



Policy Title	Managing Conflicts of Interest for Council-related Development Policy
Related Documentation	Code of Conduct Campbelltown Community Participation Plan
Relevant Legislation	<i>Environmental Planning and Assessment Act 1979</i> <i>Environmental Planning and Assessment Regulation 2021</i> <i>Government Information (Public Access) Act 2009</i>
Responsible Officer	Executive Manager, Planning and Development

UNCONTROLLED WHEN PRINTED

Objective

The objective of this policy is to document how potential conflicts of interest will be managed in the development application assessment process for council-related development to increase transparency at all stages of the development process where Council is involved with an application as a developer, land owner or holds a commercial interest in the land.

Policy Statement

This Policy does not apply to any development application submitted before 3 April, 2023.

This Policy does not apply to an application for a Complying Development Certificate.

This policy does not apply in circumstances where the only Council land involved is a public road managed by Council. For example this policy does not apply to a development application that includes works for a driveway for a dwelling house that are within the public road

Councils are development regulators, but they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator. Identifying these conflicts early and finding ways to address them is crucial to good governance and allows Councils to strengthen their relationship with communities and build and enhance trust.

At all pre-lodgement discussions for a Council related application Council staff shall clearly state whether their role is in the preparation of the development or the assessment of the application. Where a staff member has been involved in the preparation of development application they shall not be involved in the assessment of the application. A staff member shall not be considered to have been involved in the preparation of the development application where their only role has been to outline the planning rules that apply to the site or development and detail the information required to be submitted with the application. All pre-lodgement communication between Council staff, or between Council staff and an independent consultant, shall be stored on Council’s electronic document management system.

DATA AND DOCUMENT CONTROL – GOVERNANCE USE ONLY		
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For each Council-related application, Council staff will assess whether a potential conflict of interest exists and the level of risk associated with the particular application. Following the determination of the level of risk, the relevant management controls identified in this policy will be followed.

In some circumstances, Council may determine the risks associated with a Council-related development are sufficiently low and no specific controls are warranted. In these cases some actions will be taken to increase transparency in the decision-making process including reporting the application to either the Campbelltown Local Planning Panel or the Sydney Western City Planning Panel for determination and public exhibition of the development application, where required under the Community Participation Plan, for 28 days. These actions will be detailed in a Management Strategy statement attached to the development application.

In other circumstances, where the risk is higher, it is appropriate to take additional actions such as separating or reducing the role played by particular Council staff, or all Council staff, in the development application. The actions will be detailed in a Management Strategy Statement included in the development application assessment report.

Council will record conflicts of interest in connection with each Council-related development application, and the measures taken to manage the conflicts, in the Application Register.

In circumstances where a development consent is issued, Council will only undertake building certification work where the capital investment value is less than \$2 million. In cases where the capital investment value is greater than \$2 million an independent external registered certifier will be appointed.

If the development application includes the subdivision of land, Council is not able to outsource the signing of the Subdivision Certificate. However, any actions of Council as a landowner/developer will be undertaken by an officer not involved in the assessment of the Subdivision Certificate application. All correspondence between Council as a developer/landowner and Council as the regulatory authority shall be in writing, whether by email or letter, and saved in Council's electronic data management system.

In the event that either regulatory or enforcement action is required in regard to a Council-related development, one of the following actions will occur:

- An independent consultant will be engaged to investigate and advise on the appropriate action
- Council staff will investigate and recommend appropriate action. The Council staff recommendation will be peer reviewed by an independent consultant.
- Council will enter into a shared services arrangement with another Council and the staff of that Council shall investigate and advise on the appropriate action.

A report will be provided to Council each month providing an update on the status of each Council related application that has been submitted but not yet determined.

Scope

This policy applies to Council-related development.

Process for managing potential conflicts of interest for an Application

When an application is submitted, or proposed to be submitted, for Council related development, an assessment will be made by Council assessment staff of the following:

- Identification of the phase(s) of the application process at which the conflict of interest arises.

- Assessment of the level of risk involved.

The following steps will be taken for all Council related applications:

- Public exhibition of the application for a period of at least 28 days, where required by the Community Participation Plan
- If Council is the developer, applicant or landowner, the application will be determined by either the Campbelltown Local Planning Panel or the Sydney Western City Planning Panel.
- Council development assessment staff not involved with preparing the development application will assess the DA. The assessment staff will remain separated from the project team.
- Council staff involved in the project team will not be involved in the assessment of the development application. To ensure this they shall not,

- Access information about the application assessment in Council's document management system
- Directly contact or enter the workspace of the assessment staff.

Note: any correspondence between the development assessment staff and the project team are to be pre-arranged by management and recorded.

- A Management Strategy Statement in Table 2 will be included in the planning assessment report.

Where the application meets the criteria identified in column 1 of Table 1, Council will choose 1 or more of the potential additional management actions listed in column 2

Table 1. Additional Management Actions for Certain Types of Council related development.

Column 1: Development types where additional management actions required	Column 2: Potential Additional Management Actions for Application Assessment
<p>Where the Council related development meets 1 or more of the following criteria, 1 or more additional management actions will be chosen from the column to the right.</p> <ul style="list-style-type: none"> • The application is Regional Development (under the State Environmental Planning Policy (Planning Systems) 2021). • The capital investment value exceeds \$5 million • The application does not comply with a development standard 	<ul style="list-style-type: none"> • Assessment may be undertaken by an external Planning Consultant. • Specialist advice (eg flooding, acoustics) may be provided by an independent consultant that was not involved in the preparation of the application. • Assessment may be undertaken by Planning staff from another Council as part of a shared servicing agreement. <p>Note: Other management strategies not listed may be implemented at the discretion of management.</p>

The format for a Management Strategy Statement shall be generally as shown below:

Table 2. Management Strategy Statement example.

Council conflict of interest Management Strategy Statement	
Address	
Application number	
Proposed Development	
Potential conflict	A council staff member is responsible for project managing and delivering this project.
Management strategy	<ul style="list-style-type: none"> • Assessment/referral response staff are not part of the project delivery team. • Application notified/exhibited for at least 28 days • Determination by independent Planning Panel • Monthly updates on the application provided to Council meeting <p>(where additional management actions required)</p> <ul style="list-style-type: none"> • An external consultant has been engaged for application assessment. • An external consultant has been engaged to advise in regards to (___) • Monthly updates on the application provided to Council meeting
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the General Manager or delegate of Campbelltown City Council.

Definitions

Term	Definition
Application	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	Campbelltown City Council
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
development process	Application, assessment, determination, and enforcement
the Act	<i>The Environmental Planning and Assessment Act 1979</i>

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 under this policy.

Legislative Context

This Policy is a requirement of the Environmental Planning and Assessment Regulations, 2021

Principles

1. Council takes steps to manage any perceived or real conflict of interest that arises in the assessment of Council related development applications.

2. Determination of Council-related development applications must be undertaken in a transparent manner
3. The minimum exhibition period for a Council-related development application is 28 days

Effectiveness of this Policy

1. The effectiveness of this policy will be reviewed by Independent Panels each time a Council related development application is reported to such Panel for determination. Regular discussions are held with the Panel chairs and secretariat in this regard.
2. This policy will be reviewed when changes are made to either the Environmental Planning and Assessment Act, 1979 or the Environmental Planning and Assessment Regulation, 2021 that affect its content. Outside of such changes, this Policy will be reviewed every three years.

END OF POLICY STATEMENT