



CONFLICTS OF INTEREST

1 Purpose

To guide Heritage Council members and provide a framework for meeting their obligations to disclose and manage conflicts of interest.

2 Overview

Pursuant to the *Heritage Regulations 2019* (the Regulations) and public sector expectations and standards for good governance, members of the Heritage Council of Western Australia (Council) are required to identify and manage conflicts of interests that may arise in the performance of their public duty, to ensure the integrity of the Council and its decision-making process is maintained.

3 Scope

This policy applies to members of the Council and its committees and/or sub-committees, including co-opted and alternate members. The policy applies to matters being considered at a meeting of the Council or a committee, or out of session.

As the concept relates to conflicts between individual private interests and the exercise of public duty, this policy does not apply to perceived conflicts of the Council as a body.

4 Objective

This Policy is intended to meet the following objectives:

- Owners, applicants, decision-makers and the wider community are confident in the integrity of the Council's decision-making.
- Council members exercise good governance and maintain the reputation of the Council.
- Actions of the Council and its members are consistent with the requirements of the *Heritage Regulations 2019* and any other applicable standards.

5 Policy Requirements

5.1 Disclosing an interest

- 5.1.1 Despite any previous disclosure in relation to the same matter, or a related matter, it is the responsibility of each member to identify for each meeting all matters for which they have a conflict of interest.
- 5.1.2 While declarations of interest will first be requested on publication of the proposed meeting agenda, a declaration should be made whenever it first comes to the member's attention that a conflict exists.
- 5.1.3 All offers of gifts, benefits, events or other hospitality, whether or not accepted, and any contact with registered lobbyists in relation to a Council matter, must be declared on the appropriate form as provided by the Department of Planning, Lands and Heritage (Department).
- 5.1.4 The Department is responsible for tabling disclosed interests at Council meetings, and for recording all disclosures of interest in the Council minutes, the Conflicts of Interest Register and the applicable record keeping system.
- 5.1.5 An interest relating to an individual with whom the member has a family relationship should be taken to be an interest of that member.

5.2 Identifying a material personal interest

- 5.2.1 A material personal interest exists where a member has any pecuniary interest in a matter, and any circumstance where the member owns or financially benefits from property whose value may be impacted, directly or indirectly, by a decision of the Council.

5.3 Disclosing a perception of bias

- 5.3.1 Members are required to disclose any perception of bias that they identify in relation to a matter to be considered by the Council.
- 5.3.2 In considering perceived bias, members are to consider whether a fair-minded observer might reasonably apprehend that they as a decision-maker might not bring an impartial mind to the assessment of the matter.
- 5.3.3 If a member has not disclosed an interest that the Chair believes does or may exist, the Chair may seek further information from the member and, if so minded, determine that a perception of bias exists and direct the member accordingly.

5.4 Disclosure of Outside Interests

- 5.4.1 Members are required to maintain, using the Declaration of Outside Interests form as adopted by the Council for this use, records of outside interests that may give rise to potential conflicts of interest.

- 5.4.2 Members will submit such a form on an annual basis, or when they become aware of any material change to information provided in the form, whichever is sooner.
- 5.4.3 Members acknowledge that the information provided in the form may be used by the Chair to determine a conflict of interest for a member, and by the Department's Director People, Innovation and Capability in relation to governance, audit and financial management.

5.5 Managing conflicts of interest

- 5.5.1 A member with a declared perception of bias may, with the agreement of, or at the request of, the Council, remain for discussion and resolution of the relevant matter, or for discussion only.
- 5.5.2 Information provided in agendas is to be redacted to remove material relating to items for which a member must absent themselves due to a declared material personal interest, or proposes to be absent due to a perception of bias.
- 5.5.3 A pecuniary interest is not considered to be trivial or insignificant. A Council resolution under r.15 may therefore be sought only in relation to a proximity interest, where the Council is satisfied that evidence of material gain or loss, or potential gain or loss, is subjective or limited, or that the interest otherwise meets the requirements of r.15.
- 5.5.4 Gifts may only be purchased and presented with Council approval and must be recorded on the appropriate form as provided by the Department.

6 Definitions

<i>Business relationship</i>	Any person or company (public or private) that employs, subcontracts on a permanent or temporary basis or is in a partnership arrangement with a member or employee of the Heritage Council.
<i>Conflict of interest</i>	An actual, potential or perceived conflict resulting from the interaction of a person's personal interests and their public duty.
<i>Direct pecuniary interest</i>	A member's interest in a matter where it is reasonable to expect that the matter, if dealt with by the Heritage Council or an employee in a particular way, will result in a financial gain, loss, benefit or detriment for the member.
<i>Family relationship</i>	A parent, spouse or partner, child, sibling, uncle, aunt, niece or nephew, parents-in-law, sister or brother-in-law, and includes a step-relative of any of the foregoing.
<i>Indirect pecuniary interest</i>	A member's interest in a matter where a financial relationship exists between that person and another person who requires a Heritage Council decision or resolution in relation to the matter.

<i>Material personal interest</i>	Any pecuniary interest, whether direct or indirect, or other interest in a matter before the Heritage Council that may result in material gain or loss for the member if determined in a particular way.
<i>Member</i>	Any person appointed to consider and determine matters before the Heritage Council or its committees, including a councillor of the Heritage Council, any member appointed (including alternate members) or co-opted to the Council or its committees.
<i>Perception of bias</i>	<p>An interest that could, or could reasonably be perceived to, adversely affect the ability of the member having the interest to make an impartial decision.</p> <p>A perception of bias may exist in relation to, but is not limited to, an interest arising from:</p> <ul style="list-style-type: none"> • kinship, friendship, partnership or membership of an association or an association with any decision-making process relating to a matter for discussion • a previous body of work professionally commissioned or completed in a volunteer capacity that is associated with a matter for discussion • a public or private declaration of a position on a matter that requires a Heritage Council decision or resolution. <p>A perception of bias is also referred to as an impartiality interest.</p>
<i>Potential conflict of interest</i>	An interest or obligation that could conflict with the exercise of a member's public duty at a future date.
<i>Proximity interest</i>	A member's interest in a matter due to ownership of, or financial interest in, a property in close proximity to the site that is the subject of a Heritage Council decision. A proximity interest may be considered to be a pecuniary interest if the outcome of the decision is likely to result in financial gain or loss for the member.