

Conflict of Interest Policy – CEO

GS07-CP



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1. Purpose

The purpose of this policy is to outline how conflicts of interests will be managed by MacDonnell Regional Council (MRC) in line the *Local Government Act 2019* (the Act) and related regulations, general instructions, guidelines and any reporting to the NT Independent Commissioner Against Corruption (NTICAC).

2. Scope

This policy applies to the Chief Executive Officer (CEO) of MRC.

3. Objectives

- 3.1. In upholding its value of accountability, MRC must ensure that the CEO will execute their role in way that is transparent and accountable to the Council and therefore to the constituents of the MacDonnell Regional Council.
- 3.2. To maintain the public confidence in the Council and its operations.
- 3.3. That the CEO understands the statutory requirements outlined in the Act and related regulations regarding interests, influence and their obligations in relation to those interests.

4. Definitions

Conflict of interest	A conflict of interest may arise if an individual, or their associate (e.g. relative, partner, friend, or employer) has a personal or financial interest in the outcome of a council decision or MRC operations.
Conflict of interest – direct interest	Means an interest that occurs when the CEO is likely to be directly affected if a matter is decided in a particular way.
Conflict of interest – indirect financial interest	Indirect financial interest means an interest that occurs when the CEO is likely to receive a benefit or incur a loss because another person has an interest.
Conflict of interest – indirect interest by close association	Indirect interest by close association means an interest that occurs when an associate of the CEO has a direct or indirect interest, or a resident of the CEO's household has a direct interest.
Interests	An interest is a matter of personal or financial benefit to that individual.
Improper disclosure of information	Use of confidential Council information to gain an unfair advantage for yourself or others.
Conflict of interest – indirect interest due to conflicting duties	Indirect interest due to conflicting duties means an interest that occurs when the CEO is a director, partner, agent, trustee, manager, office holder or employee of a person or entity, including a non-profit body or association that has a direct interest.
Independent Commissioner Against Corruption (ICAC)	MRC is classified as a public body in Section 16(1) of the Independent Commissioner Against Corruption Act 2017 (the Act). Mandatory reporting of suspected improper conduct applies to all public bodies and associated public officers as defined in Section 16(2) of the Act.

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5. Statement

- 5.1. MacDonnell Regional Council (MRC) supports an open, transparent and accountable public administration with a commitment to impartial decision making free from improper influence and bias. MRC acknowledges that for effective governance, that any conflict of interest or influence, perceived or actual, must be disclosed and then dependant on those conflicts, action taken to mitigate those conflicts.
- 5.2. This policy supports and should be read in conjunction with the GS08-CP Code of Conduct Policy – CEO.
- 5.3. Failing to follow this or the above policies, procedures and codes may result in both disciplinary action and may result in a charge of an offence in accordance to the Act section 178.

6. Interest

An interest is a matter of personal or financial benefit to that individual.

6.1. Financial interests:

- a. Shares
- b. Trustee or beneficiary of a family or business trust
- c. Owner of real estate
- d. Directorship of a company
- e. Partnership
- f. Debts

6.2. Non-financial interests:

- a. Family,
- b. Friends,
- c. Associates or
- d. Political membership
- e. Other memberships of another organisation (not for profit, sporting bodies, clubs and association)
- f. Hostility or competition with another individual, family or group
- g. Future employment or business ventures

6.3. Conflict of interest

- 6.3.1. A conflict of interest occurs when the CEO has delegation or influence of a decision regarding the operations of Council, if the CEO or an associate of the CEO has any of the following interests in how the decision is made:
 - a. a direct interest;
 - b. an indirect financial interest;
 - c. an indirect interest by close association
 - d. an indirect interest due to conflicting duties.

6.4. Types and examples of conflicts

- 6.4.1. A direct financial conflict of interest - tendering and purchasing
 - a. Example: MRC has tendered for the provision of IT software systems. A CEO has shares in this company which has tendered for the provision of these

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services. This may affect, or it may reasonably be suspected that it could affect, their ability to make an unbiased decision when the tender is considered by MRC.

- 6.4.2. An indirect interest by close association - tendering and purchasing
- a. Example: a person seeking a decision by MRC their favour, where a tender for consultancy work for MRC, comes from a company that the CEO's partner owns. The CEO would not be seen as impartial when deciding on what tender to accept.

6.5. Reporting interests and declaring conflicts of interest

- 6.5.1. The CEO must register their interests on the GS07-R1 Annual Return of Interests Register - CEO will be maintained by the Director of Corporate Services.
- 6.5.2. When the CEO is on a recruitment and selection panel any conflicts of interests actual or perceived must be declared.

7. Disclosing interests

7.1. Related parties

- 7.1.1. This policy does not cover related parties disclosure as this is covered in a separate policy FA06-CP Related Parties Disclosure Policy.

7.2. Annual Interests

The CEO must complete a GS07-F1 Annual Return on Interests Form which will be recorded on the GS07-R1 Annual Return of Interests Register - CEO as required by the Act:

- 7.2.1. The following persons must submit an annual return to the council containing the details prescribed by regulation (an annual return of interests):
- a. a CEO;
 - b. a senior council employee
- 7.2.2. Each person mentioned in subsection (a) or (b) must submit the annual return of interests:
- a. within 14 days of the commencement of the person's employment; and
 - b. by no later than 30 September each year for the duration of the person's employment.
- 7.2.3. However, if the person has submitted an annual return of interests after 31 March in a calendar year, the person is not required to submit another return before 30 September in that year.

7.3. Managing a conflict of interest

As per section 179 of the Act (Offences for conflict of interest), it states that a person commits an offence if:

- 7.3.1. the person is a staff member; and
- 7.3.2. the staff member has a personal or financial interest in a matter in regard to which the member is required or authorised to act or give advice; and
- 7.3.3. the member does not disclose the interest:
 - a. if the staff member is the CEO – to the council; or
 - b. in any other case- to the CEO
- 7.3.4. A person commits an offence if:

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- a. the person is a staff member; and
- b. the person has a personal or financial interest in a matter in regard to which the member is required or authorised to act or give advice; and
- c. the person acts in the matter in a way other than as authorised by the CEO or the Council (as the case requires).

7.4. Declaring a conflict of interest

7.4.1. The CEO must declare a conflict of interest to the Council, via the President and recorded on GS07-R2 Declared Conflicts Register – CEO:

- a. When the CEO has a conflict of interest in a question arising for decision that the CEO has delegation over or their associate (e.g. relative, partner, friend, or employer) has an actual or perceived personal or financial interest in the outcome of a decision.
- b. As soon as practical after they become aware of a conflict of interest in a matter that has arisen or may arise in carrying out their duties as CEO.
- c. In addition, if the CEO enters into a personal or business relationship with a member of Council or with an MRC employee that could result in a conflict of interest, then this relationship must be reported to the President. A file note will be made and recorded on the relevant Register of Interests.

7.5. Acting with a conflict of interest

7.5.1. A CEO can only act with a conflict of interest if council has given a separate authorisation. This is outlined in section 179 (7) of the Act:

- a. A separate authorisation under subsection (2)(a), (5) and (6) is required for each instance in which a conflict arises (item 7.3.4 is the subsection (2)(a)).

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8. Policy Details

Replaces Policy No: (if applicable)	N/A
Responsible Directorate/Department:	Corporate Services - Governance and Compliance
Approval Date:	28 May 2021
Minutes Reference and Resolution number:	OCSM Item # 15.2 – Resolution OCSM2021-075
Review Cycle:	May 2025 - Review every four (4) years or after changes to relevant legislation.

9. Legislation and References

Related Legislation:	<i>Local Government Act 2019</i>
Related Policies:	N/A
Associated Documents:	GS07-F1 CEO Annual Return on Interests Form GS07-R1 Annual Return of Interests Register-CEO GS07-R2 Declared Conflicts Register –CEO

10. Version Control

Version No.	Approval Date	Policy No.	Minutes reference and Resolution number
1.	28 May 2021	GS07-CP	OCSM Item # 15.2 – OCSM2021-075