financial gain or loss is involved.
Controlling Interest	An ownership interest in a company or other body that has control of the majority of voting stock shares, resulting in the owner of the controlling interest being able to determine any decision and override any other shareholder opinions or votes.

Reference term	Definition
Direct Interest	A person has a direct interest in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances if the person would be directly altered if the matter is decided in a particular way.
Direct Relative	Means the spouse, domestic partner, son, daughter, mother, father, brother or sister of the person.
Disclose	To make information known.
Family Member	Means a spouse or domestic partner of the person, or a son, daughter, mother, father, brother or sister that regularly resides with the person.
Improper direction and improper influence	To use your position with Council to (or seek to) improperly direct or improperly influence a member of Council staff in the exercise of any power or in the performance of any duty or function by that member.
Indirect Interest	A relevant person has an indirect interest in a matter if the relevant person has: <ul style="list-style-type: none"> <li>a) a close association as specified in section 78 of <i>the Act</i></li> <li>b) an indirect financial interest as specified in 78A of <i>the Act</i></li> <li>c) a conflicting duty as specified in section 78B of <i>the Act</i></li> <li>d) received an applicable gift as specified in section 78C of <i>the Act</i></li> <li>e) become an interested party as specified in section 78D of <i>the Act</i></li> <li>f) a residential amenity that may be altered as specified in section 78E of <i>the Act</i>.</li> </ul>
Matter	Means a matter with which a Council, special committee or a member of Council staff is concerned and that will require: <ul style="list-style-type: none"> <li>a) a power to be exercised, or a duty or function to be performed, or a decision to be made, by the Council or a special committee in respect of the matter</li> <li>b) a power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter.</li> </ul>
Personal Benefit	Any advantage gained by a person or associate by use of confidential Council information.
Relative	Means: <ul style="list-style-type: none"> <li>• a direct relative of the person</li> <li>• a direct relative of a person who is the direct relative of the person.</li> </ul>
Relevant Person	Means a person who is a: <ul style="list-style-type: none"> <li>• Councillor</li> <li>• Member of a Special Committee</li> <li>• Member of Council staff</li> </ul>

## POLICY

### 1. Application

All relevant persons are bound by an ethical obligation to avoid a conflict of interest. This applies to Councillors, Council officers, contractors and volunteers and forms part of the Councillor Code of Conduct and Council's Employee Code of Conduct.

Should a conflict of interest be identified, those concerned should ensure that they are not in a position where they could not justify to the public their own actions, or in which a reasonable person may become suspicious of improper conduct or preferential treatment.

Whilst influencing factors in your personal life may impact on your professional decisions, this does not automatically mean there is a Conflict of Interest. However, the way in which the potential conflict is dealt with is extremely important so as to ensure that all actions are open and transparent.

### 2. What Is Conflict Of Interest?

A Conflict of Interest arises where an individual may be seen to be influenced by factors in their private life that could be seen to impact on their ability to make an impartial decision whilst conducting their professional duties. Conflict of Interest can apply where influencing factors are real, or merely perceived.

Conflicts of interest or conflicting personal interests can be either direct or indirect, with the following grounds applying:

- Conflicting Personal Interest (s 79B)
- Direct Interest (s 77B)
- Indirect Interest:
  - Close Association (s 78)
  - Indirect Financial Interest (s 78A)
  - Conflicting Duty (s 78B)
  - Receipt of Applicable Gifts (s 78C)
  - Interested Party (S 78D)
  - Impact on Residential Amenity (S78E)

Factors that may apply for a Conflict of Interest to occur include relationships of both a personal and professional nature. Examples of such relationships include a company which you hold a position with or own shares with, someone you are in a partnership with, or a close family member or friend. Any relationship that may be traced back through these means should be treated as a Conflict of Interest.

Council representatives should at all times act in the best interests of the public in an independent and impartial manner, and must not take into account any personal influences or irrelevant consideration.

Conflict of Interest may occur whether or not financial gain or loss is involved and should be treated in the same manner in either case. As such, Conflicts of Interest may be either 'Direct' or 'Indirect'.



## 2.1 Direct Interests

A person has a 'direct interest' in a matter if there is a reasonable likelihood that the benefits, obligations, opportunities or circumstances of the person would be directly altered if the matter is decided in a particular way.

It would be considered that a person has a direct interest in a matter if:

- there is a reasonable likelihood that the person will receive a direct benefit or loss that can be measured in financial terms if the matter is decided in a particular way;
- the person has, or the person together with a member or members of the person's family have a controlling interest in a company or other body that has a direct interest in the matter.

A person who has a membership in a club or organisation that has a direct interest in a matter:

- does not, by reason of that membership, have a direct interest in the matter under subsection (1); and
- does not have an indirect interest in the matter, by reason of that membership, unless the person has an indirect interest in the matter under section 78A, 78B or 78C.

## 2.2 Indirect Interest

### Indirect Interest by Close Association (Section 78 of the Act)

An indirect interest by close association occurs when a person:

- has a family member with a direct or indirect interest in a matter.
- has a relative with a direct interest in a matter
- has a member of their household with a direct interest in a matter.

### Indirect Financial Interest (Section 78A of the Act)

A person has an indirect financial interest in a matter if they are likely to receive a benefit or incur a loss (which can be measured in monetary terms) as a result of a benefit received or loss incurred by another person who has a direct or indirect interest in a matter.

A conflict of interest due to indirect financial interest would exist if:

- the person (or family members of the person) has a beneficial interest in shares of a company or other body that has a direct interest in the matter, except if the combined total value does not exceed \$10,000 and the total value of issued shares of the company or body exceeds \$10 million.
- the person is owed money from another person and that other person has a direct interest in the matter

### Indirect Interest due to Conflicting Duties (Section 78B of the Act)

A person has indirect interest in a matter because of a conflicting duty if the person:

- is a manager or a member of a governing body of a company or body that has a direct interest in a matter
- is a partner, consultant, contractor, agent or employee of a person, company or body that has a direct interest in a matter
- is a trustee for a person who has a direct interest in a matter.

A person would also be considered to have an indirect interest if they held a position or role as mentioned above, and in that role, dealt with the matter.

**Indirect Interest because of Receipt of an Applicable Gift (Section 78C of the Act)**

A person has an indirect interest in a matter if they have received an applicable gift, directly or indirectly from:

- a person who has a direct interest in the matter
- a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter
- a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.

**Indirect Interest as a Consequence of becoming an Interested Party (Section 78D of the Act)**

A person has an indirect interest in a matter if they have become an interested party in the matter by initiating civil or becoming a party to civil proceedings in relation to the matter.

**Indirect Interest because of Impact on Residential Amenity (Section 78E of the Act)**

A person has an indirect interest in a matter if there is a reasonable likelihood that the residential amenity of the person will be altered if the matter is decided in a particular way.

**3. Potential Areas of Conflict**

3.1 Influences which may cause a conflict of influence could include circumstances such as, but not limited to:

- Undertaking secondary employment
- Financial and economic interests such as debts or assets
- A family or private business
- Affiliations with for-profit and non-profit organisations, sporting bodies, clubs and associations
- Affiliations to professional, community ethnic, family or religious groups in a personal or professional capacity or relationships to people living in the same household
- Enmity towards or competition with another individual or group
- Significant family or other relationships with clients, contractors or other staff working in the same (or a related) organisation
- Future employment prospects or plans (ie post separation employment)

3.2 In day to day responsibilities at Council, this may affect staff -

- As a member of a tender selection / procurement panel
- As a member of a recruitment/interview panel
- In the determination of development applications
- Considering/deciding grant applications
- If undertaking internal review of Government Information Public Access applications
- General decision making
- Receiving gifts and benefits

#### 4. Disclosing Interests

The attention of Councillors, designated persons, employees and volunteers is drawn to the following criteria to assist them in determining the extent of disclosure required during the meeting in order to satisfy the statutory requirements under Section 79 of *the Act*:

- The details are sufficient to enable other Councillors and the public to appreciate in general terms the connection of the person with the matter under consideration.
- The disclosure does not reveal sensitive information which is not relevant to the matter before the Council.
- The disclosure does not reveal information which may be unnecessarily damaging to the reputation of some person(s) with whom the person disclosing the interest is associated.
- The disclosure will not unnecessarily prejudice a sensitive commercial or legal situation.
- Disclosures of interest made at meetings and subsequent actions will be recorded in the meeting minutes.

##### 4.1 Councillors and Committee Members

- Councillors and Committee Members who believe they have an interest in a matter must declare that interest in any meetings or discussions where that matter is considered.
- Councillors and Committee Members will be required to complete a 'Conflict of Interest Disclosure Form' (see attachment 1) at the time of disclosure and submit this form to the Chief Executive Officer.
- It is highly recommended that a Councillor who has declared an interest excuses themselves from the Council meeting, and remains out of sight:
  - i. at any time during which the matter is being considered or discussed by the Council, or
  - ii. at any time during which the Council is voting on any question in relation to the matter.

##### 4.2 Employees, Contractors, Consultants and Volunteers

- Employees, Contractors, Consultants and Volunteers who believe they have an interest in a matter must declare that interest in any meetings or discussions where the matter is being considered.
- Written notice in the form of a 'Conflict of Interest Disclosure Form' (see attachment 2) must be provided to the Chief Executive Officer.
- The Employee, Contractor, Consultant or Volunteer must determine the appropriate level of any future involvement regarding the matter, although it is highly recommended that they cease any further involvement with the matter.

### 5. Responsibility for Making a Disclosure

The responsibility for determining potential Conflict of Interest is left to the individual and is not the responsibility of the Mayor or Chief Executive Officer. Individuals should use their best judgment to ascertain whether or not a Conflict of Interest exists. Where unsure, the individual should declare the interest and not participate in any discussion or voting with regard to that matter.

### 6. Complaints Regarding Failure to Disclose an Interest

Any complaints regarding a staff member, contractor, consultant or volunteers failure to disclose an interest may be directed to the Chief Executive Officer. Should the complaint relate to a Councillors failure to disclose, the matter should be referred to the Local Government Inspectorate.

### 7. Register of Interests

A nominated officer or member of a special committee must complete a Primary Register of Interest Form and lodge it with the Chief Executive Officer, within 30 days of commencing in their position or becoming a nominated officer.

A person who becomes a Councillor must complete a primary return within 30 days of election day or within 7 days of making the oath of office. Note: re-elected Councillors are to complete an ordinary return.

Thereafter, an Ordinary Register of Interest Form must be lodged every six months, between the periods of 30 June – 9 August and 31 December – 9 February each year.

The following outlines designated persons which are generally required to complete a register of interest:

- i. Councillors
- ii. Committee Members
- iii. The Chief Executive Officer
- iv. Senior Staff of Council
- v. Staff specifically designated by the Chief Executive Officer due to the nature of their functions and level of delegated authority.

Councillors and designated persons will be emailed instructions, a Register of Interest form and a Memo from the Chief Executive Officer at the beginning of each return period. The Governance Officer will be the central point of contact for this process and collect and process all completed returns.

### RELATED POLICIES AND DIRECTIVES

- Information to be Made Available to the Public Under the Local Government (General) Regulations 2014 | 37.CEOD7
- Councillor Code of Conduct
- Employee Code of Conduct

**RELATED LEGISLATION**

- Sections 77, 78, 79 and 80 of the Local Government Act 1989
- Local Law No.2 Processes of Local Government

**REVIEW**

The Team Leader Governance is to review this Policy every four years, within six months of a general election, in conjunction with the Executive Leadership Team.

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**Peter Harriott**  
**Chief Executive Officer**

**Date**

**ATTACHMENTS**

- Attachment 1: Conflict of Interest Disclosure Form – Councillor or Committee Member**
- Attachment 2: Conflict of Interest Disclosure Form – Staff Member**
- Attachment 3: Primary Register of Interest Form**
- Attachment 4: Ordinary Register of Interest Form**

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL2

## Exercise of Delegations

Version 2.0

Adopted 7 August 2007

Last Reviewed XXXX

<b>Business Unit:</b>	Corporate Services
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	December 2020



## PURPOSE

Delegations are a critical Governance tool of the Council. Most Council decisions are not made at Council meetings and the effective functioning of the Council would not be possible if they were. Instead, most decision-making power is allocated by formal delegations.

The Council is committed to ensuring that decisions made under delegation are legal, appropriate, open and transparent. The primary responsibility of delegates is to ensure that all decisions made under delegation are within their power to make and taken in full compliance with the Council's legal obligations. Once this responsibility has been met, delegates must consider the guidance provided in this Policy when making decisions under delegation.

## OBJECTIVE

There are two forms of delegations which occur in Victorian local government:

- delegations to members of staff, and
- delegations to special committees.

Although a special committee is not a separate legal entity (being only a "committee" of persons), as a body it can act as a "delegate" of the Council. This applies to special committees comprising Councillors as well as to special committees which include officers and/or other persons;

The nature of a delegation is important to understand. The decision of a delegate of Council is "deemed" to be a decision by Council. It binds the Council in the same manner and to the same extent as a decision made at a Council meeting. Delegations are different in nature from authorisations. The decision by a person appointed by Council to a statutory position - for example, an authorised officer - is not a decision of the Council, but a decision of the authorised individual. That person's powers and responsibilities are quite distinct from Council's and derive from the statutory position to which they are appointed.

The delegation of powers is essential to enable day-to-day decisions to be made. Because it is a common feature of legislation, not all details about delegations are set out in the empowering Act - some general features of delegation are set out in the *Interpretation of Legislation Act 1984*. In particular:

- the decision, once made, is for all legal purposes a decision of the Council itself (section 42A of the *Interpretation of Legislation Act*);
- the "delegate" is in much the same position as the Council itself in terms of making the decision - for example, where the decision requires that opinion be formed, the delegate's opinion can be the basis for the decision (section 42 of the *Interpretation of Legislation Act*); and
- the fact that a delegation has been made does not affect the Council's powers in relation to the issue concerned (section 42A of the *Interpretation of Legislation Act*). This is subject, of course, to the rule that the delegate's decision (once made) is taken to be the decision of the Council itself. The Council can therefore find itself bound by a decision which it would not itself have made, and if this occurs the existence of this "residual" power may provide little solace.

It is therefore important that the Council have in place appropriate policies and guidelines under which delegation should be exercised. Delegates, whether individuals or Committees, need to be familiar with the delegation issued to them and ensure that decisions taken are within their power to make.

### SCOPE

The scope of this Policy is to ensure that decisions made under delegation achieve the best possible outcome for the community. This will be achieved by delegates seeking appropriate input from the Councillors, the wider Council administration and the community. The Council affirms its responsibility to set and own, through consultation with the community:

- the vision for Greater Shepparton,
- its strategic direction,
- the policies necessary to pursue this vision and direction, and
- the funding of them.

Council also accepts its responsibility to be accountable to the community for the outcomes of its policies. Council acknowledges the responsibility of delegates to:

- implement the vision, strategies, direction and policies determined by Council;
- comply with all relevant legislation, strategies, plans, policies, corporate procedures and guidelines;
- provide to the Council all information relevant to issues affecting it;
- advise honestly, loyally and professionally upon those issues;
- provide effective administration and staffing for these purposes, within the framework of Council's budget; and be accountable to Council for the outcomes achieved.

### DEFINITIONS

Reference term	Definition
Special Committee	Means a committee appointed under section 86 of the Local Government Act 1989 that can act as a delegate of the Council



## **POLICY**

The Council adopts the following processes in relation to the exercise of delegated authority:

### **1. Informing the Public**

When a delegate informs members of the public of a decision made under delegation, this fact is to be clearly conveyed. Members of the public must always have decisions made under delegation relating to them confirmed in writing. Written confirmation must clearly state that the decision was made under delegation and contain:

- the Council contact in relation to the decision, and
- the avenue/s of appeal available, where applicable.

### **2. Referral to Council**

A delegate shall refer to the Council with an appropriate recommendation any proposal, whether for a project or program, for work, for a contract, or for a planning decision, without prior decision by the delegate wherever and whenever:

- the proposal requires the letting of a contract exceeding the amount approved in the Instrument of Delegation – Council to the Chief Executive Officer;
- the proposal raises an issue of significant public interest, concern or controversy, or is likely to do so;
- the proposal raises an issue of policy or process not covered by existing policy or practice;
- the proposal has six or more public objections or appears likely to do so;
- the delegate recommends approval of the proposal, but such approval would be, or could reasonably appear to be, inconsistent with a previous decision or decisions by or on behalf of the Council;
- implementation of the proposal would require expenditure of Council funds, and such funds have not been specifically provided for in the budget;
- the delegate is not satisfied that the proposal has been the subject of appropriate consultation with those likely to be interested in or affected by it;
- the delegate is not satisfied that the proposal is one that is appropriate for the decision of the administration rather than the Council; or
- the delegate believes that it is more appropriate that the proposal or any issue arising in connection with it should be determined by the Council rather than the administration.

### 3. Limitation on Financial Delegations

Where the approval of a proposal would involve the expenditure of Council funds for which provision has been made in Council's budget, the authority of the delegate is nevertheless limited to the following amounts (exclusive of Goods and Services Tax):

Chief Executive Officer	<ul style="list-style-type: none"> <li>Approval of contracts up to the value of \$400,000</li> <li>Individual payments against Council approved contracts: \$2,000,000</li> </ul>
Director	<ul style="list-style-type: none"> <li>Approval of contracts: up to the values specified by Order in Council under s.186 of the Local Government Act 1989 as requiring public notice (currently \$150,000 Good and Services, \$200,000 works)</li> <li>Payments against Council approved contracts - \$750,000</li> </ul>
Manager Works and Waste Manager Parks, Sport and Recreation Manager Projects Department Manager Strategic Assets	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$100,000</li> </ul>
Managers Operations Supervisor	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$50,000</li> </ul>
Senior Supervisors	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$25,000</li> </ul>
General Supervisors	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$5,000</li> </ul>
Executive Support Officers	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$2,500</li> </ul>
Support Officers	<ul style="list-style-type: none"> <li>Approval of contracts and payments: \$500</li> </ul>

The definitive financial delegations to Council officers are included in the Chief Executive Officer's sub-delegation to Council staff. The positions described above are also defined in that document. Where any conflict occurs between the amounts or positions specified in the sub-delegation and those contained in this Policy, the sub-delegation has precedence.

#### 4. Ratification of Officer Decisions

Several Acts which confer powers of delegation provide that particular decisions by delegates are of no effect unless ratified by the Council:

Decision which requires ratification	Relevant Legislation
Refusal by an officer to grant, renew or transfer registration of food premises under the <i>Food Act 1984</i>	Section 58A(2) <i>Food Act 1984</i>
Refusal by an officer to issue a permit for a septic tank system	Section 53M <i>Environment Protection Act 1970</i>
Refusal by an officer to grant, renew or transfer registration of premises under Section 77 of the Public Health and Wellbeing Act	Section 77 of the Public Health and Wellbeing Act 2008

A Council agenda report must be raised and submitted for all decisions which require ratification by the Council. The report must detail the decision made and the reasons for it and recommend to the Council that they ratify the decision made under delegation.

#### 5. Declaration of Conflicts of Interest

The *Local Government Act 1989* prohibits a delegate from exercising any delegated power, or discharging any function or duty where they have a conflict of interest. Further, a delegate who has a conflict of interest in relation to a delegated power, function or duty must inform the Chief Executive Officer of that conflict in writing as soon as they become aware of it. Delegates must ensure that they are fully aware of what constitutes a conflict of interest as defined in the *Local Government Act 1989* and their obligations in relation to such conflicts.

#### 6. Compliance with this Policy

When exercising delegated authority the delegate shall use his or her best judgement to ensure compliance with each and all of the requirements of this Policy.

#### 7. Documentation and Transparency

It is important that decisions and actions taken under delegations be properly documented and transparent in nature. If delegations were not in place, the exercise of functions, powers and duties of the Council would be recorded in the Minutes of Council meetings.

It is possible that decisions taken under delegation will be reviewed in other spheres (eg: internal or management review, Council review, Ombudsman, Victorian Civil and Administrative Tribunal, Magistrates (or higher) Court), therefore a proper record of delegated action must be kept to ensure that the decision or action can be substantiated at a later date.

The detail and method of recording will depend on the nature of the power, duty or function. However, the need for proper documentation should be uppermost in the minds

of all delegates. Guidelines on record keeping and reporting back in relation to the exercise of staff delegations are at Annex A.

Regular reports will be provided to the Council in relation to the exercising of the delegations.

#### **RELATED POLICIES AND DIRECTIVES**

- Conflict of Interest Policy
  - 37.POL6 Procurement
  - Policy 13.POL1

#### **RELATED LEGISLATION**

This Policy should be read in conjunction with the Greater Shepparton City Council's most recent issued delegations, along with all legislation, strategies, plans, policies, corporate procedures and guidelines which relate to the delegate's position or committee.

#### **REVIEW**

The Manager Corporate Governance is to review the Exercise of Delegations Policy every four years in conjunction with the Executive Leadership Team.

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**Peter Harriott**  
**Chief Executive Officer**

**Date**

TABLE

FUNCTION, DUTY OR POWER	MEANS OF REPORTING BACK	TIMING
<b>Report Back to Council</b>		
Delegations by CEO to members of staff	Register	Available
Details of any gifts devised to the Council and conditions attached [s 188 <i>Local Government Act 1989</i> ("LGA")]	Report	Next Meeting
Decision to prohibit use of a road by vehicles of a certain size or weight [cl 12(2), Schedule 11, LGA]	Report	Next Meeting
Details relating to amendments to the planning scheme	Report	Within 30 days
Details of applications for planning permits	Register	Available
Details of approval or refusal of planning permits under the <i>Planning and Environment Act 1987</i> ("P&E Act")	Register	Available
Action where Council is respondent to appeals to VCAT	Register	Available
Claims received for compensation (s98, P&E Act)	Register	Available
Applications for use or development as a brothel (s73-76 <i>Prostitution Control Act 1994</i> )	Register	Available
Applications received, granted and refused under <i>Subdivision Act 1988</i>	Register	Available
Action to authorise or vary contract payments in accordance with the schedule at Attachment 1	Report	Next Meeting

<b>FUNCTION, DUTY OR POWER</b>	<b>MEANS OF REPORTING BACK</b>	<b>TIMING</b>
<b>Report to Chief Executive Officer</b>		
Action to authorise or vary contract payments in accordance with the schedule at Appendix 1	Report	Next day
Details of payments or interest waived under s142 of LGA	Memorandum	Within 7 days
<b>Report to Appropriate Director(s)</b>		
Details of prosecutions instituted and outcome of prosecutions concluded	Memorandum	Monthly report
Details of action taken to suspend any permit or registration	Memorandum	Within 3 days
Details of all action taken toward compulsory acquisition of land under the <i>Land Acquisition and Compensation Act 1986</i>	Memorandum	Within 3 days
Details of rates waived under s171 or s171A of LGA	Memorandum	Within 7 days
Details of leases entered where s223 procedures not required	Memorandum	Within 7 days
Details of Agreements entered into under s173 of the P&E Act	Memorandum	Within 7 days
Details of authorisation of progression of staff member(s) to a higher level within their band	Memorandum	Within 7 days
Action to authorise or vary contract payments in accordance with the schedule at Appendix 1	Memorandum	Next day
Approval of claim under Workcover excess	Memorandum	Next day

<b>Report to Appropriate Manager(s)</b>		
Details of applications and decisions to grant, renew or refuse permits, registrations, etc	Register	Available
Details of removal of abandoned unregistered vehicles under cl 3, Schedule 11, LGA	Register	Available
Details of vehicles towed where deemed to have caused unlawful obstruction	Register	Available
Details of roads closed for a particular period (cl 7 Schedule 11, LGA)	Register	Available
Details of roads blocked etc by placement of a temporary barrier or obstruction (cl 10(1)(a) and (b), Schedule 11, LGA)	Register	Available
Details of exercise of power to prohibit or restrict traffic on a road if unsafe	Register	Available

**Attachment 1: SCHEDULE**

Each level of delegation is required to report back to their superior when they are approving a contact over a certain figure. The table below outlines these figures (exclusive of GST) and the method required to report back to the responsible delegate.

<b>Advertising and Approval of Contracts – Report Back Requirements</b>					
Level of Delegation for advertising and approving Contracts		Trigger figure for Report Back, required Report Back method & Authority			
		Manager	Director	CEO	Council
Support Officer \$0 - \$500	Report Back figure	All Payments			
	Report Back means	Email			
Executive Support Officer \$0 - \$2,500	Report Back figure	>\$1,000			
	Report Back means	Memo			
General Supervisor and EO United Tourism \$0 - \$5,000	Report Back figure	>\$2,000			
	Report Back means	Memo			
Senior Supervisor \$0 - \$25,000	Report Back figure	>\$10,000			
	Report Back means	Memo			
Operations Supervisor \$0 - \$50,000	Report Back figure		>\$20,000		
	Report Back means		Memo		
Manager \$0 - \$50,000	Report Back figure		>\$20,000		
	Report Back means		Memo		
Manager Works and Waste Manager Parks, Sport and Recreation Manager Projects Department Manager Strategic Assets \$0 - \$100,000	Report Back figure		>\$60,000		
	Report Back means		Memo		
Director \$0 - \$150,000 Goods & Services \$0 - \$200,000 Works	Report Back figure			>\$100,000	
	Report Back means			Memo	
CEO \$0 - \$400,000	Report Back figure				>\$300,000
	Report Back means				Council Report



The table below outlines the figure amount and which level of Authority is to authorise contract variations.

<b>Contract Variation</b>					
<b>Value of Contract</b>	<b>Variation</b>	<b>Level of Authority</b>			
		<b>Manager</b>	<b>Director</b>	<b>CEO</b>	<b>Councillors</b>
\$0 - \$50,000	Single Variation	\$0 - \$5,000	\$5,000 - \$10,000	\$10,000+	N/A
	Total of all Variations	\$0 - \$5,000	\$5,000 - \$10,000	\$10,000+	N/A
\$50,001 - \$250,000	Single Variation	\$Nil	\$0 - \$10,000	\$10,000 - \$15,000	\$15,000+
	Total of all Variations	\$Nil	\$0 - \$20,000	\$20,000 - \$30,000	\$30,000+
\$250,001+	Single Variation	\$Nil	0% - 5%	5% - 10%	10%+
	Total of all Variations	\$Nil	0% - 10%	10% - 20% (up to \$400,000)	20%+ (and over \$400,000)

Notes: Should any variation result in the total value of the contract exceeding the upper financial limit of the delegate, then the authorisation must be referred to the subsequent level of authority for approval. Under Report Back Requirements, all authorised variations must be reported to the subsequent level of authority in memo form.

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL1

## Gifts and Benefits

Version 2.2

Adopted 17 March 2015

Last Reviewed XXXX

<b>Business Unit:</b>	Corporate Services
<b>Responsible Officer:</b>	Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	Six months following general election

**PURPOSE**

The purpose of this policy is to provide guidance to Councillors and staff on the process to be followed if a gift or benefit is offered during the course of your role with Council.

**OBJECTIVE**

At some stage in your career as a Councillor or officer at Greater Shepparton City Council you may be offered a gift or benefit. This gift or benefit could be offered in good faith, or it could be an attempt to influence, bribe or compromise your ability to act impartially and in the public's best interest.

**SCOPE**

Councillors or Council officers may be offered gifts or hospitality in a range of situations. Receipt of a gift or benefit from a person or organisation could create an expectation of favourable consideration in relation to Council matters and give rise to a conflict of interest.

This policy applies to all Councillors and staff and has been developed to guide Councillors and Council officers on the Council's expected process with regard to the acceptance of gifts and benefits. This will therefore minimise the potential for breaches of the *Local Government Act 1989* (the Act) to occur.

**DEFINITIONS**

Reference term	Definition
Applicable Gift	Section 78C of the <i>Local Government Act 1989</i> outlines the definition of an 'applicable gift'.
Benefit	A benefit is something of value to the receiver which is less tangible than a gift, such as hospitality, access to a corporate box at a sporting event, discounts on buying goods or services, access to confidential information, or sexual favours.
Bribery	Bribery is defined as receiving or offering a reward in return for influencing a person's behaviour or decision-making in the giver's favour.
Gift	For the purposes of this policy, the definition of the term 'gift' includes: <ul style="list-style-type: none"> <li>• The transfer of money</li> <li>• The transfer of property</li> <li>• The provision of services free of charge at a reduced rate</li> <li>• Loans of money</li> <li>• Sale of property with a sale price below proper valuations</li> <li>• Hospitality, including meals, entertainment and accommodation</li> <li>• Travel</li> </ul> But does not include: <ol style="list-style-type: none"> <li>a) gifts (other than election campaign donations) received more than 12 months before first becoming a Councillor or Council officer, or</li> <li>b) reasonable hospitality provided to a Mayor, Councillor or member of Council staff by any organisation at any function or event that: <ul style="list-style-type: none"> <li>• is conducted during the five year period of determination, and</li> <li>• is attended in an official capacity.</li> </ul> </li> </ol>

## POLICY

### 1. Gift, Benefit or Bribe?

A gift offered to you in the course of your duties may include, but is not limited to, money, food, drink, gift vouchers, tickets to an event/show, or airfares and/or accommodation.

A gift or benefit may be offered by a client or contractor (including a consultant) or someone who may in the future be contracted by Council, or someone from another organisation whose work is related to Council.

A gift or benefit offered by someone who has no apparent connection with your duties may be given to influence you at a later time, or put you under obligation to the person who offered you the gift.

A gift or benefit may also be offered to you by a work colleague or Councillor. In this case you would need to consider carefully the intention and nature of the gift, the occasion on which it is offered, and whether there is any possibility that the gift could be intended to influence you.

### 2. Acting Impartially and with Integrity

As a Greater Shepparton City Council elected representative or employee you have a duty to ensure that Council business is carried out fairly and impartially, and with integrity.

A gift or benefit may be intended as a bribe. Bribery generally is intended to induce the recipient to act contrary to accepted rules, policies or directives.

A gift or benefit may not be intended as a bribe, but you may feel obligated to the person giving the gift, and as a result your impartiality and integrity may be affected when making a decision about that person. Even where feelings of obligation do not affect your impartiality or integrity, there is the risk that other people will perceive that you have been compromised. The consequences of this perception can be just as damaging as actual compromise to you and the Council.

### 3. Guidelines

It can be difficult to work out why someone offers you a gift or benefit, as they may have one or more motives, including gratitude, hospitality, friendship or bribery. Sometimes the giver's reasons or intentions aren't clear. In a business context, apart from small tokens such as a pen or key-ring bearing a company name, it is unusual for a gift or benefit to be offered without some expectation of a return.

In any case, following the guidelines below will ensure that you deal with the offer of a gift appropriately and in line with Council's policies and its expectations of ethical behaviour of staff and Councillors. You will also protect yourself from any possible negative repercussions.

#### a. You must never solicit or ask for a gift or benefit

Soliciting a gift or benefit is corrupt and criminal behaviour, and is against not only Council's Code of Conduct, but also the law.

- b. **Offers of money in any form must never be accepted**  
Offers of money are viewed by Council as an attempt to influence corruptly an elected representative's or employee's behaviour. You must **never** accept money under any circumstances.
- c. **As a general rule, you should not accept any gifts or benefits**  
It is better to refuse any offers of a gift or benefit to avoid compromising yourself, or risking the perception that you, and Council, have been compromised or influenced. This applies no matter what the value of the gift or benefit is. You also need to be very aware that an accumulation of even small gifts could quickly become an applicable gift and result in you having a conflict of interest under the Act.
- d. **Under special circumstances, it may be appropriate to accept a gift or benefit**  
Council recognises that a blanket ban on gifts and benefits is difficult to apply and that there will be some situations where it is impossible or inappropriate to refuse a gift or benefit. In this case, the following guidelines will apply:
- Sometimes refusing a gift will cause offence or be considered impolite, especially if the gift is of limited value, for example, a pen, stress ball or writing pad with a corporate logo
  - A gift may be offered in a public way in return for a favour already given which does not compromise your work, for example, in appreciation of a guest-speaking engagement at a conference or from an overseas delegation you have been hosting
  - A gift may be received in the course of your duties and be relevant to Council's work, for example, a book about housing or social policies
  - Even modest hospitality can be considered a gift under the Act, such as a lunch provided to a working party or refreshments during or after a meeting.
  - A gift received through a 'win' or 'competition' such as a business card draw or a prize won through skill, such as answering a question at an event is not considered a gift in the context of this policy
  - There may be occasions where the gift you receive cannot be returned as it may have been given anonymously or returning of the gift is met with refusal
  - Unsolicited gifts which arrive in the mail or are not delivered in person should also be treated as gifts by the Council and disposed of accordingly.
- e. **A gift or benefit you receive in the line of duty is generally regarded as the property of Council**  
In general and where possible, the use or disposal of a gift is the responsibility of Council, not the person who has received it.
- f. **If you are the recipient of a gift and following careful consideration of the Council's Gifts and Benefits Policy make the decision to accept the gift, you must notify your manager (or in the case of a Councillor, the CEO) and have it registered on Council's Gift Register**  
The Gift Register is an official record of any gifts or benefits received by Councillors or staff. The register includes details of the nature and value of the gift, who gave the gift and the decision that was made regarding the use or disposal of the gift. If

you have any uncertainty in the value of the gift, please contact the Governance team for assistance.

All gifts received must be declared and handed in to the Governance team to be recorded, regardless of the items monetary value. It is important to register any gift or benefit that you have received to protect you from any accusations that may be made in the future about misuse of your position or dishonesty for not having declared a gift.

Please note that a single gift or multiple gifts that you receive over the calendar year from a particular organisation which total below the threshold (\$30.00) will be returned to you. At the time a gift brings the total from an organisation over the threshold, the gift will be handed in to the CEO for determination of its disposal.

If a gift is declared and the total value does not exceed the threshold and the officer does not want it returned, the gift will also be handed in to CEO for determination of its disposal.

**g. Bribes and Inappropriate Gifts**

If you believe that you have been offered a bribe or inappropriate gift intended to influence you in your role, you should reject the offer explaining that accepting the gift would be inappropriate and contravene the Council's Code of Conduct. Make notes about what has occurred so that you may inform the CEO.

**h. Assessing the Value of Hospitality**

The value of benefits such as hospitality at an event can be difficult to determine and open to personal interpretation, therefore in the interests of consistency nominal values have been assigned to the following categorised events:

• Hors d'oeuvres and beverages	\$ 50.00
• Seated meal and beverages	\$100.00
• Sporting event and catering, i.e. general admission tickets	\$150.00
• Corporate Suite sporting event and catering, i.e. box tickets	\$300.00

The value of hospitality relates to the acceptance of the invitation, and it is irrelevant whether you refuse hospitality at the event. Where a Councillor or Council officer is accompanied by their partner and/or other family members, the assigned hospitality value of the event which must be declared is the aggregated amount for all attendees, using the above figures.

Where a Councillor or Council officer is offered an invitation to attend an event in an official capacity, this is not considered to be a gift. If the invitation is offered in a non-official capacity, the invitation must be declared as a gift. Additional considerations should be made if Council is organising or sponsoring the event, however circumstances will differ for each situation. If unsure, advice should be sought from the Governance department.



**4. Disposal of Gifts**

The CEO will determine how a gift that has exceeded the threshold should be disposed of. Any of the following methods may be used:

- Disposal by resolution of the Council
- Transfer to other public agencies or authorities
- Transfer as a gift to a recognised charitable, aid or non-profit organisation
- Archival action by the records department, regional library or local museum
- Provided to the social club to be raffled
- Provided to the organisation staff to share
- Destruction.

**5. Declaring a Gift**

To have a gift or benefit recorded on the Gift Register, you must complete the Declaration of Gifts form at Attachment 1. This form must be completed within 14 days of receiving the gift or benefit, or if the gift was received overseas, within 14 days of returning to Australia. Once completed, the form should be handed in to the Councillor Support Assistant (Governance) for recording.

**RELATED POLICIES AND PROCEDURES**

- *Conduct of Council Business Policy*
- *Councillor Code of Conduct*
- *Employee Code of Conduct*

**RELATED LEGISLATION**

- *Local Government Act 1989*
- *Conflict of Interest in Local Government Guide*

**REVIEW**

The Team Leader Governance is to review the Gifts and Benefits Policy within six months after each general election of the Council, in conjunction with the Executive Leadership Team. Suggested revisions are to be submitted to the Council for consideration.

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**Peter Harriott**

**Date**

**Chief Executive Officer**

**ATTACHMENTS**

**Attachment 1: Declaration of Gifts Form (M09/9802)**

# GREATER SHEPPARTON CITY COUNCIL

Policy Number 37.POL11

## Freedom of Information Policy

Version 1.0

Adopted 21 June 2016

Last Reviewed 21 June 2016

<b>Business Unit:</b>	Corporate Governance
<b>Responsible Officer:</b>	Team Leader Governance Manager Corporate Governance
<b>Approved By:</b>	Chief Executive Officer
<b>Next Review:</b>	March 2020

[6713005: 16189399\_1]



## PURPOSE

This Policy sets out the process to be followed when Council receives a request for documents under the *Freedom of Information Act 1982 (Vic)*(Act).

## OBJECTIVE

Council is an 'agency' under the Act and is responsible for processing all freedom of information (FOI) requests in accordance with the Act. Processes in this policy have been developed to meet the requirements set out in the Act.

It is intended that this policy be used by Council staff in processing requests made under the Act.

This policy may also assist members of the public in making an FOI request to Council, or having a greater understanding of how Council will handle an FOI request.

## SCOPE

This policy applies to all staff, Councillors, contractors and volunteers of Council. Such persons acting on Council's behalf are subject to the requirements of the Act and are expected to comply with both the Act and this policy in respect of FOI requests.

## DEFINITIONS

Reference term	Definition
Act	the <i>Freedom of Information Act 1982 (Vic)</i>
Agency	a department, council or a prescribed authority
Applicant	a person who has made a request in accordance with section 17, or has applied under section 12(1), of the Act
Document	as defined under the Act, includes a map, graph, drawing, photograph, label or other attachment, disc, tape, sound track, or film, as well as a document that has been hand written or typed. Information held on computer disk or in a database fits the definition of a document. This includes any copies, reproductions or duplications and any words, figures, letters or symbols which are capable of carrying a definite meaning to persons conversant with them
FOI	freedom of information
FOI Officer	Refers to officers employed by Greater Shepparton City Council in the following positions: <ul style="list-style-type: none"> <li>• Manager Corporate Governance</li> <li>• Team Leader Governance</li> </ul>
Principal Officer	Council's Chief Executive Officer

## POLICY

### 1. Publications available outside of FOI

#### Publications

Council publishes a number of newsletters, brochures and guides for residents, businesses and visitors.

For copies of any of these documents, please email us at [council@shepparton.vic.gov.au](mailto:council@shepparton.vic.gov.au).

Full copies of Council Meeting Agendas or Minutes of Meeting can be found at <http://greater-shepparton.com.au/council/governance/council-meetings/minutes-agendas>

#### Section 86 Committee Meeting Minutes

All meeting minutes of special committees established under section 86 of the *Local Government Act 1989*, (other than confidential minutes) are available for public inspection for a period of 12 months from the meeting date.

#### Studies, Strategies, Masterplans and Reports

Council often has several key strategic planning projects underway at any one time.

These range from consideration of proposed large scale developments to policy reviews and the development of planning guidelines.

To view copies of the strategies online, please refer to our website at

<http://greater-shepparton.com.au/bpi/planning/strategic-planning/strategic-strategies-and-reports>

#### Building Permits, Notices & Orders

Customers may inspect three public registers maintained by the Building Department. The first register captures all building permits and the second register records all occupancy permits. The third register contains all building notices and building orders issued. These public registers may be inspected free of charge at the Council Office located at 90 Welsford Street, Shepparton or by contacting the building department on (03) 5832 9885.

#### Planning Applications & Permits

Customers may inspect a register containing advertised planning applications or track the progress of a planning application at: [www.greater-shepparton.com.au/bpi/planning](http://www.greater-shepparton.com.au/bpi/planning)

Customers can inspect all documents on an \*Open Planning File by contacting the Planning Department on (03) 5832 9730.

\*Open File - A file is considered open/current until:

- 60 days after issuing or refusing a permit
- the planning application is withdrawn
- the matter is subject to review at the Victorian Civil and Administrative Tribunal (VCAT), or a decision is made by VCAT.

Once a planning file is closed, only the following documents from a planning file are freely available:

- Permit or refusal
- Signed delegate or Council report
- VCAT Decision
- Planner's submission to VCAT
- Endorsed plans

## 2. Requests for Documents

It is recommended that applicants contact Councils FOI Officer prior to submitting an FOI request.

FOI requests must be made in writing and lodged with Council, accompanied by the applicable application fee, or an application to waive fee (see 'Applicable Fees and Charges', below). While Council will accept any FOI request made in any written form (such as email or letter), it encourages all applicants to submit an FOI request using Council's *Request for Access to Documents Under the Freedom of Information Act 1982 Form (Attachment 1)*.

The Act requires applicants to state their requests clearly enough for relevant documents to be identified. If a request is not sufficiently clear, Council will assist the applicant in clarifying his or her request to enable it to be processed. An FOI request will only be processed by Council once it is sufficiently specific and clear.

Once a valid FOI request is made, the FOI Officer must conduct a thorough search, with the process of the search, and the outcomes, recorded. All correspondence and communications with applicants will be managed by the FOI Officer.

## 3. Applicable Fees and Charges

The charges applicable for processing an FOI request are fixed in accordance with regulations made under the Act.

### Application fee

The application fee for making an FOI request is set by the Treasurer and is reviewed annually in July each year. Once reviewed, the new figures are published in the Government Gazette, and the current application fee is also clearly outlined on Councils website.

Payment of the application fee will be accepted via cash, eftpos, cheque or money order. In accordance with section 17(2B) of the Act, an applicant may request that the application fee is reduced or waived. With any application for Council to waive the application fee, applicants must also provide Council with a copy of their current concession card to enable Council's FOI Officer to determine whether to waive the application fee.

### Access charges

Section 22 of the Act and the *Freedom of Information (Access Charges) Regulations 2014* set out the charges that can be levied for the provision of information. The key charges are available on Councils website, or upon request by contacting the Freedom of Information Officer on (03)5832 9868.

No charges apply to requests for the correction or amendment of a person's own personal information.

#### 4. Access to documents

Applicants have the right to request any document which is in the possession of Council, but access is subject to any applicable exemptions under the Act.

A person does not have the right to obtain under the Act publications which are sold by Council, documents which are held by the Public Record Office of Victoria or documents that are readily available to the public, including where access is subject to the payment of a fee.

The Act allows for requested documents to be withheld where they are considered to be exempt from release. The FOI Officer will consider, subject to the provisions of the Act, whether each document within the scope of the FOI request is exempt and decide whether it should be released in full, released with exempt details deleted (released in part), or withheld.

Any third parties mentioned in the documents may need to be consulted prior to a decision being made on release of the documents. Section 34 of the Act requires consultation with third parties in relation to the disclosure of business information or trade secrets prior to a decision being made on release of the information.

Third parties may also need to be notified of a decision to release their personal affairs information and their appeal rights.

Where it is proposed to release documents containing the personal or business information of a third person, Council will not give the FOI applicant a copy of these documents until the appeal period of 60 days has elapsed. Sometimes this can be avoided if an applicant states in their FOI request that they do not require personal information to be provided.

If a requested document does not exist, has been destroyed, or cannot be found, despite a thorough search, this will be communicated to the applicant in the decision letter.

#### 5. Exempt documents

A document or part of a document can be regarded as exempt if (among other things):

- it is an internal "deliberative process" document and its release would be contrary to the public interest (exempt under section 30 of the Act);
- it would be privileged from production in legal proceedings on the ground of legal professional privilege (exempt under section 32 of the Act);
- it concerns the personal affairs of a person other than the applicant where disclosure would be unreasonable in the circumstances (exempt under section 33 of the Act);
- it is information communicated in confidence to Council (exempt under section 35 of the Act); or
- its release would disadvantage Council or another organisation commercially (exempt under section 34 of the Act).

#### 6. Decision letter

Under section 26 of the Act, Council's Chief Executive Officer is deemed responsible for making decisions relating to access to documents and advising applicants in writing of

that decision. By way of delegation this power has been delegated to Council's FOI Officer.

If the FOI Officer decides not to release a document or part of a document, or decide that access should be deferred (section 24) or that no such document exists, the applicant will be sent a written notice that sets out findings on material facts, the reasons for the decision, the name and designation of the FOI Officer and details of the applicant's review rights (section 27).

If an exemption is claimed under section 30 (internal working documents), the decision letter will also include the factors considered in deciding that release would be contrary to the public interest.

The applicant will be informed who to contact if they have any queries about the decision and how to make a complaint or request a review with the FOI Commissioner, and the deadline to do so.

#### **7. FOI Commissioner - FOI Reviews and Complaints**

When an applicant is dissatisfied with the FOI Officer's decision not to release all or part of a requested document, the applicant has 28 days from receipt of the written notice of the decision to lodge a request for a review of the decision. This review is conducted by the FOI Commissioner.

If access is denied because the document does not exist or cannot be found after a thorough and diligent search, or if the FOI request has been delayed, the applicant has the right to complain to the FOI Commissioner. A complaint must be made within 60 days of the action or conduct they wish to complain about occurred.

#### **8. Review by the Victorian Civil and Administrative Tribunal**

Decisions of the FOI Commissioner can be appealed to VCAT. An application must be made within 60 days from the date of the notice of decision of the FOI Commissioner (see section 52 of the Act).

If a disclosed document includes a third party's personal or business information, the third party has 60 days from the date of the decision letter to apply to VCAT for a review of the decision. An applicant's access to that document will be deferred until the expiry of that appeal [rightperiod](#).

#### **9. Amendment of Personal Records**

Under section 39 of the Act, an individual or, in the case of a deceased person, the next-of-kin, is entitled to request in writing the correction or amendment of any information pertaining to the individual's own personal affairs that has been previously released to that person.

A request for amendment of personal records must be made in writing in accordance with section 40 of the Act.

#### **RELATED LEGISLATION**

- *Freedom of Information Act 1982*
- *Freedom of Information (Access Charges) Regulations 2014*
- *Freedom of Information Regulations 2009*
- *Health Records Act 2001*
- *Public Records Act 1973*
- *Privacy and Data Protection Act 2014*
- *Local Government Act 1989*

**REVIEW**

This Policy will be reviewed by the Manager Corporate Governance in conjunction with the Executive Leadership Team. Reviews will take place within six months of each general election, however additional reviews may be undertaken as required.

**Peter Harriott**  
**CHIEF EXECUTIVE OFFICER**

**Date**

**Attachment 1:** Request for Access to Documents Under the *Freedom of Information Act 1982* Form