



COUNCIL-RELATED DEVELOPMENT CONFLICT OF INTEREST MANAGEMENT POLICY

Policy Owner: Director Community, Planning & Environment

Category: Statutory

Direction: 3. Our Innovative City

1. STATEMENT OF INTENT

- 1.1 This Policy is in accordance with the *Environmental Planning and Assessment Regulation 2021*, that requires local councils to prepare and publicise a policy that sets out how they propose to manage potential conflicts of interest for Council-related development applications.
- 1.2 This Policy aims to manage potential conflicts of interest transparently at all stages of the development process for Council-related development applications.

2. ELIGIBILITY

- 2.1 This policy applies to Council-related development.

3. DEFINITIONS

- 3.1 **Application** - means an application for consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (the Act), to carry out development and includes an application for a complying development certificate and an application to modify a development consent.
- 3.2 **Council** - means North Sydney Council.
- 3.3 **Council-related development** - means development for which the Council is the consent authority and is:
 - a) made by or on behalf of the Council, or
 - b) for the development on land:
 - i. of which the Council is an owner, a lessee, a licensee, or has commercial interest in, or
 - ii. otherwise vested in or under the control of the Council.

- 3.4 **Development process** - means application, assessment, determination, and enforcement.

Note: 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.

4. PROVISIONS

- 4.1 Development Applications that are considered Council-related development as defined by 3.3 of this policy, must be referred to the Manager Development Services for a conflict of interest risk assessment.
- 4.2 The conflict of interest risk assessment must:
- 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 in accordance with factors identified in clause 4.3 of this policy.
 - d) determine what (if any) management controls should be implemented to address the identified conflict of interest at each phase of the development and address the risk identified in 4.2(c). Controls and strategies are outlined in clause 4.9 of this policy.
- 4.3 Factors to be considered when determining level of conflict of interest and resulting risks:
- a) is Council a direct or indirect beneficiary of this application
 - b) value of potential commercial gains resulting from the making of the application
 - c) cost of works associated with the application
 - d) is the application exempt from management controls/strategies as per 4.9 of this policy
- 4.4 The conflict of interest management approach for the application is documented in a statement that is published on the NSW Planning Portal.
- 4.5 For low-risk Council-related development where no management controls or strategies have been identified, Council is still required to communicate this decision through a statement published on the NSW Planning Portal.
- 4.6 Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (*Environmental Planning and Assessment Act 1979*, schedule 1, clause 9B).

- 4.7 All notification correspondence for Council-related development is to state that the conflict of interest management statement is available on both Council's Applications Tracking site and the NSW Planning Portal.
- 4.8 The following management controls may be applied to:
- a) the assessment of an application for Council-related development:
 - enter into a shared service agreement with a neighbouring council for the assessment of the application;
 - use an external consultant to complete the assessment of development applications;
 - use external certifiers to complete the assessment of complying development certificates.
 - b) the determination of an application for Council-related development:
 - local planning panel or a regional planning panel to determine development application;
 - engage a private certifier for certification activities such as the issuing of complying development certificates, construction certificates and occupation certificates;
 - publish certificates issued under Part 6 of the *Environmental Planning and Assessment Act 1979* on the NSW Planning Portal.
 - c) the regulation and enforcement of approved Council-related development:
 - enter into a shared service agreement with a neighbouring council for the compliance and enforcement of development consent;
 - Principal Certifying Authority to assist in the compliance and enforcement of conditions construction certificates and complying development certificates;
 - report enforcement milestones or actions to Council
- 4.9 The management strategy for the following kinds of development is that no management controls need to be applied:
- 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 facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
- e) development where the Council might receive a small fee for the use of their land.

5. RESPONSIBILITY/ACCOUNTABILITY

- 5.1 Council officers making applications for Council-related development are required to refer the application to the Manager Development Services.
- 5.2 Council development assessment officers reviewing lodged development applications must refer Council-related development applications to the Manager Development Services.
- 5.3 Council building certifiers reviewing lodged complying development certificates, construction certificates, occupation certificates and building information certificates must refer Council-related development to the Manager Development Services.
- 5.4 Council's Manager Development Services is responsible for undertaking conflict of interest risk assessment and documenting what management controls or strategies are to be implemented during the phases of the application in a management statement.
- 5.5 Council's administration staff is responsible for publishing the management statement on the NSW Planning Portal.
- 5.6 Council's Manager Development Services is to ensure that the management controls and strategies are adhered to during the entire development cycle.

6. RELATED POLICIES/DOCUMENTS/LEGISLATION

The Policy should be read in conjunction with the following Council policies and documents:

- Code of Conduct - Councillors and Staff
- Mediation Policy

The Policy should be read in conjunction with the following documents/legislation:

- Environmental Planning and Assessment Act 1979
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

- North Sydney Local Environmental Plan 2013
- North Sydney Development Control Plan 2013

Version	Date Approved	Approved by	Resolution No.	Review Date
1	26 April 2023	Council	128	2024/25