

## POLICY

<b>TITLE:</b>	Conflict of Interest Policy		
<b>DIRECTORATE:</b>	Finance		
<b>ADOPTED BY:</b>	Chief Executive Officer (CEO)		
<b>DATE OF ADOPTION:</b>	29 Nov 2024	<b>DATE OF REVIEW:</b>	29 Nov 2026
<b>POLICY NUMBER:</b>	114		
<b>LEGISLATIVE REF:</b>	<i>Local Government Act 2019; Sections 114-116, 178, 179</i> <i>Local Government Regulations 2021; Section 107</i>		

### 1. INTRODUCTION

#### 1.1. Purpose

The purpose of this Policy is to set out a framework to ensure that any actual, potential or perceived conflicts of interest are appropriately identified, considered and managed.

#### 1.2. Scope

This Policy applies to the following:

- CEO and all Council staff employed by BRC;
- temporary agency staff;
- authorised representatives;
- contractors whilst engaged in any capacity; and
- volunteers.

This Policy does not apply to elected members, who are covered by legislated requirements.

While recruitment and selection is an area of risk, any conflicts of interest declared during the recruitment and selection process will be managed according to that process. However, if any conflict of interest does not fall within that process, or the individual has not declared a conflict under that process, then it must be declared under this Policy.

#### 1.3. Definitions

A **Conflict of Interest** refers to a conflict between the public duty and private interests of a person associated with BRC, where such private interests could improperly influence the performance of their official duties.

Conflicts of interest can arise when individuals are influenced, or appear to be influenced, by personal interests when doing their jobs. The perception of a conflict of interest can be as damaging as an actual conflict because it undermines public confidence in the integrity of Council.

Conflicts of interest can relate to pecuniary or non-pecuniary interests (as defined), and they can exist when the individual is carrying out an activity that is required as part of their official duties. Readers should be aware that there are certain Council activities that are considered to be high risk in terms of conflicts of interest, including but not limited to:

- recruitment and selection
- procurement (tendering, purchasing, and contracting)
- external employment or volunteer work
- receiving gifts, benefits, or hospitality

- regulatory activity and complaints management
- employee disciplinary processes
- sale of Council land and other assets
- knowledge of sensitive or confidential information

**Official duties** includes work that may be defined by a position description or via directions given by another person authorised to do so at Council.

**Non Pecuniary Interest** is an interest that does not have a financial component. It may arise from personal or family relationships, or involvement in sporting, social or cultural activities. It includes any tendency toward favour or prejudice resulting from friendships, animosity or other personal involvement with another person or group. These are not limited to pecuniary interests or to interests that can bring direct personal gain or help avoid personal loss. They also include many social and professional activities and interests.

**Pecuniary Interest** (also known as “a material personal interest”) involves an actual or potential financial gain or loss. Money does not need to change hands for an interest to be pecuniary. People have a pecuniary interest if they (or a relative or other close associate) own property, hold shares, have a position in a company bidding for government work, or receive benefits (such as concessions, discounts, gifts or hospitality) from a particular source.

A **Private Interest** can be pecuniary or non-pecuniary in nature and are those personal, professional or business interests that can benefit or disadvantage us as individuals, or others we may wish to benefit or disadvantage. They also include the personal, professional or business interests of individuals or groups we associate with (e.g. relatives, friends, non-profit associations). They can include avoiding personal losses as well as gaining a personal advantage, whether financial or otherwise.

**Related Person** applies to anyone who is part of the Council representative’s immediate family, such as a spouse or a de facto spouse, or a wholly or substantially dependent child or someone who is wholly or substantially dependant on the employee or other representative, or someone whose affairs are otherwise closely linked with an employee or other representative.

A connection to a related person who is a client, contractor, volunteer or another employee of Council can give rise to a conflict of interest in the performance of the employee’s or other representative’s duties and responsibilities and must be notified and managed under this policy.

Examples of Related Persons include:

- any personal relationship including but not limited to past and present friendships, consensual sexual or romantic relationships
- personal friendships which extend outside of work for Council;
- any direct or indirect family relations (including spouse, de facto partner, children, siblings, parents and relations by marriage); and
- any other close personal relationships which may create a perceived or potential conflict of interest by connection to the employee’s and other representative’s functions and duties for Council.

#### 1.4. Responsibilities

All persons within scope of this Policy are required to adhere to this Policy and its associated procedures. This includes immediately declaring any conflicts of interest (as defined).

The Corporate Services Director is responsible for managing the annual return of interests disclosure process with the relevant individuals as outlined in this Policy.

The Manager (HR) is responsible for managing the return of interests disclosures for all new roles new as outlined at Clause 6.1 of this Policy.

The CEO is accountable for the overall management of this Policy.

### 1.5. Policy Objectives

- 1) The community has the right to expect that all representatives of Barkly Regional Council (BRC) will perform their duties in a fair and unbiased way; and that the decisions made are not affected by self-interest or personal gain.
- 2) The objectives of this Policy aim to ensure that all persons within the scope of this Policy conduct themselves in ways that are, and are seen to be, ethical and which will withstand the highest levels of probity.

## 2. POLICY STATEMENT

### 2.1 Policy

- 1) Council and its representatives are trusted with a range of decision-making powers which enable it to govern in the best interests of the community. These powers must be exercised properly and impartially, with integrity and in accordance with this Policy and legislation.
- 2) Avoiding conflicts of interest is an important factor in public decision making. This is particularly important at the local government level, where individuals may have interests in the local area; and who may hold close connections within the local community.
- 3) All persons within the scope of this Policy are responsible for 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 their official duties.
- 4) All persons within the scope of this Policy are required to be honest, open and transparent in their disclosure of conflicts of interest.
- 5) All conflicts of interest must be disclosed. The key is to determine whether the situation is likely to interfere or appear to interfere with the independent judgment the employees and other representatives are required to demonstrate in performing their official duties.
- 6) If an individual has a conflict of interest in a matter in which they also have a delegated power, they must disclose the specific details of the conflict in writing to the CEO and immediately remove themselves from the decision-making process in relation to that matter.

## 3. TYPES OF CONFLICT OF INTEREST

- 1) A conflict of interest may be actual, perceived or potential:
  - a. **Actual conflict of interest** - where a representative has private or professional interests that conflict with his or her duty to put the public interest first.
  - b. **Perceived conflict of interest** - where a representative appears to have private or professional interests that conflict with his or her duty to put the public interest first. This may arise even if the individual has not acted in conflict of their duties to Council, but the existence of particular circumstances and relationships may create the perception amongst other employees, other representatives or the public, that a conflict exists.
  - c. **Potential conflict of interest** - where it is reasonably possible that a representative's private or professional interests will give rise to an actual or perceived conflict of interest.

## 4. DISCLOSURES OF CONFLICT OF INTEREST

- 1) The Act requires the CEO, Directors and key Managers to disclose their conflicts of interest in two ways:
  - a. Via a completed Annual Return of Interests within 14 days of being employed, or by 30 September each year they are employed.
  - b. Declaring conflicts of interest in writing as they arise.

- 2) Please refer to Clause 6 of this Policy for further information on the annual return of interests requirements.

## 5. HOW TO DISCLOSE A CONFLICT OF INTEREST

- 1) Where any person covered by the scope of this Policy identifies a conflict of interest (as defined and explained), they are required to make a disclosure in writing.
- 2) If the conflict involves any individual covered by the scope of this Policy engaged, employed or connected to Council, the conflict must be submitted to the relevant Director who oversees their employment or engagement with Council.
- 3) If the conflict involves a Director or Executive Manager of a local subsidiary government, the conflict must be submitted to the CEO.
- 4) If the conflict involves the CEO, the conflict must be submitted to the Council.

## 6. ANNUAL RETURN OF INTEREST DISCLOSURES

- 1) *Annual Return of Interest Disclosures* are a mandated requirement which applies to the following roles at Council:
  - the CEO
  - a council senior staff member
  - a local government subsidiary senior staff member
- 2) The following details are prescribed if the person has an actual or perceived conflict of interest because of the circumstance mentioned:
  - a. if the person has a shareholding in a public or private company (including a holding company) – the name of the company;
  - b. if the person has an interest as a trustee or beneficiary in a family or business trust (but not an interest as a trustee in a trust in which neither the person, nor any associate of the person, is a beneficiary, or an interest in a land trust under the Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)) – the name of the trust, the nature of its operation and the nature of the interest;
  - c. if the person has an interest as an owner of real estate – the location (suburb or area only) and the purpose for which it is owned;
  - d. if the person has an interest in a registered company directorship – the name of the company;
  - e. if the person has an interest in a partnership – the name of the partnership, the nature of the interest and the activities of the partnership;
  - f. if the person has membership in an organisation – the name of the organisation;
  - g. if the person has any other interest – the nature of the interest;
  - h. if the person has any other substantial source of income – the nature of the source of the income.
- 3) Corporate Services will manage the annual return of interests disclosure process with each of the roles contained within Clause 6.1 above.

## 7. REGISTER OF DISCLOSURES

- 1) The CEO is responsible for maintaining a Register of Conflicts of Interest, which must be maintained as updated, and which must be published on Council's website.

## 8. FAILURE TO DISCLOSE

- 1) It is an offence under the Act to not disclose a conflict of interest.
- 2) Any breach of this Policy or associated legislation may result in disciplinary action, including, but not limited to, issue of a warning, demotion, suspension or termination of employment or service. For contractors, it may result in the termination or non-renewal of a contract for service.
- 3) Section 179 of the Act provides a range of penalties if the CEO and representatives fail to comply with disclosing conflicts of interest, including a substantial fine.
- 4) Deliberate non-disclosure of a conflict of interest or lack of adequate management of a conflict of interest may amount to a reasonable suspicion of corrupt conduct. Irregularities that appear to involve improper conduct must be reported to the Independent Commissioner Against Corruption (ICAC).

## 9. RELEVANT POLICIES

Policies and procedures to be read in conjunction with this policy are:

- 1) Conflict of Interest Declaration
- 2) Annual Return of Interest Disclosure Form (Staff)
- 3) Codes of Conduct
- 4) Employment Contracts / Service Contracts/Agreements
- 5) Relevant Policies and Procedures

## 10. IMPLEMENTATION AND REVIEW

### 10.1. Implementation

Relevant personnel will be made aware of this Policy. The Act requires that the Register associated with this Policy be published on the Barkly Regional Council website.

### 10.2. Review

This policy will be reviewed on or before 29 Nov 2024.

## 11. VARIATIONS, REVOCATIONS AND/OR CHANGES

Barkly Regional Council reserves the right to revoke and/or amend this policy from time to time as is considered necessary to better manage its business and/or to comply with any legislative requirements. Employees will be given sufficient notice of any such revocations, amendments, or changes.

## 12. APPROVAL

This policy is approved.

Chris Kelly  
Chief Executive Officer

  
Signature

29 Nov 2024  
Dated

**END**