



LACHLAN SHIRE COUNCIL STATEMENT OF BUSINESS ETHICS POLICY

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Further Information: Lachlan Shire Council ☎ 02 6895 1900 ✉ Email: council@lachlan.nsw.gov.au				
Version: 2	Commencement Date: August 2019	Last Review Date: October 2022	Next Review Date: October 2025	TRIM Container 4.12.1.82 Record D22/ 22753
ARIC: November 2022				
Council: December 2022 Res 2022/336				

SCOPE

This policy applies to all Councillors, council employees, volunteers, tenderers, consultants, suppliers and contractors.

If you engage subcontractor(s) in your work for Council, you must make your sub-contractor(s) aware of this policy and ensure they comply with this policy.

OBJECTIVE

This Code of Business Ethics provides guidance regarding the standards of ethical behaviour that organisations, service providers, businesses and individuals can expect from council representatives and that are expected of them, in their dealings with Council.

POLICY

Lachlan Shire Council works with the private, public and non-profit sectors to provide a range of services to the community. As an organisation, and as individuals, we respect, apply and comply with the law, support human rights and equal opportunity, protect the environment, achieve operational excellence and work for the benefit of our communities.

Lachlan Shire Council is committed to conducting business professionally at all times and to the highest ethical standards, so that the community has confidence and trust in Council's business dealings, services and decision making.

Our organisational values guide our actions in conducting business in a socially responsible and ethical manner. Council's Organisational Values as set out in our Community Strategic Plan are:

- Responsive
- Co-operative
- Effective
- Proud
- Respectful

Council expects all council officials and representatives to act honestly, transparently and responsibly in their decision making and business partnerships. It is also expected that Council's business partners, including suppliers, tenderers, contractors and consultants, understand our requirements and comply with these standards of behaviour in their dealings with Council.

To be honest and fair when doing business with you, we will always consider the following:

- Transparency of process
- Accountability
- Ethically managing conflicts of interest
- Obtaining best value
- Monitoring and evaluating performance
- Environmental & social outcomes

WHAT YOU CAN EXPECT FROM US

Council will ensure that all policies and procedures relating to its procurement process are consistent with legislative requirements, best practice and the highest standards of ethical conduct.

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WHAT WE ASK OF YOU

We require all providers of goods and services to observe the following principles when doing business with Council –

- Be familiar with and comply with Council’s procurement policies and procedures;
- Adhere to Council’s standard and/or agreed Terms and Conditions;
- Declare actual or perceived conflicts of interest as soon as you become aware of the conflict;
- Act ethically, fairly and honestly in all dealings with Council;
- Take all reasonable measures to prevent the disclosure of confidential Council information;
- Refrain from engaging in any form of collusive practice, including offering Council employees inducements or incentives designed to improperly influence the conduct of their duties;
- Refrain from discussing Council business or information with the media;
- Conduct themselves in accordance with Council’s Codes of Conduct as they apply to staff and councillors. All volunteers, tenderers, consultants, suppliers and contractors are expected to adhere to the same standards of conduct as outlined in the current Staff and Councillor Codes of Conduct.
- Obey all relevant laws and contractual obligations;
- Provide a safe work environment free of harassment or discrimination;
- Protect the safety of staff and others in the work environment and the public arena;
- Assist Council to prevent unethical practices in our business relationships;
- Comply with privacy legislation in relation to personal information obtained through dealings with Council or work undertaken for Council;
- Respect the environment, comply with environmental laws and have sustainable practices in the use of resources and waste management;
- Communicate clearly and respond promptly to questions resolving any issues quickly; and
- Provide Council with a quality product or service on time that gives value for money.

IT IS INCUMBENT UPON ALL PROVIDERS OF GOODS AND SERVICES TO COUNCIL TO DECLARE TO COUNCIL (AT THE EARLIEST OPPORTUNITY) IF THEY:

- have been convicted of fraud or a fraud-related offence, or, where the provider is a company, the directors have been convicted of fraud or fraud-related offences;
- have been declared bankrupt, or are a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or receivership or into Liquidation, or,
- where the tenderer, contractor, supplier or consultant is a company, the directors have been declared bankrupt and are a director of a company that has entered into a Deed of Company Arrangement, been placed into External Administration or receivership or into Liquidation; or
- have had any corrupt findings recorded against them, or been identified as a person of interest, by the Independent Commission Against Corruption (ICAC).

THIS IS A SELF-DECLARATORY MECHANISM. THE RESPONSIBILITY FOR SUCH DECLARATION AT ALL TIMES LIES WITH THE PROVIDER.

In addition, Council will not engage with a new or an existing supplier, consultant or contractor or any of its associates (including individuals and company directors) where the supplier, consultant or contractor is going through a process of administration, receivership or liquidation.

Council will not continue to provide paid work to an existing supplier, contractor or consultant who owes debts to Council unless the supplier, contractor or consultant has entered into and is complying with a

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payment arrangement. This also applies to the associates of the supplier, consultant or contractor including individuals and company directors. In addition council will take debt recovery action in accordance with legislation and adopted council policy

WHY IS COMPLIANCE IMPORTANT?

You should be aware of the consequences of not complying with Council’s ethical requirements when doing business with Council. As all parties are required to comply with this statement, compliance will not disadvantage you in anyway.

Demonstrated corrupt or unethical conduct could lead to:

- Termination of contracts with Council;
- Loss of work;
- Loss of council sponsorship or support for your organisation and/or event;
- Damage to your reputation;
- Investigation for corruption;
- Matters being referred for criminal investigation; and
- Criminal Prosecution.

In accordance with Council’s Procurement Policy, Council will discontinue all dealings with all applicants it reasonably suspects of having engaged in unethical conduct.

Council’s tendering process does not permit applicants to canvass, lobby or contact Council officials other than the advertised contact person. Applicants will be disqualified from tendering if they do anything that may be considered as an attempt to influence Council’s decision.

Where appropriate Council will also take further action against these suppliers, including legal action and reporting suspected fraud or corruption to the Police and the Independent Commission against Corruption.

Consequences for Councillors and staff may include:

- Investigation;
- Misconduct charges;
- Loss of civic office for Councillors;
- Disciplinary action including termination of employment; and
- Potential criminal charges.

CONFLICTS OF INTEREST

A conflict of interest exists where a reasonable person could perceive that a Council official could be influenced by a private interest when carrying out their civic duties. Conflicts of interests can be actual or perceived.

Council officials must avoid conflicts of interests. Where a conflict of interest is unavoidable, such conflicts must be declared and appropriately managed. Council officials are responsible for identifying a conflict of interest, declaring it and taking the appropriate action to manage the conflict in favour of their civic duty. Any conflict of interests must be managed to uphold the probity of Council decision-making. When considering whether a conflict of interest exists, it is important to consider how others would view the situation.

Private interests can be of two types: pecuniary or non-pecuniary.

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WHAT IS A PECUNIARY INTEREST?

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person.

A person will also be taken to have a pecuniary interest in a matter if that person's spouse or de facto partner or a relative of the person or a partner or employer of the person, or a company or other body of which the person, or a nominee, partner or employer of the person is a member, has a pecuniary interest in the matter.

Council maintains a register of Pecuniary Interest Disclosures.

WHAT ARE NON-PECUNIARY INTERESTS?

Non-pecuniary interests are private or personal interests the Council official has that do not amount to a pecuniary interest as defined in the Act. These commonly arise out of family, or personal relationships, or involvement in sporting, social or other cultural groups and associations and may include an interest of a financial nature.

RELATED PARTY INTERESTS

Related party relationships are a normal feature of commerce and business, however there is the possibility of an entity having the ability to affect the financial and operating policies of Council through the presence of control, joint control or significant influence.

Council is required to disclose all material and significant related party transactions and outstanding balances, including commitments, in its annual financial statements. To facilitate this, Council's key management personnel are required to declare full details of any related party transactions (other than non-material ordinary citizen transactions).

Council maintains a Registers of Related Parties and Related Party Transactions.

INCENTIVES, GIFTS, BENEFITS, HOSPITALITY, MEALS ETC

Council awards contracts and determines applications solely on the basis of merit. Council's Gifts, Bribes and Benefits Policy strictly forbids council officials from accepting any gifts (including token gifts) which may be specifically offered in relation to achieving a favourable outcome in any business dealings.

Council staff involved in procurement, tendering or sales activities for Council are not permitted to accept any non-token gift or benefit from a current or potential supplier or buyer.

Council officials are not permitted to ask for any reward or incentive for doing their job. Offering gifts and benefits may be seen as an attempt to unfairly influence us in our roles.

Council has a Gifts, Bribes & Benefits Policy which defines token gifts and sets out when token gifts may be accepted.

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OTHER BUSINESS OR EMPLOYMENT

If a Council official is considering outside employment or contract work that relates to the business of the Council or that might conflict with their Council duties, they must notify and seek the pre- approval of the General Manager in writing. If the request relates to the General Manager, then, pre-approval of council is required. The General Manager may at any time remove the pre-approval from a staff member.

Council officials must ensure that any outside employment or business does not:

- conflict with their official duties
- involve using confidential information or council resources obtained through their work with the council including where private use is permitted
- require them to work while on council duty
- discredit or disadvantage the council
- pose, due to fatigue, a risk to their health or safety, or to the health and safety of their co-workers.

COMMUNICATION BETWEEN PARTIES

All communication should be clear, direct and accountable (written confirmation) in order to minimise the risk of perception of inappropriate influence being brought to bear on the business relationship.

USE OF COUNCIL EQUIPMENT, RESOURCES AND INFORMATION

All equipment, resources and information should only be used for its proper official purpose.

INTELLECTUAL PROPERTY

In business relationships with Council, all parties will respect each other's property rights and will formally negotiate access, license and use of intellectual property where appropriate.

CONFIDENTIALITY OF INFORMATION

All Council information must be treated as confidential unless otherwise indicated in writing. Council officials are required to protect confidential information, only use confidential information for the purpose it is intended to be used and not use confidential information for the purpose of securing a private benefit for themselves or any other person.

Requests for access to Council information will be managed in accordance with the Government Information (Public Access) Act 2009.

DEVELOPMENT DECISIONS

Council officials must ensure development decisions are properly made and that parties involved in the development process are dealt with fairly and equitably. In determining development applications, Council officials must ensure that no action, statement or communication between them and the applicants or objectors conveys any suggestion of willingness to provide improper concessions or preferential treatment.

REPORTING BREACHES OF THIS POLICY

Council is committed to promoting ethical behaviour. Council encourages the reporting of corrupt conduct, maladministration, fraud or serious waste of public funds. Council undertakes to deal with all reports or enquiries in a prompt, professional and confidential manner.

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As outlined in Council’s Internal Reporting Policy serious wrongdoing – corrupt conduct, maladministration, serious and substantial waste of public money, breach of the GIPA Act, or local government pecuniary interest contravention may be treated as a public interest disclosure.

You can report to an external agency:

- The Independent Commission against Corruption (ICAC)
- NSW Ombudsman
- NSW Office of Local Government

Public officials who report corrupt conduct, maladministration or waste may be entitled to protection pursuant to the Public Interest Disclosures Act (NSW) 1994. This Act protects public officials who disclose corrupt conduct from reprisal or detrimental action, and ensures disclosures are properly investigated, and confidentiality is maintained. The Council has an adopted policy on Internal Reporting under the Public Interest Disclosures Act (NSW) 1994.

WHO CAN I REPORT TO AT LACHLAN SHIRE COUNCIL?

The General Manager

Lachlan Shire Council
Phone: 02 68951900
Email: council@lachlan.nsw.gov.au

Mayor (for reports about the General Manager only)

The Mayor
Lachlan Shire Council
Phone: 02 68951900
Email: council@lachlan.nsw.gov.au

Disclosures Coordinator

Director Corporate & Community Services
Phone: 02 68951900
Email: council@lachlan.nsw.gov.au

Disclosures Officer

Manager Human Resources
Phone: 02 68951900
Email: council@lachlan.nsw.gov.au

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RELATED DOCUMENTS

Government Information (Public Access) Act 2009
Lachlan Shire Council Codes of Conduct – Councillors and Staff
Lachlan Shire Council Fraud and Corruption Policy
Lachlan Shire Council Gifts, Benefits & Bribes Policy
Lachlan Shire Council Internal Reporting Policy
Lachlan Shire Council Procurement Policy
Lachlan Shire Council Terms and Conditions of Business – Goods and Services
Lachlan Shire Council Volunteer Policy
Local Government (General) Regulation 2021
Local Government Act 1993
Model Code of Meeting Practice 2022
Public Interest Disclosures Act (NSW) 1994

RIGHT TO VARY OR TERMINATE

Council retains the right to terminate or vary this policy at any time.

Greg Tory

GENERAL MANAGER

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