



CONFLICT OF INTEREST - COUNCIL RELATED DEVELOPMENT

Policy 25/2021-2024

DATE

- Ordinary Meeting – 21/3/2023

POLICY NO:	25/2021-2024
LEGISLATIVE REQUIREMENTS:	<ul style="list-style-type: none"> • Environmental Planning and Assessment Regulation Sections 30B,66A,36A and 242A
RESPONSIBILITY:	DEVELOPMENT AND COMPLIANCE
OBJECTIVE:	To help Council manage potential conflicts of interest where Council is the consent authority and regulator but also the applicant, developer (whether lodged by Council or on behalf of the Council), landowner or holds a commercial interest in the land.
REVIEW	Within the first 12 months of each term of Council or as required.

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Part A – Introduction

1. Name of policy

Conflict of Interest – Council Related Development Policy.

2. Aim of policy

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

3. Scope

This policy applies to council-related development.

4. Definitions

(1) In this policy:

application means an application for consent under Part 4 of the Act to carry out development and includes an application to modify a development consent it does not include an application for a complying development certificate.

council means The Hills Shire Council

council-related development means development for which the 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.

development process means application, assessment, determination, and enforcement.

the Act means the Environmental Planning and Assessment Act 1979.

- (2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.
- (3) Notes included in this policy do not form part of the policy.

Process for identifying and managing potential conflicts of interest

5. Management controls and strategies

Controls are based on a risk category for development as follows:

Low risk

Development Applications not required to be determined by the Local Planning Panel (as outlined in the Minister's Panel Direction) or another Panel will not require specific controls. For example, internal alterations or additions to buildings that are not a heritage item, advertising signage, minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services), and development where the council might receive a small fee for the use of their land.

Medium risk

Development applications outside the above parameters are required to be determined by a Local Planning Panel unless the Capital Investment Value requires them to be determined by a Regional Planning Panel (currently Council-related development exceeding \$5 million must be assessed by a Regional Panel). If a Council-related development application is determined by the Regional Panel Council staff will recuse themselves from the determination. Council assessment staff are not to be involved with preparation of the application other than with the provision of advice in that manner they would provide to any applicant. A private certifier would be engaged to undertake the certification of a development other than subdivision development.

High risk

Some Council-related development may, by its scale or nature, be of significant community interest and be of greater risk to a be a conflict of interest. The controls that apply to medium risk applications will apply. In addition, in some circumstances the General Manager may require that assessment reports be prepared by an external consultant rather than Council staff.

Post-Consent Regulation

Council's Regulatory activities are undertaken under Council's adopted Enforcement Policy with role separation controls imposed.

6. Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

- (1) Development applications lodged with the council that are council-related development are to be referred to the general manager (or a delegate) for a conflict-of-interest risk assessment. *Note: Council-related development is defined in section 4.*
- (2) The general manager is to:
 - a) assess whether the application is one in which a potential conflict of interest exists,
 - b) identify the phase(s) of the development process at which the identified conflict of interest arises,
 - c) assess the level of risk involved at each phase of the development process,
 - d) determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in clause 5 of the policy and the outcome of the general manager's assessment of the level of risk involved as set out clause 6(2)(c) of the policy, *Note: The general manager could determine that no management controls are necessary in the circumstances.*
 - e) document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.