



# COUNCIL POLICY

## COUNCIL RELATED DEVELOPMENT APPLICATION – CONFLICT OF INTEREST POLICY

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<b>Notes</b>	

# Council-Related Development Application - Conflict of Interest Policy

## Part 1 Preliminary

### (1) Name of policy

This policy is the 'Council-Related Development Application - Conflicts of Interest Policy' – dealing with council-related development throughout the development process.

### (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, the subject of a Development Application with Dubbo Regional Council.

### (4) Definitions

- 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 *Dubbo Regional 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.*

- 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.
- Notes included in this policy do not form part of the policy.

## Part 2 Process for identifying and managing potential conflicts of interest

### (5) Management controls and strategies

- The following management controls apply to the *assessment* of an application for council-related development:

*Development applications with a CIV (capital investment value) of less than \$5,000,000 will be assessed by Council's Building and Development Services Team.*

**Note:** *Council-related development with a CIV of more than \$5,000,000 is determined by the Western Regional Planning Panel, a statutory body independent of Council.*

*The applicant/proponent shall only engage with the assessing officer/s of the development application, the same as any other member of the general public.*

*The development application shall be publicly exhibited for a minimum of twenty-eight (28) days in accordance with Council's Community Participation Plan 2019.*

- The following management controls apply to the *determination* of an application for council-related development:

*Council-related development applications with a CIV of less than \$5,000,000 shall be determined by the Director Development and Environment.*

- The following management controls apply to the *regulation and/or enforcement* of approved council-related development:

*The regulation and enforcement of approved council-related development shall be as for any other approved application, in accordance with the relevant legislation.*

### (6) The management strategy for the following kinds of council-related development, is that no management controls need to be applied, due to their minor nature:

- commercial fit outs and minor changes to the building façade;
- internal alterations or additions to buildings that are not a heritage item;
- advertising signage;
- minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services);
- development where the council might receive a small fee for the use of their land.

- (7) In circumstances where Council is of the opinion that the development is not a standard development, controversial projects, etc., Council may consider alternate options to the *assessment* of the development application, such as referral to either:
- another council; or
  - Western Regional Planning Panel.
- (8) In circumstances where Council is of the opinion that the development is not a standard development, controversial projects, etc., Council may consider alternate options to the *regulation and/or enforcement* of the site and/or development consent, such as:
- referral to a private certifier (engagement);
  - publication of certificates issued under Part 6 of the Act on the NSW Planning Portal;
  - reporting of key milestones to the full council.

**Part 3 Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls.**

- (9) Development applications lodged with the council that are council-related development are to be referred to the Manager Building and Development Services (or a delegate) for a conflict-of-interest risk assessment.

The Manager Building and Development Services is to:

- assess whether the application is one in which a potential conflict of interest exists;
- identify the phase(s) of the development process at which the identified conflict of interest arises;
- assess the level of risk involved at each phase of the development process;
- 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 clauses 5, 6, 7 and 8 of the policy;
- The outcome of the Manager Building and Development Services assessment of the level of risk involved shall be documented and the proposed management approach for the proposal shall be published on the NSW Planning Portal.

#### **Part 4 Procedural matters**

- (10) In accordance with Amendment of Environmental Planning and Assessment Regulation 2021, Schedule 1, s30B Council-related development applications must be accompanied by a statement (prepared by the applicant) specifying how the council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority (see Part 2).
- (11) In accordance with Amendment of Environmental Planning and Assessment Regulation 2021, Schedule 1, s66A Council-related development applications must not be determined by the consent authority unless (a) the council has adopted a conflict of interest policy, and (b) the council (consent authority) considers the policy in determining the application.
- (12) In accordance with Amendment of Environmental Planning and Assessment Regulation 2021, Schedule 1, s240(3)(m1) Council is required to keep a register of development applications and development consents, and for council-related development applications information regarding conflicts of interest that may arise in connection with the application, and measures taken by council (the applicant) to manage the conflicts of interest.

#### **APPENDIX: Council-related Development Application – Statement guide**

The applicant for a Council-related development application is required to provide a 'statement' specifying how the council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority.

The matters which need to be addressed in the 'statement', are not limited to the following list, and will vary given the nature of the development:

- Preliminary discussions with Council's assessing officer/s;
- The interaction between the applicant/proponent and Council's assessing officer/s, whilst the development application is under assessment;
- The interaction between the applicant/proponent and Council's assessing officer/s, following the determination of the development application;
- The interaction between the applicant/proponent and Council's assessing officer/s, with regard to regulatory inspections of the approved development;
- The interaction between the applicant/proponent and Council's assessing officer/s, with regard to the ongoing operation of the approved.