

### 1. Purpose

Warrumbungle Shire Council's Business Ethics are formed on Council's desire to meet its obligation to act lawfully, ethically and in the best interest of the public. Council aims to build and maintain ethical relationships with all sectors of the community and in particular the private sector.

### 2. Objectives of the Policy

The Statement of Business Ethics (the Statement) is intended to provide guidance for all sectors of the community when conducting business with the Warrumbungle Shire Council. It helps set the ethical ground rules for all business dealings between Council and its suppliers including, but not limited to, providers of goods and services, contractors, tenderers and consultants.

The Statement sets out Council's expectations for Council officials and requirements for the private sector when doing business with Council. It defines Council's ethical standards and obligations, and establishes Council's expectation that all suppliers will be aware of and comply with these standards. It also provides suppliers with an understanding of what to expect from Council when doing business with Council.

### 3. Policy Scope

Council places significant value on open and accountable business transactions aiming to be consistent in all measures. Council will ensure probity and diligence when undertaking public duties and using public resources acting with impartiality, honesty and fairness at all times.


Fairness means being objective, reasonable and even-handed. It does not mean pleasing everyone. Council will strive to be fair ensuring that our processes are appropriate and demonstrate this by being open and accountable, wherever practicable. This does not mean that Council will always go to formal tender or call for bids for items of low monetary value. Council will only deal exclusively with suppliers where it can be demonstrated that there are valid reasons for doing so, based on sound probity principles.

Warrumbungle Shire Council expects all Council officials to behave ethically and in accordance with the statement. Council also expects the private sector and its representatives to maintain similar standards of ethical conduct in their dealings with Council.

As a local government body, Council has a commitment to ensure community funds are expended efficiently, effectively and economically. Council aims to attain "best value for money" in its business dealings with the private sector.

"Best value for money" is determined by considering all the factors, which are relevant to a particular purpose, including:

- Experience
- Quality
- Reliability
- Timeliness
- Service
- Initial & ongoing costs

	<b>Statement of Business Ethics</b>
	<b>Strategic</b>

It is important to note that “Best value for money” does not automatically mean the “lowest price”. It means the offer that is most advantageous to Council after considering the above factors.

#### **4. Legislative Requirements**

*The Local Government Act 1993*

*Local Government (General) Regulation 2021*

*The Independent Commission Against Corruption Act 1988*

#### **5. Policy Statement**

The Statement outlines Council’s core values and aims to increase the private sector’s awareness of and respect for these values. The Statement explains what the consequences are for Council officials and suppliers of not complying with the requirements as outlined.

##### **5.1. Procedure and Obligations**

###### **5.1.1 Council Officials**

###### **Code of Conduct**

Council has a formally adopted Code of Conduct which Council officials must abide by. The Code embraces the concept of integrity, ethical conduct and accountability throughout the organisation. Council officials must treat others with respect at all times and not harass or discriminate against colleagues or members of the public.

###### **Procurement and Tendering**

Council officials must abide by the law and all its policies, procedures and practices, particularly those related to Procurement and Tendering, including relevant legislation and codes of practice. All Procurement and Tendering actions and decisions will be fully documented to a standard that will withstand scrutiny through an audit process. All pricing will remain confidential where it is considered that a commercial advantage may be gained or lost through disclosure. Information will only be released by a court or the GIPA (Act).

Council officials are expected to:

- Treat all potential providers of goods and services equally
- Always abide by the law
- Avoid, disclose and resolve any conflicts of interest
- Strictly comply with Council’s adopted Code of Conduct, particularly in relation to incentives, gifts and benefits.

Councillors are expected not to contact or issue instructions to Council’s suppliers.

###### **5.1.2 Suppliers**

###### **General Requirement**

Council requires all suppliers whom it deals with to observe the following principles:

- Act fairly, ethically and honestly in all dealings with Council
- Not to disclose confidential Council information
- Not to exert pressure or influence on Council officials that may cause them to waiver from Council’s Code of Conduct

- To abide by relevant legislative processes and industry Codes of Practice in all procurement dealings
- To have respect for the obligation of Council officials to act in accordance with the Statement
- Commit to not offer Council officials gifts or incentives such as money, benefits, entertainment, hospitality, employment opportunities, travel or accommodation.
- Not to harass or bully Council officials. Harassment includes verbal, non verbal and physical harassment such as sexual or suggestive remarks, offensive jokes, threats or insults, wolf whistling, offensive hand or body gestures, unnecessary physical contact or indecent or sexual assault. Further information can be obtained from Council's Workplace Bullying Policy.
- Treat requests for donations in accordance with Council's Operational Plan and Delivery Program– Appendix 2: Donations
- Ensure that all sub-contractors and other people employed by the supplier are aware of the Statement and the consequences of breaching it.

## 5.2 What is the impact of Business Ethics

### 5.2.1 Impact for Suppliers

By aligning business practices with Council's ethical expectations, suppliers can expect to:

- compete for business on an even playing field
- establish practices, which put them in good stead in competing for works with other public sector agencies.

If suppliers to Council do not comply with the Statement, then the consequences may be as follows:

- possible loss of work
- termination of contracts
- damage to reputation
- loss of rights (such as loss of operating or trade licences etc)
- formal investigations for corruption or other offences.

### 5.2.2 Impact for Council officials

If Council officials do not comply with the statement, then the consequences may be as follows:

- formal investigation
- disciplinary action
- dismissal
- potential criminal charges

### 5.2.3 ICAC Advice

It should be noted that the Independent Commission Against Corruption (ICAC) in NSW defines those people employed by Council as consultants or contractors to be "public officials". When employed by Council, consultants and contractors are subject to the jurisdiction of ICAC and are considered to be "public officials" for the purpose of the ICAC Act.

In addition, any individual can be found corrupt by the ICAC (even if they are not a public official) if they try to improperly influence a public official or Council's honest or impartial exercise of its official functions.

Further information relating to the ICAC Act is readily available to all Suppliers (including tenderers, contractors and consultants) at the ICAC website – [www.icac.nsw.gov.au](http://www.icac.nsw.gov.au) and copies of all relevant Council policies are also available at any time.

#### **5.2.4 Bribes, Gifts and Benefits**

Council's Code of Conduct requires that Council officials do not seek or accept bribes, gifts or benefits of greater than nominal value.

Bribes should never be accepted. A person offered a bribe should refuse it and report the incident as soon as possible to their supervisor. Council will take steps to report the matter to the ICAC and the police immediately.

Nominal value gifts or benefits do not create a sense of obligation and may include things like inexpensive pens and pencils, notepads, key rings or diaries.

Council understands that the offering of gifts and incentives is common practice in the private sector to promote business relations. However, Council applies the principles of merit to all dealings of Council. There is no need or place for gifts or incentives when doing business with Council.

It should be made clear that gifts must not be given in connection with any prospective business dealings with Council and that Council officials are not permitted to ask for any reward or incentive for doing their job.

Suppliers are asked to respect that Council officials may refuse gifts or incentives because they wish to avoid any perception of conflicts of interest and comply with Council policy.

#### **5.2.5 Conflicts of Interest**

A conflict of interest exists when you could be influenced, or a reasonable person would perceive that you could be influenced, by a personal interest when carrying out your public duty.

Council's Code of Conduct requires that Council officials disclose and resolve any possible conflicts of interest they have. The Code requires that if any Council official has a conflict of interest, in any matter, they must not be involved in any discussion or decision making regarding the matter.

Council's Code of Conduct also requires a member of Council staff who is considering outside employment or contract work that relates to the business of Council or that might conflict with their Council duties must notify and seek the approval of the General Manager in writing.

The General Manager may prohibit employees from engaging in secondary employment if that work directly or indirectly conflicts or potentially conflicts with the business of Council or with the employee's function, duties or responsibilities at Council.

### **5.2.6 Communication Requirement**

As a general principle, all communication with suppliers from Council should be clear, direct and accountable. Suppliers also have an obligation to ensure that their communication with Council abides by these three principles in order to minimise the risk of inappropriate influences being brought to bear on the business relationship.

There will be times where some communication needs to be strictly confidential for commercial-in-confidence or other reasons. This however should not preclude proper accountability and both parties should be able to explain the reasons for instituting specific communication protocols or keeping some communication confidential.

Public perception of inappropriate influence can be extremely damaging to the reputation of both parties, even if nothing has occurred. Therefore, it is in the best interests of both parties to ensure that formal communication processes are observed at all times and that all communication supports Council's core values of integrity, transparency and fairness.

### **5.2.7 Tendering**

This Statement will form part of the formal tendering process for Council and all tenderers will be asked to submit a signed declaration stating that they have read and fully understood the contents of the full Statement in relation to dealing with Council.

### **5.2.8 Public Awareness**

#### **Ethical Decision Making and Conflicts of Interest**

A guiding checklist for Councillors, Officers and Community Committees has been established and will be included at the beginning of all Council and Committee meeting Business Papers and Agendas. The checklist is shown as Schedule A.

### **5.2.9 What happens if you think there is a breach?**

If you are concerned about a possible breach of this Statement, or about any conduct that could involve fraud, corrupt conduct, maladministration or serious and substantial waste of public funds, please contact Council's General Manager, or one of Council's Directors. Please be aware that if you do approach a Council Director with such a report, it is a requirement of ICAC that the Director must inform the General Manager immediately.

It should also be noted that once the General Manager is made aware of a possible breach as described above, that it is incumbent upon him or her to report this directly to the ICAC.

For Council staff, please refer to Council's Policy Register, Strategic Policy titled Public Interest Disclosures Act 1994 -Internal Reporting Policy for more information on the processes that you are required to follow in the case of a possible breach of the Statement.

## **SCHEDULE A**

### **ETHICAL DECISION MAKING AND CONFLICTS OF INTEREST**

A GUIDING CHECKLIST FOR COUNCILLORS, OFFICERS AND COMMUNITY COMMITTEES

#### **Ethical decision making**

- Is the decision or conduct legal?
- Is it consistent with Government policy, Council's objectives and Code of Conduct?
- What will the outcome be for you, your colleagues, the Council, anyone else?
- Does it raise a conflict of interest?
- Do you stand to gain personally at public expense?
- Can the decision be justified in terms of public interest?
- Would it withstand public scrutiny?

#### **Conflict of interest**

A conflict of interest is a clash between private interest and public duty. There are two types of conflict:

- Pecuniary – regulated by the *Local Government Act* and Department of Local Government
- Non-pecuniary – regulated by Codes of Conduct policy. ICAC, Ombudsman, Department of Local Government (advice only).

#### **The test for conflict of interest**

- Is it likely I could be influenced by personal interest in carrying out my public duty?
- Would a fair and reasonable person believe I could be so influenced?
- Conflict of interest is closely tied to the layperson's definition of 'corruption' – using public office for private gain.
- Important to consider public perceptions of whether you have a conflict of interest.

#### **Identifying problems**

1. Do I have private interests affected by a matter I am officially involved in?
2. Is my official role one of influence or perceived influence over the matter?
3. Do my private interests conflict with my official role?

Whilst seeking advice is generally useful, the ultimate decision rests with the person concerned.

#### **6. Associated Documents**

Council's Policy Register, Strategic policies titled "Public Interest Disclosures Act 1994 - Internal Reporting Policy and Code of Conduct.



## Statement of Business Ethics

### Strategic

#### 7. Reviews and Version Control

Review Date: Within 12 months of ordinary election - by September 2021

Staff Member Responsible for Review: Manager Administration and EA to General Manager

<b>Policy</b>	<b>Version</b>	<b>Resolution</b>	<b>Date</b>
Statement of Business Ethics	Version 1	132	21 October 2010
Statement of Business Ethics	Version 2	31/1314	18 July 2013
Statement of Business Ethics	Version 3	103/1718	21 September 2017
			Version 4 16 February 2023
Statement of Business Ethics	Version 5	319/2223	18 May 2023