



CONFLICT OF INTEREST

Declaration Form – Councillors

(Local Government Act 1989, s.77A to s.79B)

Councillor’s Name _____

Meeting Type _____ Meeting Date _____

Item No & Heading/Title _____

Please check the box that relates to the TYPE of interest you have (mark one box only) and explain the NATURE of your interest

Check **ONE** box below indicating the **TYPE** of interest you have in the matter:

- A **direct interest** because your **benefits, obligations, opportunities or circumstances** would be directly altered if the relevant matter is decided in a particular way (s.77B)
- An **indirect interest** because of a **close association**, such as when a family member, relative or member of your household has a direct or indirect interest (s.78)
- An **indirect financial interest** because a benefit or loss to another person affected by the decision would be likely to result in a **financial gain or loss** to you (s.78A)
- An **indirect interest** because of a **conflicting duty** where you have a duty to another person or body that has a direct interest in the matter (s.78B)
- An **indirect interest** because you have received an **applicable gift**, being a gift, including an election donation, valued at \$500 or more (s.78C)
- An **indirect interest** because you have become a **party to the matter** by lodging an appeal, objection or submission, or by undertaking civic proceedings, in relation to the matter (s.78D)
- An **indirect interest** because your **residential amenity** is likely to be altered if the matter is decided in a particular way (s.78E)

Describe the nature of your interest in the matter being decided:

- A **conflicting personal interest** because you may have a personal involvement or relationship that is not covered by any of the legislated types of interest noted above (s.79B)

You may not believe you have a conflict of interest, but you may wish to disclose a conflicting personal interest. If so, you must request Council to exempt you from voting on your matter and you must provide reasons in support of your request. Describe the nature of your conflicting interest:

While the matter is being considered or any vote taken, you must leave the room and notify the Mayor or Chairperson of the meeting you are doing so

Received before the meeting by _____ Date _____ Time _____

Received at the meeting by _____ Date _____ Time _____

Information Privacy Notification

The personal information on this form is collected under Section 79 of the *Local Government Act 1989* for the purpose of promoting openness in Council’s decision making processes. Your disclosure will be recorded in the minutes of the meeting and the form will be kept in a secure Register accessed by authorised persons including local government inspectors. Your disclosure(s) will be removed from the Register as soon as practicable after you cease to be a Councillor and destroyed three years later.

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Definitions:

- **Matter** under Section 76AA means matter with which a Council, special committee or a member of Council staff is concerned and that will require:
 - (a) A power to be exercised, or a duty or function to be performed, or a decision to be made, by Council in respect of the matter
 - (b) A power to be exercised, or a duty or function to be performed, or a decision to be made by a member of Council staff in respect of the matter.
- **Family member** under Section 78 means a spouse/partner or a son, daughter, mother, father, brother or sister who regularly resides with you.
- **Relative** under Section 78 means son, daughter, mother, father, brother or sister who does not regularly reside with you and who is a direct relative of yours.
- **Member of the person's household** under Section 78 is not defined.
- **Applicable gift** under Section 78C means one or more gifts with a total value of \$500 or more received from a person or persons specified in subsection (2) below, in the 5 years preceding the decision or the exercise of the power, duty or function but does not include:
 - (a) reasonable hospitality received by the person at an event or function the person attended in an official capacity as the Mayor, a Councillor, a member of Council staff or a member of a special committee; or
 - (b) a gift, other than election campaign donation, that was received by the person more than 12 months before the person became a Councillor, a member of Council staff or a member of a special committee.Under Section 78C(2) – A person has an indirect interest in a matter if the person has received an applicable gift, directly or indirectly from –
 - (a) a person who has a direct interest in the matter; or
 - (b) a director, contractor, consultant, agent or employee of a person, company or body that the person knows has a direct interest in a matter; or
 - (c) a person who gives the applicable gift to the person on behalf of a person, company or body that has a direct interest in the matter.

Important Note:

If you will be present at the meeting, make a full disclosure of the interest by advising the **type** and **nature** of the interest to Council immediately before the matter is considered at the meeting or in writing to the CEO prior to the start of the meeting. Where the disclosure is made to the CEO in writing prior to the start of the meeting, disclose only the type of interest to the meeting, immediately before the matter is considered [s.79(2)].

Exemption from disclosure:

- A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest of the relevant person is so remote or insignificant that the direct interest or indirect interest could not reasonably be regarded as capable of influencing any actions or decisions of the relevant person in relation to the matter [s.77A(4)].
- A relevant person does not have a conflict of interest in a matter if the direct interest or indirect interest the relevant person holds is one held as a resident, ratepayer or voter and the interest –
 - (a) is held in common with other residents, ratepayers or voters; and
 - (b) does not generally exceed the interests held by other residents, ratepayers or voters [s.77A(5)].

Situations where a Councillor is taken not to have a conflict of interest:

A Councillor is taken to not have a conflict of interest where a matter relates to any of the following (s.79C):

- the nomination or appointment of a Councillor to a position for which the Councillor will not be remunerated [s.79C(1)(a)]
- the election of the Mayor under Section 71 of the Act or the appointment of an acting Mayor under Section 73(3) of the Act [s.79C(1)(b)]
- a decision relating to the payment of allowances to the Mayor or Councillors under Section 74 or 74C(2) of the Act [s.79C(1)(c)]
- the adoption of a policy in relation to the reimbursement of expenses under Section 75A of the Act [s.79C(1)(d)]
- the adoption of a Councillor Code of Conduct under Section 76C of the act [s.79C(1)(e)]