

Conflict of Interest Policy – Members

MC05-CP (Superseding CP104 Disclosure of Interests – Members Policy)



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1. Purpose

The purpose of this policy is to outline how conflicts of interests will be managed by the MacDonnell Regional Council 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 elected members (Councillors), the principal member and deputy principal member (the President and Deputy President), appointed members (Local Authority members and Committee Members).

3. Objectives

- 3.1. To ensure that MRC upholds its values of accountability the members and their decisions must be transparent and accountable to the Council and therefore the constituents of the MacDonnell Regional Council.
- 3.2. To maintain the public confidence in the Council and its operations.
- 3.3. That all members, identified in the scope of this policy understand the statutory requirements outlined in the Act and related regulations regarding interests, influence and their obligations in relation to those interests and influences.

4. Definitions

Conflict of interest	A conflict of interest may arise if a member, 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 a member is likely to be directly affected if the matter is decided in a particular way.
Conflict of interest – indirect financial interest	Indirect financial interest means an interest that occurs when a member 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 a member has a direct or indirect interest, or a resident of the member's household has a direct interest.
Conflict of interest - indirect interest due to conflicting	Indirect interest due to conflicting duties means an interest that occurs when a member 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.
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.

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Independent Commissioner Against Corruption (ICAC)	MRC is classified as a public body in Section 16(1) of the <i>Independent Commissioner Against Corruption Act 2017</i> (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.

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, take action to mitigate those conflicts.
- 5.2. This policy supports and should be read in conjunction with the MC04-CP Code of Conduct Policy- members.
- 5.3. This policy supports the HR05-CP Whistleblower Policy and anyone that suspects improper conduct is required to make a mandatory report.
- 5.4. 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. Substantial source of income (could be from additional employment)
- g. 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

Conflict of interest occurs, as stated in the Act when:

- 6.3.1. A member has a conflict of interest in a question arising for decision by the audit committee, council, council committee or local authority if the member or an associate of the member has any of the following interests in how the question is decided:

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- 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. Conflict of interest exemptions:

The following is not a conflict of interest:

- a. an interest that the member or associate shares in common with the general public or a substantial section of the public;
- b. an interest as an elector or ratepayer that the member or associate shares in common with other electors or ratepayers;
- c. an interest so remote or insignificant that it could not reasonably be regarded as likely to influence a decision.

6.5. Types and examples of conflicts

6.5.1. A direct conflict of interest means an interest that occurs when a member is likely to be directly affected if the matter is decided in a particular way.

- a. Example for definition of a direct interest: A company controlled by the member is tendering for a contract that is being discussed by the council.

6.5.2. Indirect financial interest means an interest that occurs when a member is likely to receive a benefit or incur a loss because another person has an interest.

- a. Example for definition indirect financial interest: The member has shares in, or is employed by, a company that is tendering for a contract that is being discussed by the council.

6.5.3. Indirect interest by close association means an interest that occurs when an associate of a member has a direct or indirect interest, or a resident of the member's household has a direct interest.

- a. Examples for definition indirect interest by close association.
 - The member's sibling is suing the council and the council is considering whether to settle the matter.
 - A resident of the member's household is tendering for a contract that is being discussed by the council.

6.5.4. Indirect interest due to conflicting duties means an interest that occurs when a member 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.

- a. Examples for definition indirect interest due to conflicting duties:
 - The member is a director of a non-profit body or association that is seeking a sponsorship or donation being discussed by the council.
 - The member is an employee of a non-profit body or association that is tendering for a contract being discussed by the council.

6.6. Reporting interests and declaring conflicts of interest

6.6.1. For all members (elected and appointed) the MC05-R1 Annual Return of Interests - members will be maintained by the CEO.

6.6.2. For all members on a recruitment and selection panel any conflicts of interests actual or perceived must be declared to the responsible manager.

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.

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7.2. Annual Interests

- 7.2.1. Members will complete a MC05-F1 Members Annual Return on Interests Form which will be recorded on the MC05-R1 Annual Return of Interests Register - members as required by the Local Government Act 2019 (The Act). Section 110 of the Act states:
- 7.2.2. A council member must submit an annual return to the CEO, containing the details prescribed by regulation (an annual return of interests):
 - a. within 60 days of the council member's election; and
 - b. by no later than 30 September each year for the duration of the council member's membership.
- 7.2.3. The annual return must be submitted in the prescribed form.
- 7.2.4. However, if a member has submitted an annual return of interests after 31 March in a calendar year, the member is not required to submit another return before 30 September in that year.

7.3. Declaring a conflict of interest – members

- 7.3.1. A member has a conflict of interest in a question arising for decision by the Council, Local Authority, or Council Committee, if the member 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.
- 7.3.2. As soon as practical after a member becomes aware of a conflict of interest in a matter that has arisen or is about to arise before a meeting (council, local authority or council committee), the member must disclose the relevant interest to the meeting and to the CEO, see item 7.4.1.
- 7.3.3. Details of members' conflict of interests and the nature of those interests will be recorded in MC05-R1 Declarations of Conflicts of Interest Register-members and published on the Council's website to be available for any member of the public to inspect at the Council's public office.
- 7.3.4. In addition, if a member enters into a personal or business relationship with another member or Council employee that could result in a conflict of interest, then this relationship must be reported to the President and CEO. A file note will be made and recorded on the relevant Register of Interests.

7.4. Acting with a conflict of interest – members

As per the Act, section 115:

- 7.4.1. As soon as practicable after a member becomes aware of a conflict of interest in a matter that has arisen or is about to arise before an audit committee, a council, a council committee or a local authority, the member must disclose the interest that gives rise to the conflict (the **relevant interest**):
 - a. at a meeting of the audit committee, council, council committee or local authority; and
 - b. to the CEO.
- 7.4.2. A member must not:
 - a. be present at a meeting of the audit committee, council, council committee or local authority while a matter in which the member has a conflict of interest is under consideration; or
 - b. participate in any decision in relation to the matter; or
 - c. engage in behaviour that may influence the audit committee, council, council committee or local authority's consideration of or decision in relation to the matter.

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8. Policy Details

Replaces Policy No: (if applicable)	CP104 - Disclosure of Interests – Members
Responsible Directorate/Department:	Corporate Services – Governance and Compliance
Approval Date:	28 May 2021
Minutes Reference and Resolution number:	SCM Item #15.2 – Resolution SCM2021-075
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, s114</i>
Related Policies:	MC04-CP Code of Conduct Policy – Members
Associated Documents:	MC05-F1 Members Annual Return on Interests Form
	MC05-R1 Declarations of Conflicts of Interest Register – Members

10. Version Control

Version No.	Approval Date	Policy No.	Minutes reference and Resolution number
1.	28 October 2016	CP104	OCM Item #13.2 – OCM2016-067
2.	28 May 2021	MC05-CP	SCM Item #15.2 – SCM2021-075