



Councillor Gift Policy

Purpose

In accordance with section 138 of the Local Government Act 2020, Council must adopt and maintain a gift policy, which includes procedures for the maintenance of a gift register. This policy ensures Council's compliance with this section of the Act.

Governance Principles

Section 9 of the Local Government Act 2020 (the Act) specifies the overarching governance principles and supporting principles that Council must adhere to in the performance of its role and functions.

This policy gives effect to the following overarching governance principles outlined in Section 9(2) of the Act:

- Council decisions are to be made and actions taken in accordance with the relevant law;
- Priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- The economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is to be promoted;
- Innovation and continuous improvement is to be pursued;
- The ongoing financial viability of the Council is to be ensured;
- The transparency of Council decisions, actions and information is to be ensured.

This report also takes into account the following supporting principles defined in Section 9(3) of the Act:

- The public transparency principles (Public Transparency Policy);
- The financial management principles;

Definitions

For the purposes of this policy, Council adopts the following definitions:

- The Act means the Local Government Act 2020.
- Community means the people of Baw Baw Shire.

- Council means Baw Baw Shire Council.
- Councillor means a current elected Councillor of Council.
- Gift means anything of monetary or other value that is offered by an external organisation or individual to a Councillor as a result of their role. It includes free or discounted items or services, benefits or hospitality that exceeds common courtesy.
- Gift disclosure threshold is defined to be \$500 or a higher amount, as specified under section 128 of the Act.

Scope

This policy applies to all elected Councillors while holding the office of Councillor. The policy is also relevant to all members of the community.

Legislative context

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

Related policies and documents

The Model Councillor Code of Conduct and Council's:

- Councillor Support and Expense Policy
- Governance Rules
- Privacy Policy
- Complaints Handling Policy
- Community Engagement Policy
- Public Transparency Policy
- Procurement Policy

Policy principles

The objectives of this policy are to:

1. Support Baw Baw Shire Council in ensuring good governance and open and accountable conduct in relation to the receipt, offer and decline of gifts by Councillors.
2. Outline when gifts may be accepted, when gifts are not to be accepted, and the details required for entry in Council's Gift Register.

Policy detail

1. Declaration and Disclosure of Gifts

- 1.1. All gifts, regardless of value, accepted or not must be declared.

- 1.2. A Councillor must disclose any 'disclosable gift' valued at \$500 or more (accumulative in the past 5 years or as a single gift) in their next bi-annual Personal Interest Return form.
- 1.3. A Councillor who has a conflict of interest as a result of receiving a gift or gifts from a person must disclose the conflict of interest in accordance with the procedures outlined in the Governance Rules.
- 1.4. It is the responsibility of each Councillor to declare gifts appropriately, adhere to this policy and to determine whether to accept or decline a gift.
- 1.5. Councillors must lodge a gift declaration in writing to the CEO and Manager Governance.
- 1.6. Councillors are to provide details pertaining to the receipt, or offer, of any gift within 14 days from the date of receipt/offer.
- 1.7. Gift declarations shall contain the following information, which will be included in the Councillor Gift Register:
 - Name of Councillor,
 - Name of person or organisation offering gift,
 - The date the offer was made,
 - The value of the gift offer,
 - Whether the gift was accepted, declined, or returned,
 - The justification for this decision, and
 - A signature from the relevant Councillor declaring the accuracy of the information.
- 1.8. The Councillor Gift Register will be publicly available via Council's website

2. Prohibited Gifts

- 2.1. Councillors should avoid situations giving rise to the appearance that a person or body, through the provision of gifts, benefits, or hospitality of any kind, is attempting to secure favourable treatment.
- 2.2. Councillors must refuse the following gifts:
 - Anonymous gifts valued at or above the gift disclosure threshold (\$500).
 - Gifts from Council employees, regardless of value.
 - Gifts that would cause a real or perceived conflict of interest.
 - Repeat gifts from an individual or single entity.
 - Gifts of money, gift cards or shares.
 - Any gift of property or personal assets resulting from their position with Council.
 - Gifts from individuals, businesses or organisations that may benefit from a decision of Council.
 - Gifts from individuals, businesses or organisations that are a current or prospective supplier of goods or services.
 - Rewards or points must not be collected for personal use via rewards programs when completing Council related transactions, such as Fly Buys or Frequent Flyers points.

- Any gift that is inconsistent with community values and could bring a Councillor's integrity, or that of the Council into disrepute.
- Gifts that if accepted could be perceived as an endorsement of a product or service.

3. Allowable Gifts

3.1. It may be acceptable for Councillors to accept some gifts, where the circumstances, and value of the gift do not risk the reputation of Council or integrity of the Councillor.

3.2. Councillors may accept the following gifts:

- Gifts of hospitality or recognition, valued at no more than \$50, received while acting in an official capacity and or carrying their duties.
- Gifts that cannot be declined – there may be instances where declining a gift could cause offence due to cultural or other reasons, where a gift has been received in an official capacity, or where a gift has been received without notice and cannot be returned. In such an instance the gift should be declared, and in conjunction with the CEO arrangements can be made to donate or equitably share the gift, or the gift remains the property of the Council.
- Corporate gifts valued at \$20 or lower, such as branded stationery.
- Corporate gifts received from Council, as authorised by the CEO, in recognition of significant events such as years of service milestones, the conclusion of a Council or Mayoral Term. Such gifts should not exceed a value of \$100.
- Gifts between Councillors valued at \$50 or lower.

4. Non-Compliance with this Policy

4.1. Accepting a prohibited gift may constitute misuse of a Councillor's position, and a breach of this policy may result in serious misconduct allegations for Councillors. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe or other form of corruption and lead to criminal prosecution.

Review

Approval date	26 March 2025
Approval authority	Council
Effective from	27 March 2025
Review term	Council Term
Next review date	March 2029
Responsible position	Manager Governance
Responsible Director	Director Governance and Information Services
Version	2.0

Revision History

Approval date	Version	Revision description
24 February 2021	1	Policy as adopted by Council
X March 2025	2	<p>'The Act', 'Council', 'Community', 'Councillor', 'Gift Disclosure Threshold' added to definitions.</p> <p>Related Acts, Policies and Documents updated to reflect the introduction of the Model Councillor Code of Conduct.</p> <p>Addition of Policy detail 1.1, 1.6, 1.8</p> <p>Addition of Policy detail 2.2 – dot point seven</p> <p>Policy detail 3.2 – dot point five – Increase of allowed gift value from \$50 to \$100</p>