

# Council-Related Development Application Conflict of Interest Policy

<b>Date policy was adopted:</b>	25 August 2023
<b>Resolution number:</b>	299/23
<b>Next Policy review date:</b>	October 2023
<b>Reference number:</b>	52.5.4
<b>Strategic Pillar</b>	Executive Services
<b>Responsible Branch</b>	Governance and Legal

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## 1 BACKGROUND

- 1.1 The NSW State Government has introduced new planning provisions under Section 66A of the Environmental Planning and Assessment Regulations 2021, which now requires all Council's to adopt a policy that specifies how conflicts of interest in connection with Council-related development applications will be managed.
- 1.2 In addition, the regulations also require that Council-related development applications are accompanied by either a management strategy statement which explains how Council's will manage potential conflicts of interest or a statement that Council has no management strategy for a particular application. Councils must record conflicts of interest in connections with each Council-related development application in their existing development application register and Council-related development applications must be exhibited for a period of 28 days to ensure transparency during the assessment process.
- 1.3 The aim of this policy is to ensure that the provisions as set out in Section 66A of the Regulations are met. The policy must also comply with the Department of Planning and Environment's *Council-related Development Application Conflict of Interest Guidelines*.

## 2 PURPOSE

- 2.1 The purpose of this policy is to:
- Establish Council's management strategy and/or management controls that will be applied to address potential conflicts of interest at the different phases of the development process for the types of Council-related development applications that the Council could be involved in;
  - Outline the process through which potential conflicts of interest will be identified, the risks assessed and appropriate management controls determined; and
  - Outline the process that will be followed to publicly communicate the management approaches for each development subject to the policy.

## 3 SCOPE OF THE POLICY

- 3.1 The policy applies to Council-related development applications as defined under the Act.

## 4 DEFINITIONS

- 4.1 **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.
- 4.2 **Council** – means Queanbeyan-Palerang Regional Council
- 4.3 **Council-related development application** – means a development application for which a Council is the consent authority, that is –
- (a) Made by or on behalf of the council, or
  - (b) For development on land other than a public road within the meaning of the *Local Government Act 1993*-
    - (i) Of which the council is an owner, or lessee or a licensee; or
    - (ii) Otherwise vested in or under the control of the council

Note: Land vested in or under the control of the council includes public land within the meaning of the Local Government Act 1993.

4.4 **Development process** – means application, assessment, and determination

4.5 **The Act** – means the *Environmental Planning and Assessment Act 1979*

4.6 **The Regulations** – means the *Environmental Planning and Assessment Regulations 2021*

## 5 OBJECTIVE AND GOALS

5.1 This policy applies to Council-related development applications as defined under the Act and is to ensure potential conflicts of interest are identified and managed appropriately, in accordance with processes and/or procedures set out in this policy.

## 6 MANAGEMENT CONTROLS AND STRATEGIES

6.1 The following management controls may be applied to:

The **assessment** of an application for council-related development applications:

- Council's development assessment staff or independent/external consultant/s shall not be involved in the preparation and/or lodgement of the application
- The application shall only be assessed by staff or independent/external consultant/s that are not involved in the preparation and/or lodgement of the application.
- The development assessment staff or independent/external consultant's are to remain separate from the internal Council team or independent/external consultant/s who prepared and lodged the application and are working on the application, during the assessment and processing of the application.
- All internal meetings relating to the application must be appropriately documented and registered in Council's Electronic Records Management System.

The **determination** of an application for council-related development applications:

- Applications that trigger the requirements of the Minister's '*Local Planning Panels Direction – Development Applications and applications to modify development consents*' are to be determined by the Joint Region Planning Panel (JRPP).
- All other applications that do not trigger referral to the JRPP are to be determined by a delegated officer of Council in accordance with issued Delegations.

No management strategy/controls need to be applied for the following kinds of development:

- Commercial fit outs and minor changes to the building façade
- Internal alterations and additions to the building that is not a heritage item
- Advertising signage
- Maintenance and restoration of a heritage item
- Minor building structures projecting from the building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services, and sun shading devices).

- Development where the council might receive a small fee for the use of their land.
- Any modifications to an approved council-related development application made under s4.55(1) and s4.55(1A) of the Act.

## 7 IDENTIFYING WHETHER A POTENTIAL CONFLICT OF INTEREST EXISTS

7.1 Council-related development applications shall be referred to the General Manager or delegate for a conflict of interest risk assessment.

7.2 The General Manager or delegate 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 as outlined above.
- Document the proposed management approach for the application in a statement published in the NSW Planning Portal as part of the application.
- A management statement shall be prepared in accordance with the Template Council Management Statement provided below.
- Any Council Management Statements required to be submitted as part of a Council-related development application shall be published on Council's on-line DA tracker system.

## 8 MANAGEMENT STATEMENT TEMPLATE

<b>Project Name/Title</b>	(Insert project name or title)
<b>Project Address</b>	(Insert Address of Project)
<b>Proposal</b>	(Insert description of Proposal)
<b>Potential Conflict</b>	(Clearly identify potential conflicts that may arise as a result of this Council-related development application)
<b>Management Strategy</b>	QPRC is managing potential conflicts of interest in this matter as follows:
<b>Contact</b>	Anyone who has concerns about Council fulfilling its obligations should report their concerns to Council E: <a href="mailto:council@qprc.nsw.gov.au">council@qprc.nsw.gov.au</a> PH: 1300 735 025

## 9 REVIEW

- 9.1 This policy will be reviewed every four years or earlier as necessary if:
- a) legislation requires it, or
  - b) Council's functions, structure or activities change