

MURRAY RIVER COUNCIL  
COUNCIL POLICY

**DRAFT**  
**CODE  
OF  
CONDUCT  
(COUNCILLORS)  
POLICY**

POL-100.1 V#4



murray river  
council

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This Code of Conduct applies to Councillors. It is based on the Model Code of Conduct for Local Councils in NSW (“the Model Code of Conduct”) which is made under Section 440 of the Local Government Act 1993 (“LGA”) and the Local Government (General) Regulation 2021 (“the Regulation”).

## 1. INTRODUCTION

Section 440 of the Local Government Act 1993 (NSW) requires every Council to adopt a Code of Conduct that incorporates the provisions of the Model Code of Conduct. Council's adopted Code of Conduct Policy may also include provisions that supplement the Model Code of Conduct and that extend its application to persons that are not "Council Officials" for the purposes of the Model Code of Conduct (eg volunteers, contractors and members of wholly advisory committees).

## 2. OBJECTIVES

The Model Code of Conduct sets the minimum standards of conduct for Councillors. It is prescribed by Regulation to assist Councillors to:

- ▶ Understand and comply with the standards of conduct that are expected of them;
- ▶ Enable them to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence (Section 439); and
- ▶ Act in a way that enhances public confidence in local government.

## 3. SCOPE

This Code of Conduct Policy applies all Councillors of Murray River Council,

## 4. LEGISLATION

- ▶ Corporations Act 2001 (NSW)
- ▶ Electoral Funding Act 2018 (NSW);
- ▶ Government Information (Public Access) Act 2009 (NSW) & Regulations 2018 (NSW);
- ▶ Health Records and Information Privacy Act 2002 (NSW)
- ▶ Interpretation Act 1987 (NSW)
- ▶ Local Government Act 1993 (NSW) & Regulations 2021 (NSW)
- ▶ Privacy and Personal Information Protection Act 1998 (NSW)
- ▶ Public Interest Disclosures Act 1994 (NSW)
- ▶ State Records Act 1998 (NSW)
- ▶ Work Health and Safety Act 2011 (NSW)

## 5. POLICY STATEMENT

Council's adopted Code of Conduct has no effect to the extent that it is inconsistent with the Model Code of Conduct. However, Council's adopted Code of Conduct may prescribe requirements that are more onerous than those prescribed in the Model Code of Conduct.

All Council Officials must comply with the applicable provisions of their Council's Code of Conduct. It is the personal responsibility of **each Councillor** to comply with the standards in the Code and to regularly review their personal circumstances and conduct with this in mind.

The Policy is supported by the following documents:

- Code of Conduct (Employees) Policy (POL-100.2)
- Code of Conduct (Committees) Policy (POL-100.3)
- Code of Conduct (Vulnerable Persons and Children) Policy (POL-112)
- Code of Conduct Procedures

## PART 1: GENERAL CONDUCT OBLIGATIONS

### GENERAL CONDUCT

- P1.1 You must not conduct yourself in a manner that:
- is likely to bring the Council or other Council Officials into disrepute;
  - is contrary to statutory requirements or the Council's administrative requirements or policies;
  - is improper or unethical;
  - is an abuse of power;
  - causes, comprises or involves intimidation or verbal abuse;
  - involves the misuse of your position to obtain a private benefit; and
  - constitutes harassment or bullying behaviour under this Code, or is unlawfully discriminatory.
- P1.2 You must act lawfully and honestly and exercise a reasonable degree of care and diligence in carrying out your functions under the LGA or any other Act. (Section 439).

### FAIRNESS AND EQUITY

- P1.3 You must consider issues consistently, promptly and fairly. You must deal with matters in accordance with established procedures, in a non-discriminatory manner.
- P1.4 You must take all relevant facts known to you, or that you should be reasonably aware of, into consideration and have regard to the particular merits of each case. You must not take irrelevant matters or circumstances into consideration when making decisions.
- P1.5 An act or omission in good faith, whether or not it involves error, will not constitute a breach of Clauses P1.3 or P1.4.

### HARASSMENT AND DISCRIMINATION

- P1.6 You must not harass or unlawfully discriminate against others, or support others who harass or unlawfully discriminate against others, on the grounds of age, disability, race (including colour, national or ethnic origin or immigrant status), sex, pregnancy, marital or relationship status, family responsibilities or breastfeeding, sexual orientation, gender identity or intersex status or political, religious or other affiliation.
- P1.7 For the purposes of this Code, "harassment" is any form of behaviour towards a person that:
- is not wanted by the person;
  - offends, humiliates or intimidates the person; and
  - creates a hostile environment.

### BULLYING

- P1.8 You must not engage in bullying behaviour towards others.
- P1.9 For the purposes of this Code, "bullying behaviour" is any behaviour in which:
- a person or a group of people repeatedly behaves unreasonably towards another person or a group of persons; and
  - the behaviour creates a risk to health and safety.
- P1.10 Bullying behaviour may involve, but is not limited to, any of the following types of behaviour:
- aggressive, threatening or intimidating conduct;

- b) belittling or humiliating comments;
- c) spreading malicious rumours;
- d) teasing, practical jokes or 'initiation ceremonies'; and
- e) pressure to behave in an inappropriate manner.

P1.11 Reasonable action carried out in a reasonable manner does not constitute bullying behaviour for the purposes of this Code. Examples of reasonable management action may include, but are not limited to:

- a) disciplinary action for misconduct;
- b) legitimately exercising a regulatory function; or
- c) legitimately implementing a Council Policy or administrative processes.

### WORK HEALTH AND SAFETY

P1.12 All Councillors, owe statutory duties under the Work Health and Safety Act 2011 (WHS Act). You must comply with your duties under the WHS Act and your responsibilities under any policies or procedures adopted by the Council to ensure workplace health and safety. Specifically, you must:

- a) take reasonable care for your own health and safety;
- b) take reasonable care that your acts or omissions do not adversely affect the health and safety of other persons;
- c) comply, so far as you are reasonably able, with any reasonable instruction that is given to ensure compliance with the WHS Act and any policies or procedures adopted by the Council to ensure workplace health and safety;
- d) cooperate with any reasonable Policy or Procedure of the Council relating to workplace health or safety that has been notified to Councillors;
- e) report accidents, incidents, near misses, to the CEO or such other employees nominated by the CEO and take part in any incident investigations; and
- f) so far as is reasonably practicable, consult, co-operate and coordinate with all others who have a duty under the WHS Act in relation to the same matter.

### LAND USE PLANNING, DEVELOPMENT ASSESSMENT AND OTHER REGULATORY FUNCTIONS

P1.13 You must ensure that land use planning, development assessment and other regulatory decisions are properly made, and that all parties are dealt with fairly. You must avoid any occasion for suspicion of improper conduct in the exercise of land use planning, development assessment and other regulatory functions.

P1.14 In exercising land use planning, development assessment and other regulatory functions, you must ensure that no action, statement or communication between yourself and others conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

P1.15 If a Councillor/s wish to meet with a developer or an objector to a development application currently under assessment or current planning matter, at a minimum the Director Planning and Environment or his/her delegate (Manager Development Services) is required to be in attendance. Any outcomes or actions from the meeting should be communicated with all Councillors and the Executive Leadership team via email as soon as possible after the meeting.

### **BINDING CAUCUS VOTES**

- P1.17 You must not participate in binding caucus votes in relation to matters to be considered at a Council or Committee meeting.
- P1.18 For the purposes of Clause P1.15, a binding caucus vote is a process whereby a group of Councillors are compelled by a threat of disciplinary or other adverse action to comply with a predetermined position on a matter before Council or Committee, irrespective of the personal views of individual members of the group on the merits of the matter before Council or Committee.
- P1.19 Clause P1.15 does not prohibit Councillors from discussing a matter before Council or Committee prior to considering the matter in question at a Council or Committee meeting, or from voluntarily holding a shared view with other councillors on the merits of a matter.
- P1.20 Clause P1.15 does not apply to a decision to elect the mayor or deputy mayor, or to nominate a person to be a member of a Council Committee or a representative of Council on an external body.

### **OBLIGATIONS IN RELATION TO MEETINGS**

- P1.21 You must comply with rulings by the Chair/Mayor at Council and committee meetings or other proceedings of the Council unless a motion dissenting from the ruling is passed.
- P1.22 You must not engage in bullying behaviour (as defined under this Part) towards the Chair/Mayor, other Council Officials or any members of the public present during Council or Committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions).
- P1.23 You must not engage in conduct that disrupts Council or Committee meetings or other proceedings of the Council (such as, but not limited to, workshops and briefing sessions), or that would otherwise be inconsistent with the orderly conduct of meetings.
- P1.24 You must not engage in any acts of disorder or other conduct that is intended to prevent the proper or effective functioning of Council, or of a Committee of Council. Without limiting this clause, you must not:
- a) leave a meeting of the council or a committee for the purposes of depriving the meeting of a quorum, or
  - b) submit a rescission motion with respect to a decision for the purposes of voting against it to prevent another councillor from submitting a rescission motion with respect to the same decision, or
  - c) deliberately seek to impede the consideration of business at a meeting.

## PART 2: PECUNIARY INTERESTS

### WHAT IS A PECUNIARY INTEREST?

- P2.1 A pecuniary interest is an interest that you have in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to you or a person referred to in Clause P2.3.
- P2.2 You will not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision you might make in relation to the matter, or if the interest is of a kind specified in Clause P2.6.
- P2.3 For the purposes of this Part, you will have a pecuniary interest in a matter if the pecuniary interest is:
- a) your interest, or
  - b) the interest of your spouse or de facto partner, your relative, or your partner or employer, or
  - c) a company or other body of which you, or your nominee, partner or employer, is a shareholder or member.
- P2.4 For the purposes of Clause P2.3:
- a) Your “relative” is any of the following:
    - i) your parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - ii) your spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child
    - iii) the spouse or de facto partner of a person referred to in paragraphs (i) and (ii).
  - b) “de facto partner” has the same meaning as defined in Section 21C of the Interpretation Act 1987.
- P2.5 You will not have a pecuniary interest in relation to a person referred to in Sub Clauses P2.3 b) or c):
- a) if you are unaware of the relevant pecuniary interest of your spouse, de facto partner, relative, partner, employer or company or other body, or
  - b) just because the person is a member of, or is employed by, a Council or a statutory body, or is employed by the Crown, or
  - c) just because the person is a member of, or a delegate of a Council to, 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.

### WHAT INTERESTS DO NOT HAVE TO BE DISCLOSED?

- P2.6 You do not have to disclose the following interests for the purposes of this Part:
- a) your interest as an elector;
  - b) your interest as a ratepayer or person liable to pay a charge;
  - c) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to the public generally, or to a Section of the public that includes persons who are not subject to this Code;
  - d) an interest you have in any matter relating to the terms on which the provision of a service or the supply of goods or commodities is offered to your relative by the Council in the same manner and subject to the same conditions as apply to persons who are not subject to this Code;

- e) an interest you have as a member of a club or other organisation or association, unless the interest is as the holder of an office in the club or organisation (whether remunerated or not);
- f) an interest you have relating to a contract, proposed contract or other matter, if the interest arises only because of a beneficial interest in shares in a company that does not exceed 10 per cent of the voting rights in the company;
- g) an interest you have arising from the proposed making by the Council of an agreement between the Council and a corporation, association or partnership, being a corporation, association or partnership that has more than 25 members, if the interest arises because your relative is a shareholder (but not a director) of the corporation, or is a member (but not a member of the committee) of the association, or is a partner of the partnership;
- h) an interest you have arising from the making by the Council of a contract or agreement with your relative for, or in relation to, any of the following, but only if the proposed contract or agreement is similar in terms and conditions to such contracts and agreements as have been made, or as are proposed to be made, by the Council in respect of similar matters with other residents of the area;
  - i) the performance by the Council at the expense of your relative of any work or service in connection with roads or sanitation;
  - ii) security for damage to footpaths or roads;
  - iii) any other service to be rendered, or act to be done, by the Council by or under any Act conferring functions on the Council, or by or under any contract;
- i) an interest relating to the payment of fees [and reimbursements](#) to Councillors (including the Mayor and Deputy Mayor); and
- j) an interest arising from being covered by, or a proposal to be covered by, indemnity insurance as a Council committee member

P2.7 For the purposes of Clause P2.6, “relative” has the same meaning as in Clause P2.4, but includes your spouse or de facto partner.

#### WHAT DISCLOSURES MUST BE MADE BY A COUNCILLOR?

P2.8 A Councillor

- a) must prepare and submit written returns of interests in accordance with Clause P2.9; and
- b) must disclose pecuniary interests in accordance with Clause P2.17.

#### DISCLOSURE OF INTERESTS IN WRITTEN RETURNS

P2.9 A Councillor must make and lodge with the CEO a return in the form set out in Schedule 2 to [this Code](#), disclosing the designated person’s interests as specified in Schedule 1 to [this Code](#) within 3 months after:

- a) becoming a Councillor; and
- b) 30 June of each year; and
- c) the Councillor becoming aware of an interest they are required to disclose under Schedule 1 that has not been previously disclosed in a return lodged under paragraphs a) or b).

P2.10 A Councillor need not make and lodge a return under Clause P2.9 paragraphs a) and b) if:

- a) they made and lodged a return under that Clause in the preceding three (3) months, or
- b) they have ceased to be a designated person in the preceding three (3) months.

P2.11 A Councillor must not make and lodge a return that the person knows or ought reasonably to know is false or misleading in a material particular.



- P2.12 The CEO must keep a register of returns required to be made and lodged with the CEO.
- P2.13 Returns required to be lodged with the CEO under Clause P2.9 a) and b) must be tabled at the first meeting of the Council after the last day the return is required to be lodged.
- P2.14 Returns required to be lodged with the CEO under Clause P2.9 c) must be tabled at the next Council meeting after the return is lodged.
- P2.15 Information contained in returns made and lodged under Clause P2.9 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

#### DISCLOSURE OF PECUNIARY INTERESTS AT MEETINGS

- P2.16 A Councillor who has a pecuniary interest in any matter with which the Council is concerned, and who is present at a meeting of Council or Committee at which the matter is being considered, must disclose the nature of the interest to the meeting as soon as practicable.
- P2.17 The Councillor must not be present at, or in sight of, the meeting of Council or Committee:
- a) at any time during which the matter is being considered or discussed by Council or Committee, or
  - b) at any time during which Council or Committee is voting on any question in relation to the matter.
- P2.18 A disclosure made at a meeting of Council or Council Committee must be recorded in the minutes of the meeting.
- P2.19 A general notice may be given to the CEO in writing by a Councillor to the effect that the Councillor or the Councillor's spouse, de facto partner or relative, is:
- a) a member of, or in the employment of, a specified company or other body; or
  - b) a partner of, or in the employment of, a specified person.
- Such a notice is, unless and until the notice is withdrawn or until the end of the term of Council in which it is given (whichever is the sooner), sufficient disclosure of the Councillor's interest in a matter relating to the specified company, body or person that may be the subject of consideration by Council or Council Committee after the date of the notice.
- P2.20 A Councillor is not prevented from being present at and taking part in a meeting at which a matter is being considered, or from voting on the matter, merely because the Council committee member has an interest in the matter of a kind referred to in Clause P2.6.
- P2.21 A Councillor does not breach Clauses P2.16 or P2.17 if the Councillor did not know, and could not reasonably be expected to have known, that the matter under consideration at the meeting was a matter in which they had a pecuniary interest.
- P2.22 Despite Clause P2.17, a Councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person.
- P2.23 Clause P2.17 does not apply to a Councillor who has a pecuniary interest in a matter that is being considered at a meeting if:
- a) the matter is a proposal relating to:
    - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council's area, or
    - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the Council's area, and

- b) the pecuniary interest arises only because of an interest of the Councillor in the Councillor's principal place of residence or an interest of another person (whose interests are relevant under Clause P2.3) in that person's principal place of residence; and
- c) the Councillor made a special disclosure under Clause P2.24 in relation to the interest before the commencement of the meeting.

P2.24 A special disclosure of a pecuniary interest made for the purposes of Clause P2.23 c) must:

- a) be in the form set out in Schedule 3 of this code and contain the information required by that form, and
- b) be laid on the table at a meeting of the council as soon as practicable after the disclosure is made, and the information contained in the special disclosure is to be recorded in the minutes of the meeting.

P2.25 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor who has a pecuniary interest in a matter with which the Council is concerned to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of Councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

P2.26 A Councillor with a pecuniary interest in a matter who is permitted to be present at a meeting of Council or Committee, to take part in the consideration or discussion of the matter and to vote on the matter under Clause P2.25, must still disclose the interest they have in the matter in accordance with Clause P2.16.

### **PART 3: NON-PECUNIARY CONFLICTS OF INTEREST**

#### **WHAT IS A NON-PECUNIARY CONFLICT OF INTEREST?**

- P3.1 Non-pecuniary interests are private or personal interests a Council Official has that do not amount to a pecuniary interest as defined in Clause P2.1 of this Code. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature.
- P3.2 A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that you could be influenced by a private interest when carrying out your official functions in relation to a matter.
- P3.3 The personal or political views of a Council Official do not constitute a private interest for the purposes of Clause P3.2.
- P3.4 Non-pecuniary conflicts of interest must be identified and appropriately managed to uphold community confidence in the probity of Council decision-making. The onus is on you to identify any non-pecuniary conflict of interest you may have in matters that you deal with, to disclose the interest fully and in writing, and to take appropriate action to manage the conflict in accordance with this Code.
- P3.5 When considering whether or not you have a non-pecuniary conflict of interest in a matter you are dealing with, it is always important to think about how others would view your situation.

#### **MANAGING NON-PECUNIARY CONFLICTS OF INTEREST**

- P3.6 Where you have a non-pecuniary conflict of interest in a matter for the purposes of Clause P3.2, you must disclose the relevant private interest you have in relation to the matter fully and in writing as soon as practicable after becoming aware of the non-pecuniary conflict of interest and on each occasion on which the non-pecuniary conflict of interest arises in relation to the matter.
- P3.7 If a disclosure is made at a Council or Committee meeting, both the disclosure and the nature of the interest must be recorded in the minutes on each occasion on which the non-pecuniary conflict of interest arises. This disclosure constitutes disclosure in writing for the purposes of Clause P3.6.
- P3.8 How you manage a non-pecuniary conflict of interest will depend on whether or not it is significant.
- P3.9 As a general rule, a non-pecuniary conflict of interest will be significant where it does not involve a pecuniary interest for the purposes of Clause P2.1, but it involves:
- a) a relationship between a Council Official and another person who is affected by a decision or a matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative for the purposes of Clause P2.4 or another person from the Council Official's extended family that the Council Official has a close personal relationship with, or another person living in the same household;
  - b) other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships. Closeness is defined by the nature of the friendship or business relationship, the frequency of contact and the duration of the friendship or relationship;
  - c) an affiliation between the Council Official and an organisation (such as a sporting body, club, religious, cultural or charitable organisation, corporation or association) that is affected by a decision or a matter under consideration that is particularly strong. The strength of a Council Official's affiliation with an organisation is to be determined by the extent to which they actively participate in the management, administration or other activities of the organisation;

- d) membership, as the Council's representative, of the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of the Council and the organisation are potentially in conflict in relation to the particular matter;
- e) a financial interest (other than an interest of a type referred to in Clause P2.6) that is not a pecuniary interest for the purposes of Clause P2.1
- f) the conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

P3.10 Significant non-pecuniary conflicts of interest must be managed in one of two ways:

- a) by not participating in consideration of, or decision making in relation to, the matter in which you have the significant non-pecuniary conflict of interest and the matter being allocated to another person for consideration or determination; or
- b) if the significant non-pecuniary conflict of interest arises in relation to a matter under consideration at a committee meeting, by managing the conflict of interest as if you had a pecuniary interest in the matter by complying with Clauses P2.16 and P2.17.

P3.11 If you determine that you have a non-pecuniary conflict of interest in a matter that is not significant and does not require further action, when disclosing the interest you must also explain in writing why you consider that the non-pecuniary conflict of interest is not significant and does not require further action in the circumstances.

P3.12 Despite clause P3.10 b), a Councillor who has a significant non-pecuniary conflict of interest in a matter, may participate in a decision to delegate consideration of the matter in question to another body or person.

**Practise Note:**

[Councillor Handbook - 3.1.3 Conflicts of interest](#)

An example of a significant non-pecuniary conflict of interest could be where the Councillor is an active member and involved in the running of a sporting club that submits a development application to the council for a major extension of its facilities. In this instance there may be a public perception that the Councillor's activities with the club would make it difficult for the councillor to view the matter before the council impartially. When the matter comes before Council, the councillor needs to consider whether or not they have a significant conflict of interest and, if so, must disclose the nature of the conflict and refrain from participating in the discussion and voting on the matter.

By contrast, if a councillor is merely a member of a large club and utilises its facilities via membership, it is unlikely that this membership alone would conflict with their role as a councillor representing the views of the residents and ratepayers generally. However, a councillor should still consider if this raises a less than significant conflict of interests and if so, they should disclose this, as well as the nature of the interest and a brief explanation of why no further action is required to manage the conflict in the circumstances. It always remains open for councillors to take additional steps to manage any perception of a conflict of interests

"No further action" means that after declaring a less than significant non-pecuniary interest, the Councillor may stay in the meeting, participate in the debate and vote on the matter.

Councillors do not have a significant or less than significant non-pecuniary interest in a matter purely by being the Council's appointed representative on a Committee, with the exception of potential conflicts in accordance with P3.9(d).

## POLITICAL DONATIONS

P3.13 Councillors should be aware that matters before council or committee meetings involving their political donors may also give rise to a non-pecuniary conflict of interest.

P3.14 Where you are a councillor and have received or knowingly benefitted from a reportable political donation:

- a) made by a major political donor in the previous four years, and
- b) the major political donor has a matter before council,

you must declare a non-pecuniary conflict of interest in the matter, disclose the nature of the interest, and manage the conflict of interest as if you had a pecuniary interest in the matter by complying with clauses P2.16 and P2.17. A disclosure made under this clause must be recorded in the minutes of the meeting.

P3.15 For the purposes of this Part:

- a) a “reportable political donation” has the same meaning as it has in Section 6 of the Electoral Funding Act 2018; and
- b) “major political donor” has the same meaning as it has in the Electoral Funding Act 2018.

P3.16 Councillors should note that political donations that are not a “reportable political donation”, or political donations to a registered political party or group by which a councillor is endorsed, may still give rise to a non-pecuniary conflict of interest. Councillors should determine whether or not such conflicts are significant for the purposes of Clause P3.9 and take the appropriate action to manage them.

P3.17 Despite Clause P3.14, a Councillor who has received or knowingly benefitted from a reportable political donation of the kind referred to in that clause, may participate in a decision to delegate consideration of the matter in question to another body or person.

#### LOSS OF QUORUM AS A RESULT OF COMPLIANCE WITH THIS PART

P3.18 A Councillor who would otherwise be precluded from participating in the consideration of a matter under this Part because they have a non-pecuniary conflict of interest in the matter is permitted to participate in consideration of the matter if:

- a) the matter is a proposal relating to:
  - i) the making of a principal environmental planning instrument applying to the whole or a significant portion of the council’s area, or
  - ii) the amendment, alteration or repeal of an environmental planning instrument where the amendment, alteration or repeal applies to the whole or a significant portion of the council’s area, and
- b) the non-pecuniary conflict of interest arises only because of an interest that a person has in that person’s principal place of residence, and
- c) the councillor discloses the interest they have in the matter that would otherwise have precluded their participation in consideration of the matter under this Part in accordance with clause P3.6.

P3.19 The Minister for Local Government may, conditionally or unconditionally, allow a Councillor who is precluded under this Part from participating in the consideration of a matter to be present at a meeting of the committee, to take part in the consideration or discussion of the matter and to vote on the matter if the Minister is of the opinion:

- a) that the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business, or
- b) that it is in the interests of the electors for the area to do so.

P3.20 Where the Minister exempts a committee member from complying with a requirement under this Part under Clause P3.19, the committee member must still disclose any interests they have in the matter the exemption applies to, in accordance with Clause P3.6.

#### PERSONAL DEALINGS WITH COUNCIL

P3.21 You may have reason to deal with your Council in your personal capacity (for example, as a ratepayer, recipient of a Council service or applicant for a development consent granted by Council). You must not expect or request preferential treatment in relation to any matter in which

you have a private interest because of your position. You must avoid any action that could lead members of the public to believe that you are seeking preferential treatment.

- P3.22 You must undertake any personal dealings you have with the Council in a manner that is consistent with the way other members of the community deal with Council. You must also ensure that you disclose and appropriately manage any conflict of interest you may have in any matter in accordance with the requirements of this Code.

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#### **PART 4: PERSONAL BENEFIT**

- P4.1 For the purposes of this Part, a gift or a benefit is something offered to or received by a Council Official or someone personally associated with them for their personal use and enjoyment.
- P4.2 A reference to a gift or benefit in this Part does not include:
- a) items with a value of \$10 or less;
  - b) a political donation for the purposes of the Electoral Funding Act 2018;
  - c) a gift provided to the Council as part of a cultural exchange or sister-city relationship that is not converted for the personal use or enjoyment of any individual Council Official or someone personally associated with them;
  - d) benefit or facility provided by Council to a Councillor;
  - e) attendance by an Council Official at a work-related event or function for the purposes of performing their official duties; or
  - f) free or subsidised meals, beverages or refreshments provided to Councillors in conjunction with the performance of their official duties such as, but not limited to:
    - i) the discussion of official business;
    - ii) work-related events such as Council-sponsored or community events, training, education sessions or workshops; or
    - iii) conferences
    - iv) Council functions or events
    - v) social functions organised by groups, such as Council committees and community organisations.

#### **GIFTS AND BENEFITS**

- P4.3 You must avoid situations that would give rise to the appearance that a person or body is attempting to secure favourable treatment from you or from Council, through the provision of gifts, benefits or hospitality of any kind to you or someone personally associated with you.
- P4.4 A gift or benefit is deemed to have been accepted by you for the purposes of this Part, where it is received by you or someone personally associated with you.
- P4.5 **Regardless of the value of a gift and/or benefit received or declined by a Councillor, the Councillor must complete a Gift and Benefit Declaration and forward it to the CEO.**
- P4.6 **Councillors should, wherever possible, decline offers of gifts and/or benefits of any value, but still complete a Gift and Benefit Declaration noting that the offer had been declined**
- P4.7 **It is at the discretion of the CEO to whether a Councillor may retain an item or whether it is required to be handed in to Council.**
- P4.8 **Invitations received for Council or neighbouring Council's events are exempt from this Section however if accepted must be declared.**

#### **HOW ARE OFFERS OF GIFTS AND BENEFITS TO BE DEALT WITH?**

- P4.9 You must not:
- a) seek or accept a bribe or other improper inducement;
  - b) seek gifts or benefits of any kind;
  - c) accept any gift or benefit that may create a sense of obligation on your part, or may be perceived to be intended or likely to influence you in carrying out your public duty;

- d) subject to Clause P4.9, accept any gift or benefit of more than token value as defined by Clause P4.11;
  - e) accept an offer of cash or a cash-like gift as defined by Clause P4.15, regardless of the amount;
  - f) participate in competitions for prizes where eligibility is based on the Council being in or entering into a customer–supplier relationship with the competition organiser; or
  - g) personally benefit from reward points programs when purchasing on behalf of the Council.
- P4.10 Where you receive a gift or benefit **or are offered a gift or benefit** of any value other than one referred to in clause P4.2, you must disclose this promptly to the CEO **via completing a Gifts and Benefits Declaration**. The recipient or CEO must ensure that, at a minimum, the following details are recorded in the council's gift register:
- a) the nature of the gift or benefit
  - b) the estimated monetary value of the gift or benefit
  - c) the name of the person who provided **or offered** the gift or benefit, and
  - d) the date on which the gift or benefit was received **or declined**.
- P4.11 Where you receive a gift or benefit, of more than token value, that cannot reasonably be refused or returned, the gift or benefit must be surrendered to the Council., **unless the nature of the gift or benefit makes this impractical**.

#### GIFTS AND BENEFITS OF TOKEN VALUE

- P4.12 You may accept gifts and benefits of token value. Gifts and benefits of token value are one or more gifts or benefits received from a person or organisation over a twelve (12) month period that, when aggregated, do not exceed a value of \$50. They include, but are not limited to:
- a) invitations to and attendance at local social, cultural or sporting events with a ticket value that does not exceed \$50.
  - b) gifts of alcohol that do not exceed a value of \$50.
  - c) ties, scarves, coasters, tie pins, diaries, chocolates or flowers or the like; or
  - d) prizes or awards that do not exceed \$50 in value.

#### GIFTS AND BENEFITS OF MORE THAN TOKEN VALUE

- P4.13 Gifts or benefits that exceed \$50 in value are gifts or benefits of more than token value for the purposes of Clause P4.8 d) and, subject to Clause P4.11, must not be accepted.
- P4.14 Gifts and benefits of more than token value include, but are not limited to, tickets to major sporting events (such as international matches or matches in national sporting codes) with a ticket value that exceeds \$50 corporate hospitality at a corporate facility at major sporting events, free or discounted products or services for personal use provided on terms that are not available to the general public or a broad class of persons, the use of holiday homes, artworks, free or discounted travel.
- P4.15 Where you have accepted a gift or benefit of token value from a person or organisation, you must not accept a further gift or benefit from the same person or organisation or another person associated with that person or organisation within a single twelve (12) month period where the value of the gift, added to the value of earlier gifts received from the same person or organisation, or a person associated with that person or organisation, during the same twelve (12) month period would exceed \$50 in value.
- P4.16 For the purposes of this Part, the value of a gift or benefit is the monetary value of the gift or benefit inclusive of GST.



**“CASH-LIKE GIFTS”**

P4.17 For the purposes of Clause P4.7 e), “cash-like gifts” include but are not limited to, gift vouchers, credit cards, debit cards with credit on them, prepayments such as phone or internet credit, lottery tickets, memberships or entitlements to discounts that are not available to the general public or a broad class of persons.

**IMPROPER AND UNDUE INFLUENCE**

P4.18 You must not use your position to influence other Council Officials in the performance of their official functions to obtain a private benefit for yourself or for somebody else.

P4.19 You must not take advantage (or seek to take advantage) of your status or position with Council, or of functions you perform for Council, in order to obtain a private benefit for yourself or for any other person or body.

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## PART 5: RELATIONSHIPS BETWEEN COUNCIL OFFICIALS

### OBLIGATIONS OF COUNCILLORS AND ADMINISTRATORS

- P5.1 Each Council is a body politic. The Councillors or Administrator/s are the governing body of Council. Under Section 223 of the Act, the role of the governing body of the Council includes the development and endorsement of the strategic plans, programs, strategies and policies of the Council, including those relating to workforce policy, and to keep the performance of the Council under review.
- P5.2 Councillors or Administrators must not:
- direct Council employees other than by giving appropriate direction to the CEO by way of Council or committee resolution, or by the Mayor or Administrator exercising their functions under Section 226 of the Act;
  - in any public or private forum, direct or influence, or attempt to direct or influence, any other employees of the Council or a delegate of the Council in the exercise of the functions of the employees or delegate;
  - contact an employee of the Council on Council-related business unless in accordance with the Policy and Procedures governing the interaction of Councillors and Council employees that have been authorised by the Council and the CEO.
  - contact or issue instructions to any Council's contractors, including the Council's legal advisers, unless by the Mayor or Administrator exercising their functions under Section 226 of the Act.
- P5.3 Despite Clause P5.2, Councillors may contact the Chair of Council's Audit, Risk and Improvement Committee (ARIC) to provide information reasonably necessary to effectively perform their functions.

### INAPPROPRIATE INTERACTIONS

- P5.6 You must not engage in any of the following inappropriate interactions:
- Councillors and Administrators approaching employees and employee organisations to discuss individual or operational employee matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters; or
  - Council employees approaching Councillors and Administrators to discuss individual or operational employee matters (other than matters relating to broader workforce policy), grievances, workplace investigations and disciplinary matters; or
  - subject to Clause P6.6, Council employees refusing to give information that is available to other Councillors to a particular Councillor; or
  - Councillors and Administrators who have lodged an application with the Council, discussing the matter with a Council employee in employee-only areas of the Council; or
  - Councillors and Administrators approaching members of local planning panels or discussing any application that is either before the panel or that will come before the panel at some future time, except during a panel meeting where the application forms part of the agenda and the Councillor or Administrator has a right to be heard by the panel at the meeting
  - Councillors and Administrators being overbearing or threatening to Council employees; or
  - Council employees being overbearing or threatening to Councillors or Administrators; or
  - Councillors and Administrators making personal attacks on Council employees or engaging in conduct towards employees that would be contrary to the general conduct provisions in Part 1 of this Code in public forums including social media; or

- i) Councillors and Administrators directing or pressuring Council employees in the performance of their work, or recommendations they should make; or
- j) Council employees providing ad hoc advice to Councillors and Administrators without recording or documenting the interaction as they would if the advice was provided to a member of the community; or
- k) Council employees meeting with applicants or objectors alone AND outside office hours to discuss planning applications or proposals.
- l) Councillors attending on-site inspection meetings with lawyers and/or consultants engaged by Council associated with current or proposed legal proceedings unless permitted to do so by the Council's CEO or, in the case of the Mayor or Administrator, unless they are exercising their functions under Section 226 of the Act.

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## **PART 6: ACCESS TO INFORMATION AND COUNCIL RESOURCES**

### **COUNCILLOR AND ADMINISTRATOR ACCESS TO INFORMATION**

- P6.1 The CEO is responsible for ensuring that Councillors and Administrators can access information necessary for the performance of their official functions. The CEO and public officer are also responsible for ensuring that members of the public can access publicly available Council information under the Government Information (Public Access) Act 2009 (the GIPA Act).
- P6.2 The CEO must provide Councillors and Administrators with the information necessary to effectively discharge their official functions.
- P6.3 Employees of Council must provide full and timely information to Councillors and Administrators sufficient to enable them to exercise their official functions and in accordance with Council procedures.
- P6.4 Employees of Council who provide any information to a particular Councillor in the performance of their official functions must also make it available to any other Councillor who requests it and in accordance with Council procedures.
- P6.5 Councillors and Administrators who have a private interest only in Council information have the same rights of access as any member of the public.
- P6.6 Despite Clause P6.4, Councillors and Administrators who are precluded from participating in the consideration of a matter under this Code because they have a conflict of interest in the matter, are not entitled to request access to Council information in relation to the matter unless the information is otherwise available to members of the public, or the Council has determined to make the information available under the GIPA Act.

### **COUNCILLORS AND ADMINISTRATORS TO PROPERLY EXAMINE AND CONSIDER INFORMATION**

- P6.7 Councillors and administrators must ensure that they comply with their duty under Section 439 of the Act to act honestly and exercise a reasonable degree of care and diligence by properly examining and considering all the information provided to them relating to matters that they are required to make a decision on.

### **REFUSAL OF ACCESS TO INFORMATION**

- P6.8 Where the CEO or Public Officer determine to refuse access to information requested by a Councillor or Administrator, they must act reasonably. In reaching this decision they must take into account whether or not the information requested is necessary for the Councillor or Administrator to perform their official functions (see Clause P6.2) and whether they have disclosed a conflict of interest in the matter the information relates to that would preclude their participation in consideration of the matter (see Clause P6.6). The CEO or Public Officer must state the reasons for the decision if access is refused.

### **USE OF CERTAIN COUNCIL INFORMATION**

- P6.9 In regard to information obtained in your capacity as a Council Official, you must:
- subject to Clause P6.13, only access Council information needed for Council business;
  - not use that Council information for private purposes;
  - not seek or obtain, either directly or indirectly, any financial benefit or other improper advantage for yourself, or any other person or body, from any information to which you have access by virtue of your position with Council; and
  - only release Council information in accordance with established Council policies and procedures and in compliance with relevant legislation.

### **USE AND SECURITY OF CONFIDENTIAL INFORMATION**

- P6.10 You must maintain the integrity and security of confidential information in your possession, or for which you are responsible.
- P6.11 In addition to your general obligations relating to the use of Council information, you must:
- a) only access confidential information that you have been authorised to access and only do so for the purposes of exercising your official functions;
  - b) protect confidential information;
  - c) only release confidential information if you have authority to do so;
  - d) only use confidential information for the purpose for which it is intended to be used;
  - e) not use confidential information gained through your official position for the purpose of securing a private benefit for yourself or for any other person;
  - f) not use confidential information with the intention to cause harm or detriment to the Council or any other person or body; and
  - g) not disclose any confidential information discussed during a confidential session of a Council or committee meeting or any other confidential forum (such as, but not limited to, workshops or briefing sessions).

### **PERSONAL INFORMATION**

- P6.12 When dealing with personal information you must comply with the:
- a) Privacy and Personal Information Protection Act 1998;
  - b) Health Records and Information Privacy Act 2002;
  - c) Information Protection Principles and Health Privacy Principles ;
  - d) Council's Privacy Management Plan; and
  - e) Privacy Code of Practice for Local Government.

### **USE OF COUNCIL RESOURCES**

- P6.13 You must use Council resources ethically, effectively, efficiently and carefully in exercising your official functions, and must not use them for private purposes, except when supplied as part of a contract of employment (but not for private business purposes), unless this use is lawfully authorised and proper payment is made where appropriate.
- P6.14 You must be scrupulous in your use of Council property, including intellectual property, official services, facilities, technology and electronic devices and must not permit their misuse by any other person or body.
- P6.15 You must avoid any action or situation that could create the appearance that Council property, official services or public facilities are being improperly used for your benefit or the benefit of any other person or body.
- P6.16 You must not use Council resources (including Council employees), property or facilities for the purpose of assisting your election campaign or the election campaigns of others unless the resources, property or facilities are otherwise available for use or hire by the public and any publicly advertised fee is paid for use of the resources, property or facility.
- P6.17 You must not use the Council letterhead, Council crests, Council email or social media or other information that could give the appearance it is official Council material:
- a) for the purpose of assisting your election campaign or the election campaign of others, or
  - b) for other non-official purposes.
- P6.18 You must not convert any property of the Council to your own use unless properly authorised.

### INTERNET ACCESS

- P6.19 You must not use Council's computer resources or mobile or other devices to search for, access, download or communicate any material of an offensive, obscene, pornographic, threatening, abusive or defamatory nature, or that could otherwise lead to criminal penalty or civil liability and/or damage the Council's reputation.

### COUNCIL RECORD KEEPING

- P6.20 You must comply with the requirements of the State Records Act 1998 and the Council's Information and Records Management Policy.
- P6.21 All information created, sent and received in your official capacity is a Council record and must be managed in accordance with the requirements of the State Records Act 1998 and the Council's approved records management policies and practices.
- P6.22 All information stored in either soft or hard copy on Council supplied resources (including technology devices and email accounts) is deemed to be related to the business of the Council and will be treated as Council records, regardless of whether the original intention was to create the information for personal purposes.
- P6.23 You must not destroy, alter, or dispose of Council information or records, unless authorised to do so. If you need to alter or dispose of Council information or records, you must do so in consultation with the Council's records Manager and comply with the requirements of the State Records Act 1998.

### COUNCILLOR ACCESS TO COUNCIL BUILDINGS

- P6.24 Councillors and administrators are entitled to have access to the council chamber, committee room, mayor's office (subject to availability), Councillors' rooms, and public areas of Council's buildings during normal business hours and for meetings. Councillors and Administrators needing access to these facilities at other times must obtain authority from the CEO.
- P6.25 Councillors and Administrators must not enter employee-only areas of Council buildings without the approval of the CEO (or their delegate) or as provided for in the procedures governing the interaction of Councillors and Council employees.
- P6.26 Councillors and Administrators must ensure that when they are within an employee-only area they refrain from conduct that could be perceived to improperly influence Council employees decisions.

### SOCIAL MEDIA

- P6.27 Councillors should be aware that any social media activity or interaction, either official or personal, is public, permanently available, traceable and able to be reproduced elsewhere. Contents, comments and digital activity may also form part of an evidentiary brief in Code of Conduct matters, or in more serious matters, tendered as evidence, such as civil claims or investigations by the Independent Commission Against Corruption (ICAC) or the Police.
- P6.28 Councillors should also be aware that whether they intend it or not, what they post online in a private capacity may reflect on Murray River Council and their role as a Councillor. They should therefore behave in a way that upholds the values and reputation of Council, consistent with the Code of Conduct and other policies.
- P6.29 Councillors are reminded that 'shares', 'likes' or 'retweets' may be viewed as an endorsement of the original post. In the spirit of the respectful democratic environment that Australian citizens enjoy and live in, constructive criticism or negative comments/commenters should not be blocked or removed, unless they are overtly offensive and defamatory, incite hatred and violence or are criminal in nature. The latter examples should be noted with Council's CEO, or if criminal in nature or threaten your safety and reported to NSW Police as soon as possible.

- P6.30 Councillors must also be aware of posts by others to their social media pages and consider if such post/s and its comment/s are offensive or may incite hatred, violence and/or criminal acts. Any post/comments made to a Councillor's social media page/site should be monitored by the Councillor to ensure that it meets the standard of socially acceptable behaviour/commentary.
- P6.31 Councillors should remove any post/comment that does not meet the required standard of this Policy.

#### **COMPLAINTS HANDLING**

- P6.32 Councillors must refer any complaint they receive about any facet of Council's activities to the CEO or relevant Director so that the matter can be resolved according to the Customer Feedback and Complaints Management Policy.
- P6.33 Depending on the nature of the complaint, wherever possible the Councillor who forwarded the information to the CEO will be updated on what action will or has been taken.

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## PART 7: MAINTAINING THE INTEGRITY OF THIS CODE

### COMPLAINTS MADE FOR AN IMPROPER PURPOSE

- P7.1 You must not make or threaten to make a complaint or cause a complaint to be made alleging a breach of this Code for an improper purpose.
- P7.2 For the purposes of Clause P7.1, a complaint is made for an improper purpose where it is trivial, frivolous, vexatious or not made in good faith, or where it otherwise lacks merit and has been made substantially for one or more of the following purposes:
- a) to bully, intimidate or harass another Council Official;
  - b) to damage another Council Official's reputation;
  - c) to obtain a political advantage;
  - d) to influence a Council Official in the exercise of their official functions or to prevent or disrupt the exercise of those functions;
  - e) to influence the Council in the exercise of its functions or to prevent or disrupt the exercise of those functions;
  - f) to avoid disciplinary action under the Procedures;
  - g) to take reprisal action against a person for making a complaint alleging a breach of this Code;
  - h) to take reprisal action against a person for exercising a function prescribed under the Procedures; and
  - i) to prevent or disrupt the effective administration of this Code under the Procedures.

### DETRIMENTAL ACTION

- P7.3 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for a complaint they have made alleging a breach of this Code.
- P7.4 You must not take detrimental action or cause detrimental action to be taken against a person substantially in reprisal for any function they have exercised under the Procedures.
- P7.5 For the purposes of Clauses P7.3 and P7.4, a detrimental action is an action causing, comprising or involving any of the following:
- a) injury, damage or loss;
  - b) intimidation or harassment;
  - c) discrimination, disadvantage or adverse treatment in relation to employment;
  - d) dismissal from, or prejudice in, employment; and
  - e) disciplinary proceedings.

### COMPLIANCE WITH REQUIREMENTS UNDER THE PROCEDURES

- P7.6 You must not engage in conduct that is calculated to impede or disrupt the consideration of a matter under the Procedures.
- P7.7 You must comply with a reasonable and lawful request made by a person exercising a function under the Procedures. A failure to make a written or oral submission invited under the Procedures will not constitute a breach of this Clause.
- P7.8 You must comply with a practice ruling made by the Office under the Procedures.



## DISCLOSURE OF INFORMATION ABOUT THE CONSIDERATION OF A MATTER UNDER THE PROCEDURES

- P7.9 All allegations of breaches of this Code must be dealt with under and in accordance with the Procedures.
- P7.10 You must not allege breaches of this Code other than by way of a complaint made or initiated under the Procedures.
- P7.11 You must not make allegations about, or disclose information about, suspected breaches of this Code at Council, committee or other meetings, whether open to the public or not, or in any other forum, whether public or not.
- P7.12 You must not disclose information about a complaint you have made alleging a breach of this Code or a matter being considered under the Procedures except for the purposes of seeking legal advice, unless the disclosure is otherwise permitted under the Procedures.
- P7.13 Nothing under this Part prevents a person from making a public interest disclosure to an appropriate public authority or investigative authority under the Public Interest Disclosures Act 1994.

## COMPLAINTS ALLEGING A BREACH OF THIS PART

- P7.14 Complaints alleging a breach of this Part by the CEO are to be managed by the Office of Local Government (OLG). This Clause does not prevent the OLG from referring an alleged breach of this Part back to the Council for consideration in accordance with the Procedures.

## 6. RESPONSIBILITIES

### CEO

To lead Councillors in their understanding of, and compliance with, this Policy and related Procedures.

### Councillors

To be aware of and ensure compliance with this Policy.

### Directors, Managers and Supervisors

To communicate, implement and comply with this Policy and related Procedures.

## 7. BREACHES

Failure by a Councillor to comply with Council's Code of Conduct may give rise to disciplinary action.

## 8. EVALUATION AND REVIEW

It is the responsibility of the Chief Executive Officer, to monitor the adequacy of this Policy and recommend appropriate changes.

This Policy will be formally reviewed every four (4) years or as needed, whichever comes first.

## 9. ASSOCIATED DOCUMENTS, DEFINITIONS AND ACRONYMS

### Associated Documents

- Information Protection Principles and Health Privacy Principles
- OLG - Privacy Code of Practice for Local Government
- MRC Policy – Information and Records Management Policy
- MRC Procedure – Gifts, Benefits and Hospitality Procedure
- MRC Plan - Privacy Management Plan

Definitions:

In this Code the following terms have the following meanings:

<b>Term</b>	<b>Definition</b>
The Act	Local Government Act 1993 (NSW)
Administrator	An Administrator of a Council appointed under the LGA other than an Administrator appointed under Section 66
committee	See the definition of "Council committee"
complaint	A Code of Conduct complaint made for the purposes of Clauses P2.1 and P2.2 of the Procedures.
conduct	Includes acts and omissions
Council	Murray River Council
Council Official	Includes Councillors, employees of a Council, Administrators, Council committee members, delegates of Council and, for the purposes of Clause P2.16 of the Model Code of Conduct, Council advisers
Council committee	A committee established by a Council comprising of Councillors, employees or other persons that the Council has delegated functions to and the Council's Audit, Risk and Improvement Committee (ARIC)
Council committee member	A person other than a Councillor or employee of a Council who is a member of a Council committee other than a wholly advisory committee, and a person other than a Councillor who is a member of the Council's Audit, Risk and Improvement Committee.
Councillor	Any person elected or appointed to civic office, including the Mayor and includes members and chairpersons of County Councils and voting representatives of the boards of joint organisations and chairpersons of joint organisations
Delegate of Council	A person (other than a Councillor or employee of a Council) or body, and the individual members of that body, to whom a function of the Council is delegated
designated person	A person referred to in Clause P2.8
employee	An employee of Murray River Council – permanent, part-time or casual.
CEO	Chief Executive Officer
Mayor	Elected Chairperson of Murray River Council
the Office	Office of Local Government
personal information	Information or an opinion (including information or an opinion forming part of a database and whether or not recorded in a material form) about an individual whose identity is apparent or can reasonably be ascertained from the information or opinion
the Procedures	The Procedures for the Administration of the Model Code of Conduct for Local Councils in NSW prescribed under the Regulation the Regulation the Local Government (General) Regulation 2021
wholly advisory committee	A Council committee that the Council has not delegated any functions to

**10. DOCUMENT CONTROL**

Version No.	Details	Date	Resolution No.	CM9 Reference
1	Initial Issue –	23 May 2016 to 15 Apr 2019	060516	VF/17/102859
2	Adoption of new Policy based on the Model Code of Conduct for Local Councils in NSW (Office of Local Government – December 2018) as per Office of Local Government Circular to Councils 18-44.	16 Apr 2019 to 27 Oct 2020	090419	VF/17/102859
3	Adoption of new Policy based on the Model Code of Conduct for Local Councils in NSW (Office of Local Government – August 2020) as per Office of Local Government Circular to Councils 20-32.	27 Oct 2020 to DRAFT	181020	VF/17/102859
4	Code of Conduct Policy split into 3 separate documents – Councillors, Employees and Committee Members, Delegates & Advisors	DRAFT		VF/17/102859

Council reserves the right to review, vary or revoke this policy at any time  
This Policy is scheduled for review before 2025

**NOTE:**

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**DISCLAIMER:**

This document was formulated to be consistent with Murray River Council's legislative obligations and with the scope of Council's powers. This document should be read in conjunction with relevant legislation, guidelines and codes of practice. In the case of any discrepancies, the most recent legislation should prevail. This document does not constitute legal advice. Legal advice should be sought in relation to particular circumstances and liability will not be accepted for losses incurred as a result of reliance on this document.

**SCHEDULE 1: DISCLOSURES OF INTERESTS AND OTHER MATTERS IN WRITTEN RETURNS  
SUBMITTED UNDER CLAUSE P2.9**

**Part 1: Preliminary**

**Definitions**

1. For the purposes of the schedules to this Code, the following definitions apply:

address	<p>a) in relation to a person other than a corporation, the last residential or business address of the person known to the designated person disclosing the address, or</p> <p>b) in relation to a corporation, the address of the registered office of the corporation in New South Wales or, if there is no such office, the address of the principal office of the corporation in the place where it is registered, or</p> <p>c) in relation to any real property, the street address of the property.</p>
de facto partner	has the same meaning as defined in Section 21C of the <u>Interpretation Act 1987</u> .
disposition of property	<p>means a conveyance, transfer, assignment, settlement, delivery, payment or other alienation of property, including the following:</p> <p>a) the allotment of shares in a company</p> <p>b) the creation of a trust in respect of property</p> <p>c) the grant or creation of a lease, mortgage, charge, easement, licence, power, partnership or interest in respect of property</p> <p>d) the release, discharge, surrender, forfeiture or abandonment, at law or in equity, of a debt, contract or chose in action, or of an interest in respect of property</p> <p>e) the exercise by a person of a general power of appointment over property in favour of another person</p> <p>f) a transaction entered into by a person who intends by the transaction to diminish, directly or indirectly, the value of the person's own property and to increase the value of the property of another person.</p>
gift	means a disposition of property made otherwise than by will (whether or not by instrument in writing) without consideration, or with inadequate consideration, in money or money's worth passing from the person to whom the disposition was made to the person who made the disposition, but does not include a financial or other contribution to travel.
interest	<p>means:</p> <p>a) in relation to property, an estate, interest, right or power, at law or in equity, in or over the property, or</p> <p>b) in relation to a corporation, a relevant interest (within the meaning of Section 9 of the <u>Corporations Act 2001</u> of the Commonwealth) in securities issued or made available by the corporation.</p>
listed company	means a company that is listed within the meaning of Section 9 of the <u>Corporations Act 2001</u> of the Commonwealth.
occupation	includes trade, profession and vocation.

professional or business association	means an incorporated or unincorporated body or organisation having as one of its objects or activities the promotion of the economic interests of its members in any occupation.
property	includes money.
return date	means: a) in the case of a return made under clause 4.9 a), the date on which a person became a designated person b) in the case of a return made under clause 4.9 b), 30 June of the year in which the return is made c) in the case of a return made under clause 4.9 c), the date on which the designated person became aware of the interest to be disclosed.
relative	includes any of the following: a) a person's spouse or de facto partner b) a person's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child c) a person's spouse's or de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child d) the spouse or de facto partner of a person referred to in paragraphs (b) and (c).
travel	includes accommodation incidental to a journey.

### **Matters relating to the interests that must be included in returns**

#### **2. Interests etc. outside New South Wales:**

A reference in this Schedule or in Schedule 2 to a disclosure concerning a corporation or other thing includes any reference to a disclosure concerning a corporation registered, or other thing arising or received, outside New South Wales.

#### **3. References to interests in real property:**

A reference in this Schedule or in Schedule 2 to real property in which a designated person has an interest includes a reference to any real property situated in Australia in which the designated person has an interest.

#### **4. Gifts, loans etc. from related corporations:**

For the purposes of this Schedule and Schedule 2, gifts or contributions to travel given, loans made, or goods or services supplied, to a designated person by two or more corporations that are related to each other for the purposes of section 50 of the Corporations Act 2001 of the Commonwealth are all given, made or supplied by a single corporation.

**Part 2: Penuniary Interests To Be Disclosed In Returns**

**Real property**

5. A person making a return under clause P2.9 of this Code must disclose:
  - a) the street address of each parcel of real property in which they had an interest on the return date, and
  - b) the street address of each parcel of real property in which they had an interest in the period since 30 June of the previous financial year, and
  - c) the nature of the interest.
6. An interest in a parcel of real property need not be disclosed in a return if the person making the return had the interest only:
  - a) as executor of the will, or administrator of the estate, of a deceased person and not as a beneficiary under the will or intestacy, or
  - b) as a trustee, if the interest was acquired in the ordinary course of an occupation not related to their duties as the holder of a position required to make a return.
7. An interest in a parcel of real property need not be disclosed in a return if the person ceased to hold the interest prior to becoming a designated person.
8. For the purposes of Clause 5 of this Schedule, “interest” includes an option to purchase.

**Gifts**

9. A person making a return under clause P2.9 of this Code must disclose:
  - a) a description of each gift received in the period since 30 June of the previous financial year, and
  - b) the name and address of the donor of each of the gifts.
10. A gift need not be included in a return if:
  - a) it did not exceed \$500, unless it was among gifts totalling more than \$500 made by the same person during a period of 12 months or less, or
  - b) it was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
  - c) the donor was a relative of the donee, or
  - d) subject to paragraph (a), it was received prior to the person becoming a designated person.
11. For the purposes of Clause 10 of this Schedule, the amount of a gift other than money is an amount equal to the value of the property given.

**Contributions to travel**

12. A person making a return under Clause P2.9 of this Code must disclose:
  - a) the name and address of each person who made any financial or other contribution to the expenses of any travel undertaken by the person in the period since 30 June of the previous financial year, and
  - b) the dates on which the travel was undertaken, and
  - c) the names of the states and territories, and of the overseas countries, in which the travel was undertaken.
13. A financial or other contribution to any travel need not be disclosed under this clause if it:
  - a) was made from public funds (including a contribution arising from travel on free passes issued under an Act or from travel in government or council vehicles), or

- b) was made by a relative of the traveller, or
  - c) was made in the ordinary course of an occupation of the traveller that is not related to their functions as the holder of a position requiring the making of a return, or
  - d) did not exceed \$250, unless it was among gifts totalling more than \$250 made by the same person during a twelve (12) month period or less, or
  - e) was a political donation disclosed, or required to be disclosed, under Part 3 of the Electoral Funding Act 2018, or
  - f) was made by a political party of which the traveller was a member and the travel was undertaken for the purpose of political activity of the party in New South Wales, or to enable the traveller to represent the party within Australia, or
  - g) subject to paragraph (d) it was received prior to the person becoming a designated person.
14. For the purposes of Clause 13 of this Schedule, the amount of a contribution (other than a financial contribution) is an amount equal to the value of the contribution.

### Interests and positions in corporations

15. A person making a return under clause P2.9 of this Code must disclose:
- a) the name and address of each corporation in which they had an interest or held a position (whether remunerated or not) on the return date, and
  - b) the name and address of each corporation in which they had an interest or held a position in the period since 30 June of the previous financial year, and
  - c) the nature of the interest, or the position held, in each of the corporations, and
  - d) a description of the principal objects (if any) of each of the corporations, except in the case of a listed company.
16. An interest in, or a position held in, a corporation need not be disclosed if the corporation is:
- a) formed for the purpose of providing recreation or amusement, or for promoting commerce, industry, art, science, religion or charity, or for any other community purpose, and
  - b) required to apply its profits or other income in promoting its objects, and
  - c) prohibited from paying any dividend to its members.
17. An interest in a corporation need not be disclosed if the interest is a beneficial interest in shares in a company that does not exceed ten (10) per cent of the voting rights in the company.
18. An interest or a position in a corporation need not be disclosed if the person ceased to hold the interest or position prior to becoming a designated person.

### Interests as a property developer or a close associate of a property developer

19. A person making a return under Clause P2.9 of this Code must disclose whether they were a property developer, or a close associate of a corporation that, or an individual who, is a property developer, on the return date.
20. For the purposes of clause 19 of this schedule:
- ▶ **close associate:**  
In relation to a corporation or an individual, has the same meaning as it has in Section 53 of the Electoral Funding Act 2018.
  - ▶ **property developer**  
Has the same meaning as it has in Division 7 of Part 3 of the Electoral Funding Act 2018.

### Positions in trade unions and professional or business associations

21. A person making a return under Clause P2.9 of the Code must disclose:
- the name of each trade union, and of each professional or business association, in which they held any position (whether remunerated or not) on the return date, and
  - the name of each trade union, and of each professional or business association, in which they have held any position (whether remunerated or not) in the period since 30 June of the previous financial year, and
  - a description of the position held in each of the unions and associations.
22. A position held in a trade union or a professional or business association need not be disclosed if the person ceased to hold the position prior to becoming a Councillor.

### Dispositions of real property

23. A person making a return under Clause P2.9 of this Code must disclose particulars of each disposition of real property by the person (including the street address of the affected property) in the period since 30 June of the previous financial year, under which they wholly or partly retained the use and benefit of the property or the right to re-acquire the property.
24. A person making a return under Clause P2.9 of this Code must disclose particulars of each disposition of real property to another person (including the street address of the affected property) in the period since 30 June of the previous financial year, that is made under arrangements with, but is not made by, the person making the return, being a disposition under which the person making the return obtained wholly or partly the use of the property.
25. A disposition of real property need not be disclosed if it was made prior to a person becoming a Councillor.

### Sources of income

26. A person making a return under Clause P2.9 of this Code must disclose:
- each source of income that the person reasonably expects to receive in the period commencing on the first day after the return date and ending on the following 30 June, and
  - each source of income received by the person in the period since 30 June of the previous financial year.
27. A reference in Clause 26 of this Schedule to each source of income received, or reasonably expected to be received, by a person is a reference to:
- in relation to income from an occupation of the person:
    - a description of the occupation, and
    - if the person is employed or the holder of an office, the name and address of their employer, or a description of the office, and
    - if the person has entered into a partnership with other persons, the name (if any) under which the partnership is conducted, or
  - in relation to income from a trust, the name and address of the settlor and the trustee, or
  - in relation to any other income, a description sufficient to identify the person from whom, or the circumstances in which, the income was, or is reasonably expected to be, received.
28. The source of any income need not be disclosed by a person in a return if the amount of the income received, or reasonably expected to be received, by the person from that source did not exceed \$500, or is not reasonably expected to exceed \$500, as the case may be.
29. The source of any income received by the person that they ceased to receive prior to becoming a designated person need not be disclosed.



30. A fee paid to a Councillor or to the Mayor or Deputy Mayor under Sections 248 or 249 of the Act need not be disclosed.

### Debts

31. A person making a return under Clause P2.9 of the Code must disclose the name and address of each person to whom the person was liable to pay any debt:
- on the return date, and
  - at any time in the period since 30 June of the previous financial year.
32. A liability to pay a debt must be disclosed by a person in a return made under Clause P2.9 whether or not the amount, or any part of the amount, to be paid was due and payable on the return date or at any time in the period since 30 June of the previous financial year, as the case may be.
33. A liability to pay a debt need not be disclosed by a person in a return if:
- the amount to be paid did not exceed \$500 on the return date or in the period since 30 June of the previous financial year, as the case may be, unless:
    - the debt was one of two or more debts that the person was liable to pay to one person on the return date, or at any time in the period since 30 June of the previous financial year, as the case may be, and
    - the amounts to be paid exceeded, in the aggregate, \$500, or
  - the person was liable to pay the debt to a relative, or
  - in the case of a debt arising from a loan of money the person was liable to pay the debt to an authorised deposit-taking institution or other person whose ordinary business includes the lending of money, and the loan was made in the ordinary course of business of the lender, or
  - in the case of a debt arising from the supply of goods or services:
    - the goods or services were supplied in the period of 12 months immediately preceding the return date, or were supplied in the period since 30 June of the previous financial year, as the case may be, or
    - the goods or services were supplied in the ordinary course of any occupation of the person that is not related to their duties as the holder of a position required to make a return, or
  - subject to paragraph (a), the debt was discharged prior to the person becoming a designated person.

### Discretionary disclosures

34. A person may voluntarily disclose in a return any interest, benefit, advantage or liability, whether pecuniary or not, that is not required to be disclosed under another provision of this Schedule.

**SCHEDULE 2: FORM OF WRITTEN RETURN OF INTERESTS SUBMITTED UNDER CLAUSE P2.9**

**'Disclosures by councillors and designated persons' return**

1. The pecuniary interests and other matters to be disclosed in this return are prescribed by Schedule 1.
2. If this is the first return you have been required to lodge with the CEO after becoming a Councillor or designated person, do not complete Parts C, D and I of the return. All other parts of the return should be completed with appropriate information based on your circumstances at the return date, that is, the date on which you became a councillor or designated person.
3. If you have previously lodged a return with the CEO and you are completing this return for the purposes of disclosing a new interest that was not disclosed in the last return you lodged with the CEO, you must complete all parts of the return with appropriate information for the period from 30 June of the previous financial year or the date on which you became a councillor or designated person, (whichever is the later date), to the return date which is the date you became aware of the new interest to be disclosed in your updated return.
4. If you have previously lodged a return with the CEO and are submitting a new return for the new financial year, you must complete all parts of the return with appropriate information for the twelve (12) month period commencing on 30 June of the previous year to 30 June this year.
5. This form must be completed using block letters or typed.
6. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.
7. If there are no pecuniary interests or other matters of the kind required to be disclosed under a heading in this form, the word "NIL" is to be placed in an appropriate space under that heading.

**Important information**

This information is being collected for the purpose of complying with clause P2.21 of this Code.

You must not lodge a return that you know or ought reasonably to know is false or misleading in a material particular (see Clause P2.23). Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the council, the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

The information collected on this form will be kept by the CEO in a register of returns. The CEO is required to table all returns at a council meeting.

Information contained in returns made and lodged under clause P2.21 is to be made publicly available in accordance with the requirements of the Government Information (Public Access) Act 2009, the Government Information (Public Access) Regulation 2009 and any guidelines issued by the Information Commissioner.

You have an obligation to keep the information contained in this return up to date. If you become aware of a new interest that must be disclosed in this return, or an interest that you have previously failed to disclose, you must submit an updated return within three months of becoming aware of the previously undisclosed interest.

## DISCLOSURE OF INTERESTS FORM

REQUIRED TO BE LODGED UNDER CLAUSE 4.21 OF THE MODEL CODE OF CONDUCT FOR  
LOCAL COUNCILS IN NSW

### DECLARATION

(Please type in this document or use BLOCK letters if written. Fill in every section – use NIL if you have nothing to declare)

Disclosure of pecuniary interests and other matters by <input style="width: 100%;" type="text"/> (Enter Full Name in the box)	
as at the <u>return date</u> of the <input style="width: 100px;" type="text"/> in respect to the period from <input style="width: 150px;" type="text"/>	01/07/2021 to 30/06/2022
Signed: <input style="width: 150px;" type="text"/>	Date: <input style="width: 100px;" type="text"/>
(PLEASE NOTE: To assist you to complete this form and to avoid confusion regarding the dates in this form - the actual date has been included in brackets afterwards - eg <u>return date</u> (30/06/2022)	

### A. Real Property

Street address of each parcel of real property in which I had an interest at the <u>return date</u> (30/06/2022) and at any time since <u>30 June</u> (30/06/2021)	Nature of interest

### B. Sources of income

1. Sources of income:

- I reasonably expect to receive from an occupation in the period commencing on the first day after the return date (01/07/2021) and ending on the following 30 June (30/06/2022), and
- received from an occupation at any time since 30 June (30/06/2021):

Description of occupation	Name and address of employer or description of office held (if applicable)	Name under which partnership conducted (if applicable)

## DISCLOSURE OF INTERESTS FORM

2. Sources of income:

- I reasonably expect to receive from a trust in the period commencing on the first day after the return date (01/07/2021) and ending on the following 30 June (30/06/2022), and
- received from a trust since 30 June (30/06/2021):

Name and address of settlor	Name and address of trustee

3. Sources of other income:

- I reasonably expect to receive in the period commencing on the first day after the return date (01/07/2021) and ending on the following 30 June (30/06/2022):

Source	Amount

**C. Gifts**

Description of each gift I received at any time since <u>30 June (30/06/2021)</u>	Name and address of donor

## DISCLOSURE OF INTERESTS FORM

### D. Contributions to travel

Name and address of each person who made any financial or other contribution to any travel undertaken by me at any time since <u>30 June</u> (30/06/2021)	Dates on which travel was undertaken	Names of states and territories of the Commonwealth and overseas countries in which travel was undertaken

### E. Interests and positions in corporations

Name and address of each corporation in which I had an interest or held a position at the <u>return date</u> (30/06/2022) and at any time <u>since 30 June</u> (30/06/2021)	Nature of interest (if any)	Description of position (if any)	Description of principal objects (if any) of corporation (except in case of listed company)

### F. Property development

Were you a property developer or a close associate of a property developer on the return date (30/06/2020)?

Delete one option:	Yes	No
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### G. Positions in trade unions and professional or business associations

Name of each trade union & each professional or business association in which I held any position (whether remunerated or not) at the <u>return date</u> (30/06/2022) and at any time <u>since 30 June</u> (30/06/2021)	Description of position

## DISCLOSURE OF INTERESTS FORM

### H. Debts

Name and address of each person to whom I was liable to pay any debts at the return date (30/06/2022) and at any time since 30 June (30/06/2021)


### I. Disposition of property

1. Particulars of each disposition of real property by me (including the street address of the affected property) at any time since 30 June (30/06/2021) as a result of which I retained, either wholly or in part, the use and benefit of the property or the right to re-acquire the property at a later time


2. Particulars of each disposition of property to a person by any other person under arrangements made by me (including the street address of the affected property), being dispositions made at any time since 30 June (30/06/2021), as a result of which I obtained, either wholly or in part, the use and benefit of the property


### J. Discretionary disclosures

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## DISCLOSURE OF INTERESTS FORM

**Received by:**

Signed:	<input type="text"/>	Date:	<input type="text"/>
Name: Terry Dodds CEO or his nominee			

**SCHEDULE 3: FORM OF SPECIAL DISCLOSURE OF PECUNIARY INTEREST SUBMITTED UNDER  
CLAUSE 4.25**

1. This form must be completed using block letters or typed.
2. If there is insufficient space for all the information you are required to disclose, you must attach an appendix which is to be properly identified and signed by you.

**Important information**

This information is being collected for the purpose of making a special disclosure of pecuniary interests under Clause P2.36 c) of the Code of Conduct Policy.

The special disclosure must relate only to a pecuniary interest that a councillor has in the councillor's principal place of residence, or an interest another person (whose interests are relevant under clause 4.3 of the Model Code of Conduct) has in that person's principal place of residence.

Clause P2.3 of the Code of Conduct states that you will have a pecuniary interest in a matter because of the pecuniary interest of your spouse or your de facto partner or your relative or because your business partner or employer has a pecuniary interest. You will also have a pecuniary interest in a matter because you, your nominee, your business partner or your employer is a member of a company or other body that has a pecuniary interest in the matter.

"Relative" is defined by clause P2.4 of the Code of Conduct as meaning your, your spouse's or your de facto partner's parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child and the spouse or de facto partner of any of those persons.

You must not make a special disclosure that you know or ought reasonably to know is false or misleading in a material particular. Complaints about breaches of these requirements are to be referred to the Office of Local Government and may result in disciplinary action by the Chief Executive of the Office of Local Government or the NSW Civil and Administrative Tribunal.

This form must be completed by you before the commencement of the Council or Council committee meeting at which the special disclosure is being made. The completed form must be tabled at the meeting. Everyone is entitled to inspect it. The special disclosure must be recorded in the minutes of the meeting.



## SPECIAL DISCLOSURE OF PECUNIARY INTEREST FORM

REQUIRED TO BE LODGED UNDER CLAUSE P2.1 OF THE CODE OF CONDUCT POLICY

(Please type in this document or use BLOCK letters if written. Fill in every section)

Special disclosure of pecuniary interests by:	
Full Name of Councillor	
In the matter of: (Name of environmental planning instrument)	
Which is to be considered at a meeting of the Murray River Council (Tick one box)	<input type="checkbox"/> Council Meeting <input type="checkbox"/> Committee of Council
To be held on the (Date of meeting)	

### Pecuniary Interest

Address of the affected principal place of residence of the councillor or an associated person, company or body (the identified land)	
Relationship of identified land to the Councillor (Tick one box)	<input type="checkbox"/> The Councillor has an interest in the land (e.g. is the owner or has another interest arising out of a mortgage, lease, trust, option or contract, or otherwise). <input type="checkbox"/> An associated person of the Councillor has an interest in the land. <input type="checkbox"/> An associated company or body of the Councillor has an interest in the land.
Matter giving rise to pecuniary interest <sup>1</sup>	
Nature of the land that is subject to a change in zone/planning control by the proposed LEP (the subject land) <sup>2</sup> (Tick one box)	<input type="checkbox"/> The identified land. <input type="checkbox"/> Land that adjoins or is adjacent to or is in proximity to the identified land
Current zone/planning control (Insert name of current planning instrument and identify relevant zone/planning control applying to the subject land)	
Proposed change of zone/planning control (Insert name of proposed LEP and identify proposed change of zone/planning control applying to the subject land)	

**SPECIAL DISCLOSURE OF PECUNIARY INTEREST FORM**

Effect of proposed change of zone/planning control on councillor or associated person: (Tick one box)	<input type="checkbox"/> Appreciable financial gain
	<input type="checkbox"/> Appreciable financial loss
If more than one pecuniary interest is to be declared, complete a separate form for each additional interest.	
Signed: <input type="text"/>	Date: <input type="text"/>

**Footnotes:**

- 1 Clause P2.1 of the Code of Conduct Policy provides that 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 does not have a pecuniary interest in a matter if the interest is so remote or insignificant that it could not reasonably be regarded as likely to influence any decision the person might make in relation to the matter, or if the interest is of a kind specified in clause P2.6 of the Code of Conduct.
- 2 A pecuniary interest may arise by way of a change of permissible use of land adjoining, adjacent to or in proximity to land in which a councillor or a person, company or body referred to in Clause P2.3 of the Code of Conduct has a proprietary interest.