

Part 1 Preliminary

1. Name of Policy

This policy is the Managing Conflict of Interest for Council-related Development Policy.

2. Aim of Policy

The 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 development applications relating to Council land, or where Council is the applicant of the development application; if a development application is triggered for the proposed works as per Part 4 of the *Environmental Planning and Assessment Act 1979*.

This policy outlines Council's position on managing conflicts of interest that may arise when Council is acting as the Authority on development applications submitted by the Council.

4. Definitions

(1) In this policy:

Development 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 Warrumbungle 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.

Part 2 Process for identifying and managing potential conflicts of interests

5. Management controls and strategies

- (1) The following management controls will be applied to:
- a. the **assessment** of a development application for council-related development
 - i. With a construction value of, or exceeding \$500,000, shall be referred to an external body (either another Council or a consultant) for assessment.
 - ii. With a construction value under \$500,000 will be assessed by delegated Council staff.
 - iii. Communication between applicant and Council's assessment staff is to be made via public avenues, for example NSW Planning Portal, front counter, phone or email (info@warrumbungle.nsw.gov.au). Direct access to assessment staff offices by the applicant ad-hoc is not permitted and will be via appointment only.
 - iv. Council development assessment staff not involved with preparing the development application will assess the application. The staff will remain separated from the project team.
 - v. Council development assessment staff and project development teams are to be located in different/separate offices of Council's administration building, with separate reporting lines – i.e. reporting to different directors.
 - b. the **determination** of a development application for council-related development
 - i. With a construction value under \$500,000 shall be reported to the General Manager for determination.
 - ii. With a construction value of, or exceeding \$500,000, shall be reported to Council for determination.

Note – Council-related development applications with a construction value exceeding \$5M shall be referred to the Western Regional Planning Panel for determination – and is not subject to this policy.

- iii. Council-related development applications that receive between 1 - 6 objections during assessment (if required to be notified or advertised), shall be circulated to Council, and if requested by a minimum of three (3) Councillors, reported to Council for determination.
- iv. Council-related development applications that receive seven (7) or more objections during assessment (if required to be notified or advertised) shall be referred to Council for determination.

Note – Notification and public exhibition requirements for development applications is addressed in more detail in Council's Development Control Plan, Local Environmental Plan and relevant planning legislation. Written submissions and/or objections must be in writing and state reasons for the objection. Petitions and/or bulk pro-forma letters will be considered to be one objection.

- (2) No management controls are needed to be applied to:
 - a. commercial fit outs and minor changes to the building façade
 - b. internal alterations or additions to buildings that are not a heritage item
 - c. advertising signage
 - d. minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
 - e. development where Council might receive a small fee for the use of their land
 - f. where other State bodies are the consent authority for council-related development.

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

- (1) Development applications lodged with Council that are Council-related development are to be referred to the general manager (or a delegate) for a conflict-of-interest risk assessment.

- (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 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.
- e. Document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

Responsibilities

Environment and Development Services – Manager Planning and Regulation and Town Planner

Getting Help

Position: Manager Planning and Regulation and Town Planner

Department: Environment and Development Services

Version Control

DEPARTMENT	Environment and Development Services		
RESPONSIBILITY	Planning and Regulation		
VERSION CONTROL			
Policy Name	Id No and Version	Resolution	Date Adopted
Next Review Date			