

**Councillor Conduct Tribunal:
Councillor misconduct complaint –
Summary of decision and reasons
for department’s website**

Local Government Act 2009: Sections 150AS(2)(c)

1. Complaint:

CCT Reference	F19/5599
Subject Councillor	Cr Lynette McLaughlin (the councillor)
Council	Burdekin Shire Council (the council)

2. Decision (s150AQ):

Date:	12 August 2019
Decision regarding Allegation 1:	<p>The Tribunal conducted a hearing on whether or not Cr Lynette McLaughlin, Mayor and a councillor of Burdekin Shire Council, engaged in misconduct. It is alleged that between 18 April 2016 and 16 October 2017, Cr McLaughlin engaged in misconduct as defined in former section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> (the Act) in that her conduct involved a breach of the trust placed in her as a councillor.</p> <p>The particulars of the alleged misconduct are as follows:</p> <ol style="list-style-type: none">a. On 11 July 2014, Lynette McLaughlin was appointed as a Director of Virginia House Cairns Pty Ltd. At this time, Lynette McLaughlin also held ■■■ of the ■■■ shares in the company.b. On 19 March 2016, Lyn McLaughlin was elected as Mayor of the Burdekin Shire Council.c. Councillor McLaughlin failed to inform the CEO of Burdekin Shire Council of her interests in Virginia House Cairns Pty Ltd within 30 days of her term as a councillor commencing.d. Virginia House Cairns Pty Ltd was de-registered on 15 October 2017.e. Councillor McLaughlin’s register of interests was therefore inaccurate between 18 April 2016 and 16 October 2017.f. The alleged conduct could amount to misconduct on the basis that it did not comply with local government principle 4(2)(e) being ‘ethical and legal behaviour of councillors and local government

	<p>employees', in that Councillor McLaughlin failed to comply with the statutory obligation under section 171B(2) of the Act.</p> <p>The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained and that therefore the Councillor has engaged in misconduct.</p>
<p>Reasons:</p>	<p>Cr McLaughlin acknowledged that her register of interests was not an accurate reflection of her interests between 18 April 2016 and 16 October 2017.</p> <p>The conduct has contravened local government principle 4(2)(e), in that the councillor's register of interests was not an accurate reflection of her interests between 18 April 2016 and 16 October 2017, thus breaching section 290 of the <i>Local Government Regulation 2012</i>, and that this constitutes non-compliance with the local government principle of 'ethical and legal behaviour of councillors and local government employees – s4(2)(e)'.</p>
<p>Decision regarding Allegation 2:</p>	<p>The Tribunal conducted a hearing on whether or not Cr Lynette McLaughlin, Mayor and a councillor of Burdekin Shire Council, engaged in misconduct.</p> <p>It is alleged that between 18 April 2016 and 4 December 2018, Councillor Lynette McLaughlin, the Mayor and a councillor of Burdekin Shire Council, engaged in misconduct as defined in former section 176(3)(b)(ii) of the <i>Local Government Act 2009</i> in that her conduct involved a breach of the trust placed in her as a councillor.</p> <p>The particulars of the alleged misconduct are as follows:</p> <ol style="list-style-type: none"> a. On 26 September 2014, Lyn McLaughlin was appointed as a Director of Palm Island Economic Development Corporation Pty Ltd (PIEDC). b. On 19 March 2016, Lyn McLaughlin was elected as Mayor of the Burdekin Shire Council. c. Councillor McLaughlin failed to inform the CEO of Burdekin Shire Council of her interest in PIEDC within 30 days of her term as a councillor commencing. d. On 20 February 2019, Councillor McLaughlin resigned from her position as Director. e. Councillor McLaughlin's register of interests was therefore inaccurate between 18 April 2016 and 4 December 2018. f. The alleged conduct could amount to misconduct on the basis that it did not comply with local government principle 4(2)(e) being 'ethical and legal behaviour of councillors and local government employees', in that Councillor McLaughlin failed to comply with the statutory obligation under section 171B(2) of the Act.

	The Tribunal has determined, on the balance of probabilities, that the allegation has been sustained and that therefore the Councillor has engaged in misconduct.
Reasons:	<p>Cr McLaughlin acknowledged that her register of interests was not an accurate reflection of her interests between 18 April 2016 and 4 December 2018.</p> <p>The conduct has contravened local government principle 4(2)(e), in that the councillor's register of interests was not an accurate reflection of his interests between 18 April 2016 and 4 December 2018, thus breaching section 290 of the <i>Local Government Regulation 2012</i>, and that this constitutes non-compliance with the local government principle of 'ethical and legal behaviour of councillors and local government employees – s4(2)(e)'.</p>

3. Orders and/or recommendations (s150 AR - disciplinary action):

Date of orders:	12 August 2019
Orders regarding Allegation 1 & 2:	<p>That pursuant to Section 150AR(1)(b)(v) of the Act, the Tribunal orders that Cr McLaughlin:</p> <ol style="list-style-type: none"> a. Reimburse to the Burdekin Shire Council, an amount of \$250, to be paid within 30 days of the date of this Order, as a contribution to some of the costs arising from the councillor's misconduct.
Reasons:	<p>The Tribunal considered the facts and circumstances relevant to any sanction along with the submissions on sanction. The Tribunal determined the following were aggravating circumstances. Councillor McLaughlin:</p> <ol style="list-style-type: none"> a. is serving her fifth term as a councillor; b. Councillor McLaughlin has received training in relation to her statutory obligations in relation to her registers of interests; c. as Mayor, can reasonably be held to a higher standard of conduct. <p>The Tribunal agreed that the following were mitigating factors and should be taken into consideration when determining any sanction:</p> <ol style="list-style-type: none"> d. Councillor McLaughlin has no disciplinary history. e. Councillor McLaughlin has cooperated with the OIA investigation ensuring early resolution of this matter. <p>Councillor McLaughlin has, through her legal representative,</p>

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	<p>liaised with the OIA to negotiate this agreed set of facts. Councillor McLaughlin has also voluntarily obtained information about the PIEDC and its purposes at the request of the OIA.</p> <ul style="list-style-type: none">f. Councillor McLaughlin did not intentionally fail to record the particulars of her interests, the subject of the allegations, in her register of interests. The omissions were inadvertent.g. the interests were outside the Burdekin Shire and did not impact on any Burdekin Shire activities or decisions;h. Cr McLaughlin's long history of service to her community;i. she has expressed her regret and accepts complete responsibility. <p>The Tribunal believes the most likely cause of her not recording her interests was an oversight of the detailed integrity process of maintaining an accurate up to date register of interests; and that the most appropriate order was one where Cr McLaughlin was required to provide a small reimbursement to the council's costs of the conduct tribunal.</p>
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