

Conflict of Interest Management Policy for Council Related Development

Policy Title	Conflict of Interest Management Policy for Council Related Development
Responsible Manager(s)	Director Planning
Contact Officer(s)	Manager – Development and Environment
Directorate	Planning
Approval Date	17 July 2025
Strategic Focus Area	Governance
Delivery Plan Link	112. Provide receptive and responsive development assessment services
Operational Plan Link	112 (a) Assess and determine development applications

Purpose

The purpose of this policy is to manage potential conflicts of interest and increase transparency at all stages of the development process for Council-related development.

Introduction

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.

To mitigate this outcome, it may be appropriate to separate or minimise the role by Council staff in the DA assessment and determination process. This might be done by the outsourcing of all or parts of the assessment process to an external expert such as a planning consultant. This is best practice and one that has been applied at Hilltops Council for major development applications (e.g. Young skatepark and Young PCYC Sports Stadium). In some circumstances, Council may determine the risks associated with a Council-related development are low and no controls are warranted. Where this is the case, Council should still publicly communicate that fact to ensure transparency.

Examples of this may include:

- Where Council is the owner of a commercial building for which it receives development applications for commercial fit outs and minor changes to the building facade.
- Development for internal alterations or additions to buildings that are not a heritage item, advertising signage, structures projecting over public land (such as awnings), and development where the council might receive a small fee for the use of Council land (such as display of retail goods, footway dining, a-frames, temporary events etc.).
- Ancillary development over public land such as access driveways, trees, footpaths or services.
- Temporary events on Council owned or managed land.

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In these types of circumstances, it would be reasonable for Council to not require additional controls for conflicts of interest so the application would be assessed in the same way as non-Council-related developments.

Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows Council to strengthen its relationship with communities and build and enhance trust.

Amendments have occurred to the *Environmental Planning and Assessment Regulation 2021* in relation to the management of potential conflict of interest for council-related development. To implement these legislative requirements, it is necessary for Council to have an adopted Policy in place and for this to be considered in the management of the development assessment process.

The general requirements are:

- A Council related development application must be accompanied by—
 - (a) 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 (a management strategy), or
 - (b) a statement that the council has no management strategy for the application.
- 66A Council related development applications—the Act, s 4.16(11)
 - (1) A Council-related development application must not be determined by the consent authority unless—
 - (a) the council has adopted a conflict of interest policy, and
 - (b) the council considers the policy in determining the application.

Policy Details

1.	<p>Scope</p> <p>This policy applies to Council-related development.</p>
2.	<p>Definitions</p> <p>In this Policy:</p> <ul style="list-style-type: none"> • 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 Hilltops 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.

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	<p>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.</p>
3.	<p>Management controls and strategies</p> <p>The following management controls may be applied to:</p> <p>a) the assessment of an application for Council-related development:</p> <ul style="list-style-type: none"> • all Council-related development with a construction value exceeding \$2 million shall be referred to an external party for assessment; • communication between the applicant and Council’s assessment staff is to be made via the NSW Planning Portal or email. Direct access to the assessment staff by the applicant is not permitted; • Council development assessment staff who have no involvement in preparing the application will be responsible to assess or manage the assessment of the development application; • Council development assessment staff and project teams are to be located in different areas of the Council building and are to have separate reporting lines; and • other Council-related development may be referred for external assessment where deemed appropriate by the General Manager (or their delegate). <p>b) the determination of an application for Council-related development:</p> <ul style="list-style-type: none"> • all Council-related development with a construction value exceeding \$2 million shall be referred to Council for determination; • all Council-related development with a construction value of over \$5 million is to be referred to the Southern Regional Planning Panel for determination; • all Council-related development which receives an objection during the notification period shall be reported to Council or Southern Regional Planning Panel as appropriate for determination; and • other Council-related development may be referred to Council for determination where deemed appropriate by the General Manager (or their delegate). <p>c) No management controls need to be applied in the following circumstances due to the minor nature of these developments and low risk of conflicts:</p> <ul style="list-style-type: none"> • commercial fit outs and minor changes to the building façade; • internal alterations or additions to buildings that are not a heritage item; • advertising signage; • building structures projecting from a building façade over public land (such as awnings, verandas, windows, flagpoles, pipes, and services); • development where the Council might receive a small fee for the use of their land (such as display of goods, footway dining, a-frames, temporary events, mobile food vans, etc.);

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	<ul style="list-style-type: none"> • where other state bodies are the consent authority for the Council-related development; and • ancillary development over public land such as driveways, trees, footpaths, infrastructure etc. • Temporary structures and events
<p>4.</p>	<p>Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls</p> <p>a) Development applications lodged with the Council that are Council related development are to be referred to the General Manager for a conflict-of-interest risk assessment.</p> <p>b) The General Manager (or their delegate) is to:</p> <ul style="list-style-type: none"> • 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 this Policy and the outcome of the General Manager’s assessment of the level of risk involved as set out in this clause of the Policy; and • document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal (refer example below).
<p>5.</p>	<p>Management statement</p> <p>Management statements should include at a minimum:</p> <ol style="list-style-type: none"> a) The nature of the interest, i.e. what is Council’s relationship with the development – landowner, landlord, etc: b) Council’s investment or financial risk associated with the development; c) management strategy or mitigation measures on how the conflict will be managed; and d) Council contact (generally the delegated authority who will decide the application). <p>The following is an example of a statement that could be published by Councils to document its proposed management approach for a Council- related development.</p> <p>Example</p> <p>ABC Council is upgrading one of their assets ‘Blue River Civic Place’. Council is the landowner and the applicant and is proposing to redevelop the site into a mixed-use development with a total Capital Investment Value (CIV) of \$5 million. The development application seeks approval for the construction and use of an additional two storeys on an existing three storey building comprising a child care centre, commercial office spaces and partial use of the building for Council’s public administration.</p>

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ABC Council conflict of interest management statement

Project name:	ABC Council
DA number:	DA2023/0001
Potential conflict:	ABC Council is the applicant. Blue River Civic Place has an estimated capital investment value of \$5 million and the Council expects to receive revenue through renting commercial office spaces.
Management strategy:	<p>The Council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> • the application will be referred to the local planning panel to determine the development application; • Council development assessment staff not involved with preparing the application will assess the DA. The staff will remain separated from the project team; • A private certifier will be engaged to undertake the certification for the development; • Council X has agreed to peer review any regulatory decisions should compliance decisions be made; and • Key project milestones following the development consent will be reported at a public Council meeting.
Contact:	Anyone with concerns about Council fulfilling its obligations should report their concerns to the Council.

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Document

History

Date	Status	Version	Resolution	Description
May 2023	Draft	0.1		Draft Conflict of Interest Management Policy for Council Related Development drafted
28 June 2023	Draft	0.2	23/142	Presented to Council for endorsement, public exhibition 28 days.
7 August 2023	Final	1.0	23/142	Conflict of Interest Management Policy for Council Related Development – no submissions received. The Conflict of Interest Management Policy for Council Related Development – adopted.
14 May 2025	Draft	1.1		Draft Conflict of Interest Management Policy for Council Related Development reviewed and updated
28 May 2025	Draft	1.2	25/147	Presented to Council for endorsement, public exhibition 42 days.
17 July 2025	Final	2.0	25/147	Conflict of Interest Management Policy for Council Related Development – no submissions received. The Conflict of Interest Management Policy for Council Related Development – adopted.

- This Conflict of Interest Management Policy for Council Related Development shall be reviewed within 12 months of an election, and thereafter at intervals of no greater than four years. Any review will ensure this Policy continues to meet all statutory requirements and the operational needs of Hilltops Council. The Policy may also be reviewed at other times as determined by Hilltops Council.
- This Policy commences on and from the date of adoption by Hilltops Council as listed in the document history and replaces all previous versions.