

**Program:** Office of the Mayor and CEO  
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**Scope**

This policy applies to the Mayor and Councillors of Mackay Regional Council (MRC) only.

Noting that the role of a Councillor does not have a defined start and finish times or designated place of work, this policy only applies when a Councillor is undertaking ‘Official Duties’.

Where a Councillor is not undertaking Official Duties, this policy does not apply. However, Councillors, as the primary representative of the Council, are still required to comply with the ‘Code of Conduct for Councillors in Queensland’ and any other legislative provisions that are in place at all times.

**Objective**

In the interest of Transparency and Accountability and to provide a safe, healthy and productive workplace, this policy focuses on eliminating risks associated with the adverse effects of alcohol and other Drugs in the workplace by:

- preventing, where possible, Drug and alcohol related incidents;
- ensuring that Councillors adversely affected by substances do not create a negative perception of Council.
- ensuring Councillors are in a fit state to undertake their Official Duties as a Councillor.

In addition, this policy provides for the appropriate framework for Councillors to comply with behavioural standard 1.5 as contained in the ‘Code of Conduct for Councillors in Queensland’:

*“Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their duties (for example, alcohol, illegal drugs or prescribed/nonprescribed and/or restricted substances”*

**Policy Statement**

MRC is committed to ensuring that Councillors undertake their Official Duties, or when representing the organisation, can perform their role safely and not be Under the Influence of drugs and/or alcohol within the workplace.

Council has adopted this Drug and Alcohol Policy which prohibits Councillors from conducting Council business whilst Under the Influence.

Council considers that to the extent this policy engages and limits, or potentially limits, any human rights, that limitation is reasonable in that it is proportionate and justified.

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This process to remain in force until otherwise determined  
 by Mackay Regional Council

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## 1.0 Fitness for Duty

Councillors are always expected to undertake their Official Duties free from the impairment of Drugs and alcohol. Councillors are not to present themselves for duty or to any workplace whilst Under the Influence.

Alcohol and Drugs shall not be consumed at any workplace, in any Council owned vehicle or plant, or at any time as a Councillor whilst undertaking their Official Duties unless an exemption under this policy applies.

Councillors must not remain at the workplace if they are Under the Influence, or there is a risk of becoming Under the Influence.

## 2.0 Identification and Testing

### 2.1 Initial Discussion

Where there is a reasonable suspicion or concern that a Councillor is Under the Influence while at the workplace, it should be privately raised by the CEO directly with the Councillor to determine if they should remain in the workplace based on the observations undertaken.

### 2.2 Formal Action

Where there remains reasonable suspicion or concern of a Councillor being Under the Influence following initial discussion, the CEO in conjunction with the Mayor (Deputy Mayor where the subject is the Mayor) may request the Councillor undergo testing and/or leave the workplace or Official Duties.

Where a Positive Test Result has been received, or the Councillor has refused testing, arrangements will be made to safely transport the Councillor to their place of residence. The Councillor will not be permitted to return to the workplace or to Official Duties until they can either demonstrate they are no longer impaired, or they have undertaken follow up testing to return a negative test result.

In addition, where a Positive Test Result has been established and/or the Councillor has refused testing and has been instructed to leave or stay away from the workplace or Official Duties, Council is required (in accordance with the provisions of the *Local Government Act 2009*) to notify the Office of the Independent Assessor about the suspected conduct of the subject Councillor.

### 2.3 Formal Complaints

Where a complaint is made by any person that a Councillor is Under the Influence, it is required in accordance with the provisions of the *Local Government Act 2009* to refer any complaints about the conduct of a Councillor to the Office of Independent Assessor.

2.4 Testing

Councillors will be required to undergo Drug and alcohol testing in the following circumstances:

- Random testing three times per year via a neutral electronic selection by the Work Health and Safety team at nominated times and dates ;
- In a case of concern or Impairment;
- Follow up testing after a Positive Test Result;
- Self-testing.

Where a positive test result has been returned, arrangements will be made to safely transport the Councillor to their place of residence. The Councillor will not be permitted to return to the workplace until they can either demonstrate they are no longer adversely affected, or they return a negative result.

Council will also be required to notify the Office of the Independent Assessor about the suspected conduct of the subject Councillor where a positive test result is returned.

2.4.1 *Testing Method*

2.4.1.1 Drug Testing

Preliminary testing for Drugs will be conducted using oral fluid sampling, however;

- A Councillor may request preliminary testing be conducted using urine sampling; or
- MRC may elect to conduct urine sampling for Workplace Incidents.

If a non-negative result is obtained from the preliminary test, all further resting including confirmatory testing by a laboratory and return to work testing will be urine based.

The following table summarises the method of testing that will generally be used for the different situations, however MRC reserves the right to use oral or urine at times different to what is listed below:

Random Testing	Oral / Urine
Case of Workplace Incident	Oral / Urine
Post Workplace Incident	Oral / Urine
Follow up testing after a Positive Test Result	Urine
Return to Work Test	Urine
Confirmatory Laboratory Test	Urine

MRC may change the methods for testing in the future having regard to operational and financial criteria.

2.4.1.2 Alcohol Testing

Screening for alcohol will be conducted using a relevant breathalyser unit. Breathalyser testing is a highly accurate and effective way of detecting alcohol levels for the purpose of determining fitness for work. Each breathalyser unit will be appropriately calibrated to ensure accurate results.

Any required Drug testing undertaken will comprise a saliva test. Saliva testing will be conducted in accordance with Australian Standard 4760-2006.

Alcohol testing will be conducted in accordance with current random breath testing procedures in Queensland (Australian Standard AS 3547-1997).

2.4.2 Tolerance Levels - Alcohol

All Councillors must provide, if tested, a breath alcohol concentration (BAC) of not more than 0.00g/100ml (0.00%).

**Note:** See clause 3.0 Exemptions for exemption for the consumption of alcohol will be made.

2.4.3 Tolerance Levels - Drugs

All Councillors are to produce a result of 'negative' for Drugs less than the levels indicated in the table below, for the five (5) Drug classes, namely:

- Cannabinoids
- Sympathomimetic Amines
- Opiates
- Cocaine
- Benzodiazepine

DRUG CLASS	Drug Name (including Street Name)	Level
Cannabinoids	Marijuana, Weed, Pot, Hash etc.	50µg/L
Sympathomimetic Amines (Incl. Amphetamines)	MDMA, Speed, Ecstasy, Uppers	300µg/L
Opiates (very strong pain killers)	Heroin, Morphine, Codeine	300µg/L
Cocaine (Metabolites)	Crack, Blow, Candy, Snow etc.	300µg/L
Benzodiazepine	Rohypnol, Temazepam, Serepax, Valium	200µg/L

For more information, refer to Appendix A – Drug classes and Confirmatory cut-offs.

Synthetic Drugs – MRC reserves the right to test for synthetic Drugs as new testing methods and procedures are developed by MRC's nominated tester.

A confirmed Drug test reporting levels of Drug or metabolites that exceed designated cut-off levels constitutes a positive test. Cut-off levels will conform to the relevant Australian Standard/New Zealand Standard, where such a standard has been issued in relation to the Drug concerned.

#### 2.5 Prescription and Pharmacy Medication

Where a Councillor is taking medications as prescribed by a medical practitioner, or taken as recommended if available without prescription, for a legitimate medical purpose, the Councillor will not breach this policy by attending the workplace. Where a Councillor is observed as being adversely affected by prescription medication, the same process will apply for a test result to ensure the ongoing safety of the Councillor and the workplace.

#### 2.6 Post-incident and mandatory testing

After a Workplace Incident, the CEO in consultation with the on-call Work Health and Safety team member may require a Councillor to undergo a Drug and alcohol test by the Nominated Tester.

Under certain circumstances Council may impose mandatory testing.

Where a Councillor is involved in a workplace incident, Council may require that Drug and/or alcohol testing be conducted in the following situations:

- where there is reasonable belief that Drugs and/or alcohol may have been involved as a contributing factor;
- in situations where there has been a significant event;
- there is a requirement to be tested under legislation or regulations;
- an incident that is notifiable to the regulator;
- an incident causing the death of a person;
- an incident causing admission to hospital as an in-patient for an injury;
- injury incidents causing, or likely to cause, permanent injury to health;
- or
- a significant or repeated incident involving MRC vehicles/plant and a third party vehicle, plant or property.

Counselling (via MRC's Employee Assistance Program), treatment and rehabilitation services are available externally to enable Councillors who identify as having problems to seek effective solutions and treatment of their choosing.

#### 2.7 Right of Appeal

If at any time a Councillor disputes the results of the testing, the Councillor has the right to appeal. This may mean immediately attending their medical provider

for further alcohol testing or transportation of the urine sample to an alternative NATA (National Association of Testing Authorities) accredited laboratory for further drug testing. Any appeal testing is to be organised by the Councillor and conducted at their own cost. When confidential results are returned to the CEO, results may require initiation of an interview. This should occur as soon as possible.

### 3.0 Exemptions

An exemption for the consumption of alcohol will be made for:

- a). special occasions or locations as determined by the CEO; or
- b). where the provision of alcoholic beverages is within the bounds of normal customary hospitality (e.g., attendance at a conference, function or social event in their Official Capacity where alcoholic beverages are served, either held by Council or another group or organisation).

Whilst these exemption areas have been identified, Councillors are still reminded of their duty per the 'Code of Conduct for Councillors in Queensland':

*“Ensure that their behaviour or capacity to perform their responsibilities as a Councillor is not impaired by the use of substances that may put them or others at risk while performing their Official Duties (for example, alcohol, illegal drugs or prescribed/nonprescribed and/or restricted substances”*

With this in mind, and as a guide not as a policy position, Councillors should aim to meet a breath alcohol concentration (BAC) of less than 0.05g/100ml (0.05%) when participating in such exempted situations.

### 4.0 Complaints

Any complaints in relation to a decision or a service relating from this policy will be assessed and managed in accordance with MRC's Administrative Action Complaints Policy, a copy of which can be found on MRC's website.

When an individual feels that they are the subject of MRC's failure to act compatibly with human rights, they can make a complaint directly to MRC. These complaints will be assessed against the Human Rights Act 2019.

Complaints may be made as following:

In writing to  
Chief Executive Officer  
Mackay Regional Council  
PO Box 41  
MACKAY QLD 4740

Via Email - [complaints@mackay.qld.gov.au](mailto:complaints@mackay.qld.gov.au)

In person at the following Council Client Services Centres:

- MRC Mackay Office – 73 Gordon Street, Mackay
- MRC Sarina Office – 65 Broad Street, Sarina
- MRC Mirani Council Office – 20 Victoria Street, Mirani

## 5.0 Definitions

To assist in interpretation the following definitions shall apply:

**BAC** shall mean Breath Alcohol Concentration.

**CEO** shall mean the Chief Executive Officer. A person who holds an appointment under section 194 of the *Local Government Act 2009*. This person includes a person acting in this position.

**Council** shall mean the Mayor and Councillors of Mackay Regional Council.

**Drug** shall mean any illegal, medically prescribed or over the counter substance that may cause a Councillor to not be fit work.

**Human Rights Complaint** shall mean a complaint about an alleged contravention of section 58-1 by a public entity in relation to an act or decision of the public entity

**Impairment** shall mean a symptom of reduced quality, strength or effectiveness of a person because of drugs and/or alcohol consumption whilst performing Official Duties.

**Intoxicated/Intoxication**, in accordance with the *Liquor Act 1992*, a person may be taken to be unduly intoxicated if-

- a). the person's speech, balance, coordination or behaviour is noticeably affected; and
- b). there are reasonable grounds for believing the affected speech, balance, coordination or behaviour is the result of the consumption of liquor, drugs or another intoxicating substance.

**MRC** shall mean Mackay Regional Council.

**Official Capacity** shall mean where a Councillor is invited to an event or function to represent the Council and not in a personal capacity.

**Official Duties** shall mean where a Councillor is undertaking their legislated role as a Councillor in accordance with the provisions of the *Local Government Act 2009*.

The following non-exhaustive list provides examples of what would normally be considered Official Duties in which Councillors are required to represent Council in a positive light at all times whilst attending:

- Attending formal or informal meetings including ordinary and special meetings, committee meetings, briefing sessions and workshops
- Any meeting that directly has the primary purpose of discussing Council or Council business.
- Attendance at community meetings
- Formal engagements where a Councillor is representing Council in an Official Capacity.
- Attendance at a conference.
- Formal meetings between Councillors about Council business.



- Meeting with or undertaking discussions with residents either in the workplace or on-site.
- Travel to and from any Official Duties listed above.

**Positive Test Result** shall mean a blood alcohol reading greater than 0.05g/100ml blood.

In relation to a position test result for Drugs. Cut-off levels will conform to the relevant Australian Standard/New Zealand Standard, where such a standard has been issued in relation to the Drug concern.

**Under the Influence** shall mean a Councillor who is adversely affected by alcohol or illicit drugs if they are unfit to perform their Official Duties and responsibilities safely and productively.

The effects of alcohol or Drug consumption can lead to:

- Increased risk of incidents
- Impaired coordination
- Decreased ability to concentrate and communicate
- Lack of thoughtful decision making
- Impairment of memory and other cognitive functions
- Delayed reaction time;
- impaired performance related to coming down from illicit Drug use or experiencing the effects of a hangover; and
- the terms 'Intoxicated/Intoxication as defined within this Definitions section.

**Workplace** shall mean a workplace or work location of any MRC building, telecommuting, working from home, work endorsed events, work social functions and whilst operating MRC owned vehicles.

It also encompasses the definition 'workplace' in the *Work Health and Safety Act 2011*.

**Workplace Incident** shall mean an incident in the workplace as defined by the *Work Health and Safety Act 2011*.

## 6.0 Review of Policy

This policy will be reviewed when any of the following occur:

- The related documents are amended or replaced.
- Other circumstances as determined from time to time by a resolution of Council.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three (3) years.

## 7.0 Reference

- *Liquor Act 1992*
- *Local Government Act 2009*

- *Local Government Regulations 2012*
- *Human Rights Act 2019*
- *Information Privacy Act 2009*
- *Work Health and Safety Act 2011*
- *Work Health and Safety Regulation 2011*
- Code of Conduct for Councillors in Queensland
- MRC 001.3 Human Rights – Corporate Standard
- Australian Standard 4760-2006
- Australian Standard 3547-1997

**8.0 Attachments**

Appendix A – Drug Classes and Confirmatory Cut-Off's

Version Control:

Version	Reason / Trigger	Change	Endorsed / Reviewed	Date
1	New Policy		ORD-2022-259	24/8/2022

Appendix 'A'

**DRUG CLASSES AND CONFIRMATORY CUT-OFF'S**

AS/NZ 4308:2008 Procedures for Specimen Collection and the detection and quantitation of drugs of abuse in urine

**TABLE 1**

**Urine Immunoassay/On-site Screening Test Cut-off Levels**

<b>Class of Drug</b>	<b>Cut-off Level (ug/L)</b>
Opiates	300
Amphetamine Type Substances (ATS)	300
Cannabis metabolites	50
Cocaine metabolites	300
Benzodiazepines	200

**TABLE 2**

**Confirmatory Test Cut-off Concentration (As Total Drug) for Urine**

<b>Compound</b>	<b>Cut-off Level (ug/L) CG/MS Test (Confirmatory)</b>
Morphine	300
Codeine	300
6-Acetylmorphine	10
Amphetamine	150
Methylamphetamine	150
Methylenedioxymethylamphetamine	150
Methylenedioxyamphetamine	150
Benzylpiperazine	500

Phentermine	500
Ephedrine	500
Pseudoephedrine	500
11-nor-delta-9-Tetrahydrocannabinol – 9-carboxylic acid	15
Benzoylcegonine	150
Ecgonine methyl ester	150
Oxazepam	200
Temazepam	200
Diazepam	200
Nordiazepam	200
Hydroxy-Alprazolam	100
7-amino-clonazepam	100
7-amino-flunitrazepam	100
7-amino-nitrazepam	100

+ All cut-off levels are expressed as total concentration of drug or metabolite after hydrolysis

AS 4760:2006 Procedures for specimen collection & the detection and quantitation of drugs in oral fluid

**ORAL FLUID INITIAL TEST TARGET CONCENTRATIONS**

**TABLE 1**

<b>Class of Drug</b>	<b>Target Concentration (ng/mL)</b>
Opiates	50
Amphetamine Type Stimulants	50
Delta-9-tetrahydrocannabinol (THC)	25
Cocaine and metabolites	50

**TABLE 2****ORAL FLUID NON-IMMUNOASSAY INITIAL TEST AND CONFIRMATORY TARGET CONCENTRATIONS**

<b>Compound</b>	<b>Target Concentration (ng/mL) CG/MS Test (Confirmatory)</b>
Morphine	25
Codeine	25
6-Acetylmorphine	10
Amphetamine	25
Methylamphetamine	25
Methylenedioxymethylamphetamine	25
Methylenedioxyamphetamine	25
Delta-9-Tetrahydrocannabinol	10
Cocaine	25
Benzoyllecgonine	25
Ecgonine methyl ester	25

## Notes:

- (1) These targets represent the undiluted oral fluid concentration
- (2) For analytes not included in this Table, the laboratory should select a target concentration as appropriate for oral fluid