

COUNCIL POLICY



Policy name	Conflicts of Interest Policy
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Abstract
The purpose of this Policy is to outline the process for identifying, declaring and managing an actual, potential or perceived Conflict of Interest.

Dates	Policy or amendment approved 19 February 2025 Policy or amendment takes effect 26 March 2025 Policy is due for review (up to 4 years) 26 March 2029
Endorsed by	Director Corporate Services
Approved by	Gunnedah Shire Council at its Ordinary Meeting held 19 February 2025 Resolution Number: 11.2/25
Policy Custodian	Director Corporate Services
Relevant to	Council Officials including Council Officers, Administrators, members of staff, contractors and delegates of Council.
Superseded Policies	N/A
Related Documents	Gunnedah Shire Council Code of Conduct Register Annual Return of Interests Register Conflict of Interest Secondary Employment Management Directive [Endorsed 17 July 2007] Notification of Secondary Employment Form
Related Legislation	<i>Local Government Act (NSW) 1993</i> <i>Local Government (General) Regulation 2021</i>

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1. Purpose

- 1.1 Council is committed to maintaining a high standard of moral and business ethics in servicing the community pursuant to Policy and Council's Code of Conduct.
- 1.2 This Policy provides guidance on the process for identifying, disclosing, managing, recording and resolving conflicts of interest.

2. Scope

- 2.1 This Policy applies to Council Officials, including Council Officers, Administrators, members of staff, contractors and delegates of Council.
- 2.2 This Policy does not apply to Councillors as they are captured under the *Local Government Act 1993* and Council's Code of Conduct. Conflicts of interest for Councillors are disclosed and managed differently to Council employees.
- 2.3 This Policy is to be read in conjunction with all applicable Legislation, Regulations, and Council's procedure documents relating to risk management and legislative compliance.

3. Definitions

TERM	MEANING
Act	<i>Local Government Act (NSW) 1993 ("LGA").</i>
Actual Conflict of Interest	Occurs where a Council Official's personal or private interests conflict with their official duties.
Administrator	An Administrator of a Council appointed under the LGA other than an administrator appointed under Section 66.
Conflict of Interest	Occurs where a Council Official's personal or private interests and relationships conflict, or could conflict with, the Council Official's ability to act impartially and in the best interest of Council.
Declaration	Gunnedah Shire Council Declaration of Conflict of Interest for Staff form.
Delegate of Council	An individual (other than a Councillor or Council staff member) or entity, along with the individual members of that entity, to whom a Council function is delegated.
Improper Use or Undue Influence	Use of Council position to improperly influence others.
Non-pecuniary Interest	A private or personal interest that does not involve a financial gain or loss but may stem from family or personal interests and/or relationships.
Pecuniary Interest	An interest that an individual has based on a reasonable likelihood or expectation of significant financial gain or loss to themselves or to a related individual (e.g., relatives or associated companies).
Perceived Conflict of Interest	Occurs where a Council Official could be perceived by a third party to be acting in such a way that their official duties are influenced by their personal or private interests.
Personal Benefit	The use of confidential information to obtain an unfair or improper advantage.
Potential Conflict of Interest	Occurs where a Council Official has personal or private interests that may later develop into a conflict of interest with their official duties.
Regulations	<i>Local Government (General) Regulation 2021.</i>
Significant Non-Pecuniary	A non-pecuniary interest whereby an individual has a close relationship with an individual; a strong relationship with an organisation; a non-pecuniary financial interest or stands to gain or lose a personal benefit; is a board/committee member and there is a conflict between Council and the organisation interests, constituting a conflict of duties.

4. Policy Statement

- 4.1 This Policy outlines the commitment of the Council and Council Officials and delegates to the effective and proactive management of Conflicts of Interest.
- 4.2 The effective and proactive management of Conflicts of Interest, through the development and implementation of appropriate protocols and record-keeping procedures, will help ensure that the Council meets and maintains its compliance and risk management obligations.

5. What is a Conflict of Interest

- 5.1 A conflict of interest arises where a Council Official's personal or private interests and/or relationships conflict, or could conflict, with the Council Official's ability to act impartially in the performance of their duties and in the best interest of Council.
- 5.2 A Council Official's personal or private interests and/or relationships do not, in and of themselves, constitute a conflict of interest. Rather, the key factor is the management and mitigation measures implemented by the Council Official.
- 5.3 A Council Official should not act in a manner that cannot be publicly justified or that may give rise to suspicions of improper conduct, favouritism, or a lack of impartiality.
- 5.4 Conflicts of Interest can be categorised as either actual, perceived, or potential and of a pecuniary or non-pecuniary nature.

6. Actual Conflict of Interest

- 6.1 Occurs where a Council Official's personal or private interests' conflict with their official duties.
- 6.2 There IS a Conflict of Interest.

7. Potential Conflict of Interest

- 7.1 Occurs where a Council Official has personal or private interests that may later develop into a conflict of interest with their official duties.
- 7.2 There COULD BE a Conflict of Interest in the future.

8. Perceived Conflict of Interest

- 8.1 Occurs where a Council Official could be perceived by a third party to be acting in such a way that their official duties are influenced by their personal or private interests.
- 8.2 It might SEEM LIKE there is a Conflict of Interest to someone else.

9. Pecuniary Interest

- 9.1 An interest that an individual has based on a reasonable likelihood or expectation of significant financial gain or loss to themselves or to a related individual (e.g., relatives or associated companies).
- 9.2 A pecuniary interest will not exist in a matter if the interest is so remote or insignificant that it could not reasonably be considered likely to influence any decision a person might make regarding the matter.

10. Non-Pecuniary Interest

- 10.1 A private or personal interest that does not involve a financial gain or loss but may stem from family or personal interests and/or relationships.
- 10.2 A non-pecuniary conflict of interest arises when it is perceived that an individual's decisions or actions may be influenced by a personal or private interest.
- 10.3 The management of a non-pecuniary conflict of interest depends on whether it is considered to be significant.
- 10.4 A significant non-pecuniary interest arises where an individual:
 - a) Has a close relationship with an individual who will be affected by a decision;

- b) Has a strong connection to an organisation that will be affected by a decision;
- c) Has a non-pecuniary financial interest or stands to gain or lose a personal benefit from a decision;
- d) Is a member of a board or committee, and there is a conflict between Council's interests and the organisation's interests, constituting a "conflict of duties".

11. Business or Employment outside Council

- 11.1 The General Manager must not engage in private employment, contract work or other business for remuneration outside the service of Council without the approval of Council.
- 11.2 Council Officials must not engage in private employment, contract work, or any other business for remuneration outside the service of Council and their responsibilities at Council unless a Notification of Secondary Employment form ('Notification') has been submitted and approval has been granted by the General Manager.
- 11.3 A Notification will remain valid for one year only and shall be reviewed annually. A previously approved Notification may not automatically be renewed, although continued approval will not be unreasonably withheld.
- 11.4 Council Officials must ensure that any secondary employment, work or business engaged while employed at Council will not:
 - a) Conflict with their official duties;
 - b) Involve using confidential information or Council resources;
 - c) Require them to work while on Council duty;
 - d) Discredit or disadvantage Council; and
 - e) Pose a risk to their own health or safety, or to the health and safety of their co-workers, due to fatigue.
- 11.5 Paid or unpaid service with local emergency services, such as the NSW Fire and Rescue, Rural Fire Service and State Emergency Service, is not considered to fall within scope of 11.4.

12. Gifts & Benefits

- 12.1 Gifts or benefits received may be perceived as influencing the decisions or actions of Council Officials and must be disclosed and recorded.
- 12.2 Council's Gifts and Benefits Policy outlines the procedure for Council Officials regarding the acceptance, disclosure, management and recording of gifts and benefits.

13. Managing Conflicts of Interest

- 13.1 Identification:
It is the responsibility of each individual to identify when a conflict; whether actual, potential or perceived; has or may arise between their personal interests and their official duties and responsibilities.
- 13.2 Disclosure:
A Council Official must disclose any potential, new or arising conflict of interest by lodging a Declaration of Conflict of Interest for Staff form at the time of appointment or as soon as the new or arising conflict is discovered.
- 13.3 Managing:

Once a conflict has been declared and determined as a conflict of interest, the Council official must remove themselves from any and all decision-making processes relating to the conflict until such time as the conflict has been resolved.

It may be necessary for additional processes to be put in place either as an interim measure or permanent measure to ensure Council can continue to conduct business in a transparent and impartial manner.

13.4 Review:

The General Manager or Director Corporate Services will review all disclosed conflicts of interest to decide the appropriate outcome or actions to be undertaken to manage or mitigate them.

13.5 Record:

All disclosures of conflicts of interest, actions and outcomes will be recorded in Council’s Conflicts of Interest Register.

14. Conflicts of Interest Register

14.1 Council will keep a Conflicts of Interest Register (‘Register’) detailing all disclosed conflicts.

14.2 The Register must be reviewed annually and will include the following information:

Date of Disclosure	The date of the conflict arising or being identified.
Disclosing Party	The name of the individual (Council Official) disclosing the conflict of interest.
Nature of Conflict	A description of the nature and type of conflict – ie; Actual, Potential, Perceived and Pecuniary, Non-Pecuniary or Significant Non-Pecuniary.
Other Party	A description of the other party with whom the conflict arises, or may arise, or may be perceived to exist, ie; Organisation, Club, Committee, Business, Individual/s.
Description of Conflict	An outline the matter or decision where the conflict arise or may be perceived to arise.
Outcome	Management and/or mitigation measures implemented in relation to the conflict and the result following the implementation of management and/or mitigation measures, including any outcomes or required ongoing monitoring.

15. Breach of Policy

15.1 A Council Official who breaches this Policy, including failing to disclose a conflict, may face disciplinary action, such as an internal investigation, dismissal, or referral to external authorities.

16. Public Interest Disclosure

16.1 Any Council Official who believes that a potential conflict of interest may not have been disclosed, managed or mitigated appropriately must notify their Manager, Director or the General Manager.

17. Examples of Conflicts of Interest

17.1 Pecuniary Conflict of Interest

A Council Officer is assisting in the revision of development plans for a re-zoning proposal in a residential area. The Council Officer's partner is a property developer and has a development company that owns land potentially impacted re-zoning. If the re-zoning application is approved, the land owned by the development company will increase in value significantly. The Council Officer has a direct financial interest in the approval of the re-zoning application. This is a Pecuniary Conflict of Interest.

17.2 Perceived Conflict of Interest vs. Significant Non-Pecuniary Interest

A Council Officer is a Business Administrator in the Planning Department at Council. The Council Officer's sibling has successfully applied to Council to open a new café in town. The owner of a competing café is unhappy with this outcome. While the Council Officer has no financial interest in the new business, the Council Officer's sibling will benefit financially due to the new café being approved and it may be alleged by members of the community or competing business owners that the Council Officer's role provided some advantage to their sibling's approval. This is a Perceived Conflict of Interest.

However, If the Council Officer was employed as a Planning & Development Officer at Council and consequently directly involved in the decision-making process to grant the approval for her siblings new café, this is a Significant Non-Pecuniary Interest.

18. Accountability, Roles & Responsibilities

18.1 Policy Custodian

- Director Corporate Services

18.2 Responsible Officers

- Councillors/Council
- General Manager
- Executive Leadership Team
- Managers
- Governance Team
- All Staff
- Audit Risk and Improvement Committee ('ARIC')

Councillors

- Adopt Council's Conflict of Interest Policy.
- Govern in accordance with the Policy and legislative requirements of the *Local Government Act 1993*, including in relation to the proactive and effective management of Conflict of Interests.
- Promote an awareness at Council of Conflict of Interests and the necessity of disclosure.

General Manager

- Promote an awareness at Council of Conflict of Interests and the necessity of disclosure.
- Ensure the establishment and implementation of an effective Conflicts of Interest Management Framework.
- Endorse the Conflicts of Interest Policy and supporting mechanisms such as the Conflicts of Interest Register.
- Monitor the implementation and compliance with the Conflicts of Interest, the Conflicts of Interest Register and management of disclosed Conflicts of Interest.
- Provide adequate and necessary resources for the effective management of Conflicts of Interest.

Executive Leadership Team and Managers

- Promote an awareness at Council of Conflict of Interests and the necessity of disclosure.
- Ensure the effective implementation of the Conflicts of Interest Management Framework and ongoing compliance.
- Monitor and manage Conflicts of Interest and develop and enforce mitigation measures as appropriate.
- Review the Conflicts of Interest Register annually.

Governance Team

- Develop, implement and monitor Council's Conflicts of Interest Management Framework with a view to improve and tailor the Framework on an ongoing basis to meet Council's needs and best interests.
- Provide support and advice within Council in identifying, addressing, managing and mitigating Conflicts of Interest.
- Maintain the Conflicts of Interest Register.
- Provide support and administrative assistance to Council's ARIC.

Council Officials

- Regularly considering the relationship between their personal interests and official duties in order to proactively identify any actual, perceived or potential conflicts of interest that may influence any actions or decisions made while carrying out official Council duties.
- Being honest, open and transparent in their disclosure of conflict of interest.
- Following internal procedures relating to the identification, disclosure, self-management and monitoring of their conflicts of interest.

Audit Risk and Improvement Committee

- Review and monitor Council's Conflicts of Interests Management Framework and practices in accordance with the ARIC Terms of Reference.

19. Acknowledgements

- NSW Office of Local Government – Model Code of Conduct for Local Councils in NSW – “At a Glance” Guide for Council Staff
- Central Desert Regional Council Conflict of Interest Policy
- Greater Shepparton City Council Conflict of Interest Policy
- Douglas Shire Council Conflicts of Interest for Employees Policy

20. Version Control and Change History

Date	Version	Approved By & Resolution No.	Amendment
19 February 2025	1.0	Ordinary Council Resolution 11.2/25	