



# **MACKAY PORT AUTHORITY**

## **Code of Conduct**

**Adopted by Board: 10 December 2004**

**Message from the Chairman and Chief Executive Officer**

To All Employees

Mackay Port Authority's standing in the community and reputation for excellence will only be maintained if everyone of us acts in a way which reflects the high standards of business ethics we set for the Authority. We are committed to respecting the law and our system of government, respecting persons including fellow employees, clients and our local community, conducting our business affairs with a high degree of integrity and diligence and using the resources under our control with economy to efficiently carry out our mission and achieve our objectives.

Every employee should read, understand and comply with our Code of Conduct. The Code has been developed to be a guide to the way we do our business. Every day many employees deal with difficult and complex issues. Your decisions can have a significant effect on the lives of individuals, their families and the community.

The Code of Conduct is to be embraced by all of us – Board Members, Senior Management, and corporate and operational staff.

We will be doing our best to always abide by the Code of Conduct and we look to you all, whatever your position in the Authority, to do the same.

John Taylor  
Chairman

Greg Mann  
Chief Executive Officer

.....2004  
(Date adopted by Board)

..... 2004

## Introduction and Application

### Application

This Code of Conduct applies to Directors and employees of Mackay Port Authority (MPA).

### Functions, Mission Statement and Goals

The MPA, as owner and manager of the Port of Mackay and Mackay Airport, is responsible for planning, operating, and maintaining various associated facilities to transport people and cargo efficiently. The MPA operates commercially as a government owned corporation providing sustainable transportation infrastructure and services to meet the needs of its commercial and non-commercial stakeholders.

### Our Vision & Mission

The MPA's vision is to be the region's leading provider of transportation services. Our mission is to provide profitable infrastructure and services at the seaport and airport, thus adding value for the community, stakeholders, and shareholders.

### Our Values

The Mackay Port Authority will be:-

- ◆ **environmentally responsible** – to maintain the environmental integrity of the seaport and airport and associated areas in line with community and stakeholder expectations.
- ◆ **customer conscious** – be motivated to provide the best practicable level of service and promote the integrity of existing and future customer relationships.
- ◆ **improvement focused** – to continually improve performance, productivity, efficiency, and reliability.
- ◆ **commercially sound** – to provide and maintain cost effective infrastructure and earn a commercial rate of return on funds invested while maintaining charges at a level which will encourage new trade and maintain existing trade.
- ◆ **supportive of its employees** – to maintain a skilled, resourceful, motivated and fulfilled workforce.
- ◆ **vigilant and alert to safety standards** – to ensure the health and safety of all people entering our work environment.
- ◆ **a good corporate citizen** – by actively involving itself in the community through programs that provide benefit to both the business and the community.

### Purpose

This Code of Conduct offers important information on MPA's policy on ethical business conduct.

The Code of Conduct is a guide to assist employees to identify, manage and resolve ethical issues that may arise in the course of their work. The rules set out in the Code are fundamental and they apply to everyone.

Officers and employees of MPA have a responsibility to each other, to our shareholders, customers and to the community to conduct ourselves according to the highest standards of business behaviour.

We take seriously our responsibility for reporting immediately any violation or suspected violation of our Code of Conduct.

## Reviewing the Policy

This policy should be reviewed annually to ensure it remains appropriate to the business operations and environment of MPA.

## Framework

MPA is a statutory Government Owned Corporation (GOC). While MPA is not subject to the *Public Sector Ethics Act 1994*, which provides for Codes of Conduct within the Queensland Public Sector, the Authority is committed to the highest standards of business conduct consistent with the ethical principles set out in the Act.

MPA is subject to the provisions of the *Government Owned Corporations Act 1993*. Part 12 Division 1 of the Act sets out duties and liabilities of Directors and other Officers of statutory GOCs. Directors, the Chief Executive Officer (CEO) and any other person who takes part in the GOC's management must:

- act honestly;
- exercise care and diligence;
- not make improper use of information; and
- not make improper use of his or her position.

## Ethical Principles

MPA, its officers and employees recognise obligations arising from five commonly held ethical principles and is committed to meeting those obligations.

### Principle #1 - Respect for the Law and System of Government

We show respect for the Law and System of government through upholding all laws and carrying out official decisions faithfully and impartially.

Obligations relating to law and system of government may come from:

- Queensland laws and regulation including but not limited to:
  - Government Owned Corporations Act 1993;*
  - Financial Administration and Audit Act 1977;*
  - Financial Management Standard 1997;*
  - Crime and Misconduct Commission Act 2001;*
  - Ombudsman Act 2001;*
  - The Criminal Code of Queensland;*
  - Whistleblower Protection Act 1994; and*
  - Queensland State Purchasing Policy*
- The rule of law

In practice, these obligations require that officers and employees should exercise powers and undertake duties lawfully and carry out lawful and reasonable instructions always in compliance with the principles of natural justice. Natural justice is recognised as a fundamental principle of administrative law. Natural justice (or procedural fairness) is concerned with ensuring that a fair decision is reached by an objective decision maker. Natural justice requires two rules to be observed:

- (1) The **hearing rule** which states that a person or body deciding a particular matter must give the affected person the opportunity to present their case and have the material considered before any decision is made.
- (2) The **rule against bias** which states that a decision maker should have no personal interest in the matter to be decided, have no bias as to the outcome and act in good faith throughout the process.

You should be responsive to the requirements of shareholding ministers and provide information and assistance to government bodies and authorities when authorised or required to do so. You must notify MPA in advance of providing such information or assistance.

You should ensure that you have a good working knowledge of the legislation and delegations relating to your role.

Where an instruction relating to work appears unreasonable you should communicate this to the person giving the instruction.

Where an instruction is, or appears to be, unlawful you are entitled to express your refusal to comply and immediately report the matter to a senior officer or the Chief Executive Officer.

Disputes about the reasonableness or lawfulness of instructions should be managed in accordance with the grievance procedures as contained in MPA's Enterprise Agreement.

You should ensure that procedural fairness is applied whenever you exercise your official duties in situations where there may be an adverse impact on a person.

**Example:**

The auditors will be visiting your work area in the next week. Your supervisor instructs you to tell the auditors that the logbook for one of the MPA vehicles has gone missing. This vehicle is used exclusively by your supervisor.

To deal with this issue you may wish to seek advice from your next in line manager, raise the matter with the auditors during their visit, seek advice from the Office of the Public Service, CMC, or from other staff who you feel could readily deal with this issue. This activity may constitute a public interest disclosure of maladministration under the *Whistleblowers Protection Act 1994*.

## Principle #2 - Respect for Persons

We show respect for persons by treating members of the public, our clients and colleagues, honestly and fairly with proper regard to their rights and obligations.

- You should be courteous and helpful to the public, clients, colleagues and other company and public officials. You should deal fairly and equitably with other officials at all times complying with the obligations of natural justice.
- You should treat clients, members of the public and colleagues with dignity and respect. This includes being tolerant of the views held by others, which may differ from your own.
- You should be sensitive to the numerous cultural backgrounds of clients, fellow employees and others.

### Example:

Your work colleague has a traditional indigenous cultural heritage. A close relative of your colleague has died. You have heard that it is culturally insensitive to talk about the deceased person by name but are not sure what you should do. You want to say something supportive.

Generally you should approach your colleague sensitively and ask them how they wish you to deal with the matter.

- You should ensure that your conduct is not discriminatory or harassing to clients, members of the public, fellow employees and other officials.
- You should take all reasonable steps to ensure your own safety, health and welfare in the workplace, as well as that of others.
- You must report any workplace injury, illness, incident or risk to employees, clients or members of the public in accordance with MPA policy on workplace health and safety.

### Example:

You notice that part of the floor in a public area of your workplace is uneven and that persons with small-heeled shoes are at risk of tripping and possibly falling.

You should show your concern for the safety of the public and your work colleagues by reporting the matter to an appropriate MPA officer and securing the area from access until the area has been made safe.

### **Principle #3 - Integrity**

We show integrity by using our powers and position properly and ensuring that our official actions are not biased and are not tainted by any conflict of interest or corruption.

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

Conflicts of Interest can reduce public and shareholder confidence in the integrity of the Authority and may leave decisions of the Authority open to challenge.

- You should avoid any actual or appearance of a conflict between your official duties and your personal interests.
- Where a conflict occurs between your private interests and your official duties, you should resolve the conflict in favour of your official duties.
- You should manage the risk of any real or apparent conflict of interest by disclosing the personal interest to your supervisor or the Division Manager or CEO, as appropriate. This is particularly of note in matters relative to Purchasing decisions.

Official duties may arise from governing legislation, the State Purchasing Policy, your contract of employment, this Code of Conduct and other MPA policies and procedures and lawful instructions given to you for the task in hand. Because these official duties are broad, a variety of personal interests may come into conflict, or appear to come into conflict with the performance of official duties.

- You should declare in writing to, and resolve with, the Purchasing Officer any personal interest that has the potential to conflict with official duties relating to purchasing and the procurement function. The Purchasing Officer will maintain a record of the disclosure and how the potential conflict has been resolved.

Personal interests which may give rise to the risk of a conflict of interest include interests both to you or your immediate family and covers interests in property, companies and businesses, former or prospective employment.

#### **Example:**

You are an engineer with MPA and you are having confidential discussions with a firm of consulting engineers who are very interested in employing you. You are asked to sit on a selection panel to select consultants for an up coming project and the firm is one of the tenderers.

You have a personal interest in the possibility of future employment with the tenderer. Your participation on the selection panel would bring your personal interest into conflict with your official duties on the selection panel. You should withdraw from participation in the selection process.

#### ***Confidentiality of Information***

In performing your duties you may have access to information that is not available to the general public including, business strategies of the Authority, commercially sensitive information and information of a personal nature on clients or employees.

- You are required to keep this information confidential and documents containing this information secure unless the release of this information is authorised.
- You may disclose official information where it is lawful to do so, for example:

- a Release is approved by the Chief Executive Officer or other authorised senior officer of the Authority;
- b Where information is already publicly available, such as in Annual Reports, the MPA web site, or other public documents; or
- c If the disclosure is required by law.

**Example:**

In your duties you talk to representatives of large companies about their shipping needs. One of these representatives tells you in confidence that his company is planning a surprise hostile takeover of one of its competitors. You also talk to the representatives of the competitor firm as part of your work.

You are tempted to engage in 'trade talk' with the competitor who is also a friend of yours. However you resist this temptation and conduct yourself in line with this code of conduct by maintaining confidentiality over the information.

***Reporting of Fraud, Corruption and Maladministration***

All staff are required to report any reasonably based suspicion of fraud, corruption and maladministration to their managers, another appropriate officer of MPA, a member of the Board or an appropriate external body such as the Ombudsman or the Crime and Misconduct Commission.

MPA encourages employees to report fraud, corruption and maladministration. These may be subject to the protection of the Whistleblower Protection Act (refer to the MPA Fraud & Corruption Control Policy).

**Example:**

Your supervisor arranges the roster for work to be done after hours. You are told that the work requires specialised experience when a full crew is not on board and that the work is not handed around on an equal basis. You are well trained for the work but never get any. In fact it is only a small group of favoured employees who get the work.

On payday you see this group meeting at the local hotel with the favoured employees buying TAB tickets for the supervisor. You suspect that this is in return for favourable allocation of after hours work. You are reluctant to report this for fear of reprisal. In any case you are not that interested in getting the extra work particularly under those circumstances.

MPA expects you to report any reasonably based suspicion of corruption, fraud or maladministration. If you are unable to deal with this in your work place, you should consider approaching another appropriate officer of MPA. Failure to report may be considered a disciplinary matter.

### ***Receiving and Giving Gifts***

Details of all benefits, gifts, donations, free service, entertainment, or consideration etc in either kind or cash, received or given by an employee are to be reported to the employee's immediate Supervisor and/or Manager as soon as possible, regardless of whether it is accepted or not. The Supervisor or Manager should resolve with the officer whether the benefit should be given or accepted and whether the benefit needs to be registered (refer MPA's Financial Management Practice Manual on Reportable Gifts).

**Example:**

You have responsibility for purchasing and a supplier offers you the opportunity to attend the NRL State of Origin in Sydney. He will pay for all airfares, accommodation and admission to the game. He assures you it is all above board and part of his normal business relationship building and in any case it will give you an opportunity to meet with other purchasing officers and 'talk shop' in a relaxed environment.

This would be a reportable gift under MPA's Financial Management Practice Manual and should not be accepted unless it is dealt with in accordance with the manual.

## Principle #4 - Diligence

We show diligence by exercising proper care and attention in our work and by seeking to achieve high standards in our assigned duties.

- You will perform a 'fair day's work' and perform your duties to the best of your ability.

### Example:

You are a full time employee but you have significant family responsibilities. You regularly don't have anyone to help with your children after school. You work really hard during the morning so that you can duck away at 2:45pm to get the children home and settled down. You are always back by 3:30pm and it is as long as some others take to have smoke breaks anyway.

Balancing work and home life can be a difficult issue. You should discuss this issue with your supervisor or a human resource management officer. You should not assume that you can take time off for family issues unless it is in accordance with MPA policies or otherwise approved by a supervisor.

- You will exercise due and reasonable care and attention in performing your duties, particularly where members of the public may rely on the information or services you provide or you are providing services directly to vulnerable clients.
- You will be familiar with the requirements of your position, including operational manuals, policies procedures and guidelines and practice frameworks that apply to your work. You will ensure that you follow these in carrying out your duties.

### Example:

You are asked by your supervisor to read some operational manuals and procedures for new tasks that you have been assigned. On completing this you are required to sign an acknowledgement that you have read the manuals. You can't be bothered reading them because you generally pick up things as you go along and just simply sign the acknowledgement.

A client complains because you haven't carried out your task in line with the manual. Your failure to properly read the manual may lead to disciplinary action.

- You should, to the best of your ability, ensure that your conduct does not distract or otherwise prevent other employees from performing their duties.
- You must ensure that the personal use of alcohol and drugs or other substances does not affect the safety or work performance of yourself and others or the integrity of MPA (MPA's Alcohol and Drugs Policy is currently being formulated).

## Principle #5 - Economy and Efficiency

We promote economy and efficiency through ensuring that MPA resources are not wasted, abused or used improperly or extravagantly.

- You should ensure that MPA resources of all kinds are used economically and for the purposes for which they are intended. Physical items should be treated with appropriate care and should be secured against theft or misuse.

**Example:**

You are carrying around an expensive piece of equipment on the back of a work utility vehicle. You have to stop quickly and leave the vehicle unattended while you post a letter that is very urgent. While you are away the equipment is stolen.

Work equipment should be secured or supervised at all times. You should use normal commonsense in deciding the appropriate arrangements and failure to exercise reasonable care in protecting MPA assets will be treated as a disciplinary matter.

- You should avoid waste or extravagance and report any suspected waste to your Supervisor or a senior officer of MPA.

**Example:**

Your work area has a practice of ordering more perishable supplies than are required to carry out its work. These supplies are a significant cost of the work you perform and they are readily available. You are instructed to over order and told that this is important because it would be embarrassing to run out in the middle of a project. The extra supplies are generally not used and they eventually spoil and are thrown out.

You believe that it would save waste if only the required amounts were ordered. You should attempt to discuss this with your supervisor or another appropriate MPA officer.

- You should adhere to MPA policies in relation to:
  - a Use of communication technologies including telephones, the internet and electronic mail;
  - b Discretionary expenditure and use of credit cards.

## **Consequences of Conduct Failures**

Failure to act consistently with this Code of Conduct may amount to serious misconduct or official misconduct and will be dealt with in accordance with MPA discipline policies.

## **How to Make an Ethical Decision**

To make an ethical decision you should ask yourself six questions.

1. Is the act legal and consistent with government policy?
2. Is it in line with MPA's goals and code of conduct?
3. Is it the proper thing to do?
4. What will the outcome be for:
  - a My agency
  - b My colleagues
  - c Others
  - d Me?
5. Can I justify my action?
6. Would the act stand up to public scrutiny?

## **Implementation and Administration**

Initially, employees will be made aware of the Code via Update Sessions with updates provided on the MPA Intranet. The Code will also form part of the MPA Induction Programme for new employees.

Reviews of the Code will take place annually by the CEO who will advise the Audit Committee that this has occurred and of any proposed changes.

## **Further Information**

Employees who are unsure of how the Code applies to them should discuss this with their Supervisor/Manager. In most cases, the Supervisor/Manager will be able to answer any questions. If the employee has concerns about approaching their direct supervisor/manager, they should contact the Chief Executive Officer or Board Chairman as appropriate.

## **Resources**

### **Legislation**

Financial Administration and Audit Act 1977  
Financial Management Standard 1997  
Government Owned Corporations Act 1993  
Crime and Misconduct Act 2001  
Ombudsman Act 2001  
Corporations Act 2001, Chapter 2D  
Whistleblower Protection Act 1994  
Public Sector Ethics Act 1994

### **MPA Policies and Procedures**

Fraud & Corruption Control Policy  
Internet and Email Access Policy  
Financial Management Practice Manual  
Policy and Guidelines for Purchasing and Supply Functions  
Enterprise Agreement

### **Other**

DR03027 Draft Australian Standard – Organisational Codes of Conduct

ICAC(NSW), The First Four Steps – Building Organisational Integrity (online at <http://www.icac.nsw.gov.au>)

ICAC(NSW), Codes of Conduct – The next stage (online at <http://www.icac.nsw.gov.au>)

The Office of the Integrity Commissioner Queensland, Conflicts of Interest in the Public Sector (online at <http://www.integrity.qld.gov.au>)

CMC, Prevention Pointer – Dealing with Conflicts of Interest, October 2001 (online at <http://www.cmc.qld.gov.au>)

CMC, Prevention Pointer – Managing the Receipt of Gifts (online at <http://www.cmc.qld.gov.au>)

CMC, Prevention Pointer – Using Official Resources (online at <http://www.cmc.qld.gov.au>)

CMC, Exposing Corruption: A Guide to Whistleblowing in Queensland (online at <http://www.cmc.qld.gov.au>)