



Council Policy

Council-related Development Application Conflict of Interest Policy

Version 1 - 27 March 2023

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Policy - Council-related development application conflict of interest policy

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1 Introduction

Council has a function as a development regulator. Council can also be the developer, landowner, land manager or hold a commercial interest in the land it regulates. Where Council has this dual role, an inherent conflict can arise between their interests in the development and duty as regulator.

Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows Council to strengthen its relationship with the community and build and enhance trust.

Commencing 3 April 2023, the *Environmental Planning and Assessment Regulation 2021* requires Council to address conflicts of interest in council related development as follows:

- Council must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be identified, risks assessed, management controls determined, and how controls will be publicly communicated. The policy must comply with the Department of Planning Environment's Council-related Development Application Conflict of Interest Guidelines.
- Council-related development applications must be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest at the different stages of the development process, or a statement that the council has no management strategy for the application.
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process.
- Council must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in a development application (DA) register.
- A council-related development application must not be determined by the consent authority unless the council has adopted a conflict of interest policy, and the council considers the policy in determining the application.

Purpose

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

The adoption of this policy enables council-related development applications to be determined, subject to a management strategy statement being prepared for the application, and assessment considering and documenting the consideration of the policy in their determination of the application.

Scope

This policy applies to council-related development and sets out the requirements for council-related development applications.

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2 Definitions

In this Policy, the following terms have the following meanings.

Term	Meaning
application	an application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> to carry out development and includes an application to modify a development consent, but does not include an application for a complying development certificate
council-related development	development for which Council is the applicant, developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the application, where it will also be the regulator or consent authority.
council-related development application	<p>a development application for which the council is the consent authority, that is:</p> <p>(a) made by or on behalf of the council, or</p> <p>(b) for development on land other than a public road within the meaning of the <i>Local Government Act 1993</i></p> <p style="padding-left: 40px;">(i) of which the council is an owner, a lessee or a licensee, or</p> <p style="padding-left: 40px;">(ii) otherwise vested in or under the control of the council.</p> <p>And includes an application to modify a development consent or application for review.</p> <p>Note: Land vested in or under the control of the council includes public land within the meaning of the <i>Local Government Act 1993</i>.</p>
development process	application, assessment, determination, and regulation enforcement

3 Policy statement

Principles

The following principles apply to Council-related development applications:

- A council-related development application must be accompanied by a management strategy statement specifying controls to be implemented to demonstrate how the council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority. The management strategy must be exhibited with the development application.
- Council-related development applications must be publicly exhibited for a minimum of 28 days.
- A council-related development application must not be determined by the consent authority unless the council considers the policy in determining the application.
- Council will keep a register of council-related development applications, which will include the management strategy identifying the measures taken by the council to manage any conflicts of interest.

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Note, Council's Code of Conduct for Council staff applies to all employees for the management of conflicts of personal and staff related interests. All staff with a potential or actual conflict of interest must declare the nature of the conflict of interest in compliance with the Code of Conduct.

Management strategy and controls

Management controls must be applied to:

- the assessment and determination of an application for council-related development
- the regulation and enforcement of approved council-related development

Management controls will be applied in accordance with the Council-related development application conflict of interest procedure.

Regulation and enforcement

Regulation and enforcement activities associated with council-related development will be undertaken in accordance with Council's Regulatory Activities Policy.

Register of applications

Council maintains a register of development applications as required by the *Environmental Planning and Assessment Act 1979*. The register is available via Council's website.

Council-related development applications will be included in the register. The management strategy statement for each Council-related development application will be registered to the development application in Council's electronic data records system (TRIM), and referenced in the register.

4 Review and evaluation

This policy will be reviewed and evaluated within 12 months of each ordinary Council election with any amendments to be considered by the elected Council.

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Controlled document information

Authorisation details

Folder no:	F2023/00629	TRIM record no:	D10987149
Audience:	External		
Department:	Development Assessment and Certification	Officer:	Manager Development Assessment and Certification - Amy Regado
Key focus area(s):	Shared Decision Making		
Review timeframe: Max < 4 years	4 years (within 12 months of an ordinary election)	Next scheduled review date:	September 2024, aligning with election of new Council
Authorisation:	Adopted by Council - 27 March 2023		
Authorisation - Council adoption date:	27 March 2023		

Related document information, standards & references

Related legislation:	<i>Environmental Planning and Assessment Act 1979</i> <i>Environmental Planning and Assessment Regulation 2021</i>	Governing legislation
Related policies:	Nil	Nil
Related Procedures, Guidelines, Forms, WHS Modules/PCDs, Risk Assessments, Work Method Statements:	Code of Conduct for Council staff Council-related development application conflict of interest procedure	Supports the administration of the Code of Conduct
Standards, COPs & other references	Nil	Nil

Responsibilities (update for each version created)

Key departments, teams, positions, meetings:	Development Assessment and Certification	Enforcement of policy Assessment of policy in determination of council-related development application Maintaining register of development applications
	Council departments, teams, positions, meetings involved in preparation, lodgement and delivery of council-related development application	Compliance with policy

Consultation (update for each version created)

Key departments, teams, positions, meetings:	Directors and Managers on behalf of their Clusters/Departments Communications and Corporate Strategy Section Internal Ombudsman and Internal Auditor
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Version History

Version No	Date changed	Modified by	Details and comments
1	March 2023	Amy Regado	New policy