

## ADM025 – Conflict of Interest Policy

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### 1. POLICY CERTIFICATION

Policy title:	<b>Conflict of Interest</b>
Policy number:	<b>025</b>
Category:	<b>Policy</b>
Classification:	<b>ADM</b>
Status:	<b>Approved</b>

### 2. PURPOSE

This Policy has been developed to set the procedures and guidelines for Roper Gulf Regional Council (RGRC) staff to ensure compliance with Part 9.4 of the *Local Government Act*, and to ensure that staff maintain proper standards of integrity, diligence and concern for the public interest.

### 3. ORGANISATIONAL SCOPE

This Policy applies to all, employees, contractors and volunteers of Roper Gulf Regional Council. This Policy does not apply to Members of RGRC. The Policy applicable to Members is the ADM011 Conflict of Interest – Members Policy.

### 4. POLICY STATEMENT

Northern Territory Local Government staff are required to carry out their duties without fear or favour, affection or ill-will, and in the public 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 staff may hold a number of legitimate interests outside of the workplace; however staff are legally required by Section 107(1)(b) of the *Local Government Act* to disclose personal and financial Interests to the CEO, or, if the staff member is the CEO, to Council, for evaluation, and not act on matters which they have an Interest in unless authorised by the CEO, or if the affected staff member is the CEO, by Council.

### 5. DEFINITIONS

Associate	A person is an associate of another if: <ul style="list-style-type: none"> <li>a. They are in a close family relationship; or</li> <li>b. They are in a partnership; or</li> <li>c. One is a company and another is a director or manager of the company; or</li> <li>d. One is a private company and another is a shareholder in the company; or</li> <li>e. A chain of relationships can be traced between them under one or more of the above paragraphs.</li> </ul>
Conflict of Interest	A situation where a staff member has a personal or financial interest in a matter in regard to which the staff member is required or authorised to act or give advice. A staff member's Conflict of Interest may compromise that staff member's proper standards of integrity, diligence, and concern for the public interest.
Disclose	Make known
Improper use of Undue Influence	The use of one's position to improperly influence others.
Financial Interest	This is an interest that a person has in a matter because of the <del>reasonable likelihood or expectation of appreciable financial gain or</del>

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	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.
Staff	A person engaged by RGRC in a paid or voluntary capacity, appointed by the CEO (s103 <i>Local Government Act</i> ) to provide services or carry out tasks on behalf of RGRC.
LGA	<i>Local Government Act</i>
Impartiality	To carry out one’s duties without fear or favour, affection or ill-will, according to law, whilst maintaining proper standards of integrity, diligence and concern for the public interest.

**6. PRINCIPLES**

- 6.1 A conflict of interest arises where an individual has a private or personal interest, perceived or real, which could affect their capacity as a staff member, to perform their public or professional duties in an impartial manner.
- 6.2 Having a public duty and a financial/personal interest does not mean there is automatically a conflict of interest.
- 6.3 Conflicts of interest can be financial or private:

**6.3.1 Financial Interest**

- a. A staff member will be considered to have a financial interest if:
  - i. They or a person with whom they are associated has a financial interest.
  - ii. Their spouse, defacto partner, relative, partner or employer has a financial 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 financial interest.
- b. A staff member is not taken to have a financial interest if:
  - i. They are unaware of the relevant financial interest of the spouse, defacto partner, relative, partner, employer or company or other body.
  - ii. They are a staff member of or a delegate of a Council, a company or other body that has a financial interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.
- c. A staff 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.

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### 6.3.2 Personal Interest

- a. May be identified as the interest that is non-financial in nature, of a staff member, or an associate of that staff member, that may affect the staff member's ability and/or willingness to carry out their duties in an impartial manner, or, may cause a reasonable person to develop suspicion thereof.

### 6.3.3 Potential Areas of Conflict

- a. Procurement, tendering, purchasing and contracting
- b. Staff recruitment
- c. Gifts, benefits and hospitality
- d. Private sector sponsorship
- e. Grant allocation
- f. Dual roles as a public officer and/or secondary employment

## 7. POLICY

7.1 Should there be a conflict of interest, the staff member concerned shall not do anything which could damage the good repute of RGRC, or anything which they are unable to justify to the public or which suggests reasonable suspicion of improper conduct or preferential treatment.

7.2 So as to maintain proper standards of integrity, diligence, and concern for the public interest, a conflict of interest, whether potential or actual, must be disclosed immediately upon identification.

### 7.2.1 Chief Executive Officer:

Should the Chief Executive Officer (CEO) identify a personal or financial interest in a matter in regard to which he or she is required or authorised to act or give advice, the CEO is to immediately declare that interest to Council. The CEO must then not act in the matter except as authorised by Council.

### 7.2.2 Staff Members (paid and voluntary):

- i Will be informed of the requirement to disclose interests upon being offered employment with RGRC, and at least on an annual basis.
- ii Who believe they have a personal or financial interest in a matter in regard to which they are required or authorised to act or give advice, must disclose the interest to the CEO, or delegate thereof.
- iii To declare an interest, they must immediately inform their manager or supervisor, or other delegate of the CEO.
- iv The staff member must not act in the matter in which they have an interest in except as authorised by the CEO, or delegate thereof.

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### 7.3 Responsibility for Making a Disclosure

- 7.3.1 The objective of disclosure is to ensure compliance with Part 9.4 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 one's Manager or Supervisor if they are a staff member, or to Council if the CEO.
- 7.3.3 It is not the responsibility of the Mayor, CEO, one's Supervisor or Manager 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.

### 7.4 Failure to Declare a Conflict of Interest, or acting in matters which are subject to a Conflict of Interest

- 7.4.1 A staff member or the CEO who fails to declare a conflict of interest, or who acts in a matter in which they have a personal or financial interest, without relevant authorisation, commits an offence (s107(1)(a),(b) LGA) which carries a maximum penalty of 100 penalty units (\$15,400 as of Financial Year 2016-17).
- 7.4.2 It should be noted that the offence is one of *strict liability* meaning that the *mental* element ordinarily associated with offences does not apply. In other words the offence does not require any proof of *mens rea* – that it was a deliberate or intentional act. It is however, a defence to an charge under s107(1) of the *Local Government Act* if the defendant is able to prove that they were unaware of the personal or financial interest at the time which the offence occurred.
- 7.4.3 Failure to declare interests shall be regarded as serious misconduct matter.

## 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 one's conduct could create the impression that a conflict of interest exists:

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?
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12. Do I understand the possible penalties if I go on with the action?

**9. REFERENCES**

Acknowledgements (original author/source documents)	ADM011 - Conflicts of Interest Policy
Related Policies	<ul style="list-style-type: none"> <li>• ADM011 – Conflicts of Interest – Members Policy (DRAFT)</li> <li>• CL001 – Code of Conduct Policy</li> <li>• CL003 – Elected Member Gift Policy</li> <li>• CL005 – Council Meeting Procedures Policy</li> <li>• CL010 – Register of Interests Policy</li> </ul>
Related Publications	<ul style="list-style-type: none"> <li>• <i>Local Government Act</i></li> <li>• Managing Conflicts of interest in the Public Sector – Guidelines – NSW Independent Commission Against Corruption and the Crime and Misconduct Commission</li> </ul>
Relevant Forms	<ul style="list-style-type: none"> <li>• Conflict of Interest Register</li> </ul>

**10. DOCUMENT CONTROL**

Policy number	<b>025</b>
Policy Owner	<b>Governance</b>
Endorsed by	<b>SLT</b>
Date approved	<b>31 May 2017 - OCM</b>
Revisions	
Amendments	
Next revision due	<b>May 2020</b>

**11. CONTACT PERSON**

Contact person	<b>Manager, Governance and Corporate Planning</b>
Contact number	<b>08 8972 9000</b>