

ADM011 – Conflict of Interest Policy

1. POLICY CERTIFICATION

Policy title:	Conflict of Interest - Members
Policy number:	011
Category:	Elected Members
Classification:	ADM
Status:	Approved

2. PURPOSE

This policy has been developed to set the procedures and guidelines for Members of Roper Gulf Regional Council (RGRC) to follow to ensure that the Public of the Roper Gulf Region know and can be confident that the decisions made by the Members of Roper Gulf Regional Council are carried out with proper standards of integrity, diligence and concerns for the public interest of the Roper Gulf Region, and ensure compliance with Part 7.2 of the *Local Government Act* (LGA)

3. ORGANISATIONAL SCOPE

This policy applies to all Members of Roper Gulf Regional Council as per the Section 3 Definitions of the *Local Government Act*. This policy does not apply to staff members of RGRC as staff members are disqualified from holding Office as Members whilst employed by RGRC (s37(1)(d) LGA). It should be noted that Council *may* appoint employees as Members of Council committees (s54(3) LGA), in which case this policy shall apply to the relevant employees for the duration of their Membership of that committee.

This policy is to be used in conjunction with, and as a supplement for CL010 *Register of Interests* policy.

4. POLICY STATEMENT

Members of any Council in the Northern Territory have the responsibility of operating in the public's interest without benefiting from any actual, potential or apparent personal gain. All conduct is to be undertaken in a fair, transparent and unbiased approach. The Roper Gulf Regional Council recognises that Members may hold a number of legitimate interests outside of the workplace; however Members are responsible for ensuring that these interests are disclosed and evaluated so as not to create any conflicts of interest.

5. DEFINITIONS

Associate	A person is an associate of another if: <ol style="list-style-type: none"> a. They are in a close family relationship; or b. They are in a partnership; or c. One is a company and another is a director or manager of the company; or d. One is a private company and another is a shareholder in the company; or
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	e. A chain of relationships can be traced between them under one or more of the above paragraphs.
Conflict of Interest	A <i>conflict of interest</i> occurs when there is a clash between a person’s private interest and their public duty. It involves a lack of impartiality, however arising, and whether or not financial gain or loss is involved.
Disclose	Make known
Improper use of Undue Influence	The use of a Council position to improperly influence others.
Financial Interest	This is an interest that a person has in a matter because of the reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated. Associated persons include relatives, partners and employers.
Personal Benefit	Use of confidential Council information to gain improper advantage.
RGRC	Roper Gulf Regional Council
Personal Interest	This is any private interest that does not relate to money e.g. arising out of kinship, friendship, membership of an association, society or trade union, or involvement or interest in an activity.

6. PRINCIPLES

- 6.1 A conflict of interest refers to situations where a conflict arises between public duty and private interest. Such conflicts generally involve opposing principles or incompatible wishes or needs. The term refers to circumstances where Members of RGRC could be influenced by personal or financial interests when performing official functions.
- 6.2 Conflicts of interest can involve financial or personal interests. They can involve the interests of Members or their immediate family, relatives (where these interests are known), business partners, associates or friends. Ill will, as well as friendship can give rise to a conflict of interest.
- 6.3 Where a Member makes a decision that could affect the rights or interests of any person, that Member must apply the principles of procedural fairness.
- 6.4 A key element of procedural fairness is the so-called “rule against bias”. This rule provides that a person must not act as a judge in their own case. The basis of this rule is that even if a person was able to make an impartial judgement on a matter affecting his or her interest, the perceived bias would cast doubt on the impartiality of the decision.
- 6.5 Conflicts of interest can be financial or personal:

6.3.1 Financial Interest

- a. A Member will be considered to have a financial interest if:
 - i. They or a person with whom they are associated has a pecuniary interest.

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- ii. Their spouse, defacto partner, relative, partner or employer has a pecuniary interest (relative includes any of the following – parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or an adopted child of the person or the person’s spouse).
 - iii. They, a nominee, partner or employer are a member of a company or other body that has a pecuniary interest.
- b. A Member is not taken to have a financial interest if:
- i. They are unaware of the relevant pecuniary interest of the spouse, defacto partner, relative, partner, employer or company or other body.
 - ii. They are a member of, or employed by, a Council or statutory body or by the Crown.
 - iii. They are a member of or a delegate of a Council, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.
- c. A Member does not have a financial interest in a matter if the interest is so remote that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter.

6.3.2 Personal Interest

- a. May be identified if a decision that a Member makes cannot be justified to the public reasonably. If the decision creates reasonable suspicion or the appearance of improper conduct, the decision may be identified as a personal conflict of interest.

6.3.3 Potential Areas of Conflict

- a. Procurement, tendering, purchasing and contracting
- b. Staff recruitment
- c. Gifts, benefits and hospitality
- d. Elected Members on boards and committees making Council decisions
- e. Private sector sponsorship
- f. Grant allocation
- g. Dual roles as a public officer and/or secondary employment

7. POLICY

7.1 Should there be a conflict of interest, the Member concerned shall not do anything which they could not justify to the public or which suggests reasonable suspicion of improper conduct or preferential treatment.

7.2 A conflict of interest must be disclosed.

7.2.1 Members:

- i. Who believe they have an interest in a matter, pecuniary or otherwise, must declare that interest in any meetings or discussions where that matter is considered and that they are present at as soon as practical.

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- ii. Once a declaration of a conflict of interest is made, the matter may be dealt with in a variety of methods. The method in which is chosen will depend on the circumstances of the matter. The various methods include but are not limited to:
 - take no action because the conflict is assessed as minor in nature.
 - the Member is allowed limited involvement (eg, participate in the discussions but not in the decision making)
 - any involvement by the Member is prohibited. Should this method be selected, the elected member should not be present at or in sight of the meeting of Council at any time during which the matter is being considered or discussed by Council or at any time during which the Council is voting on any questions in relation to the matter.
 - the Member is required to remove the source of conflict.
 - include an independent process to provide assurances of integrity and honesty.
- iii. Once a declaration of conflict of interest is made, it will be recorded in the minutes of that meeting.
- iv. Once a declaration of conflict of interest is made, the *'Register of Interests'* shall be updated. The *'Register of Interests'* is published onto the Roper Gulf Regional Council website as per the Section 200(g) requirement of the *Local Government Act*. This register provides sufficient details to enable other elected members and the public to appreciate the connection of the person and the matter under consideration whilst not revealing sensitive or damaging information.

7.3 Responsibility for Making a Disclosure

7.3.1 The objective of disclosure is to ensure compliance with Part 7.2 of the *Local Government Act*.

7.3.2 If one is unsure as to whether or not one has a conflict of interest, full details should be given to the Mayor, Council and/or the CEO depending on the situation. Alternatively, independent legal advice may be sought. Members are asked to disclose interests at every meeting of Council.

7.3.3 It is not the responsibility of the Mayor, or the CEO, to provide them with a determination on whether or not one has a conflict of interest in a matter.

7.3.4 The responsibility of disclosure rests with the individual as the individual is often the only person who is aware of any potential conflict of interest. Roper Gulf Regional Council urges one to err on the side of caution when making decisions with regards to conflicts of interest.

8. ADDITIONAL INFORMATION: DECIDING IF THERE IS A CONFLICT OF INTEREST

The following questions may help in deciding whether one has a conflict of interest or whether ones conduct could create the impression that a conflict of interest exists:

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1. Do I, a relative, friend or associate stand to gain or lose financially from Council's decision or action on this matter?
2. Do I, a relative, friend or associate stand to gain or lose reputation from Council's decision or action on this matter?
3. Have I contributed in a private capacity in any way to the matter before Council?
4. Have I made any promises or commitments in relation to the matter?
5. Have I received a benefit or hospitality from someone who stands to gain or lose from Council's decision or action?
6. Am I a member of an association, club or professional organisation, or do I have particular ties and affiliations with organisations or individuals, who stand to gain or lose from Council's consideration of the matter?
7. Could there be benefits for me in the future that could cast doubt on my objectivity?
8. If I participate in assessment or decision making, would I be happy if my colleagues and the public became aware of my association or connection?
9. Would a fair and reasonable person perceive that I was influenced by personal interest in performing my public duty?
10. Do I need to seek advice or discuss the matter with an objective party?
11. Am I confident of my ability to act impartially and in the public interest?
12. Do I understand the possible penalties if I go on with the action?

9. REFERENCES

Acknowledgements (original author/source documents)	
Related Policies	<ul style="list-style-type: none"> • CL001 – Code of Conduct Policy • CL003 – Elected Member Gift Policy • CL005 – Council Meeting Procedures Policy
Related Publications	<ul style="list-style-type: none"> • <i>Local Government Act</i> • Managing Conflicts of interest in the Public Sector – Guidelines – NSW Independent Commission Against Corruption and the Crime and Misconduct Commission • Conflict of Interest/Improper use and Disclosure of Information Appendix – Victoria Daly Shire Council • Litchfield Council: Conflict of Interest Policy
Relevant Forms	<ul style="list-style-type: none"> • Conflict of Interest Register

10. DOCUMENT CONTROL

Policy number	011
Policy Owner	Governance
Endorsed by	OCM

