

# **Council Development Application - Conflict of Interest Policy 2023**

**POL161**



<b>Policy No:</b>	<b>POL161</b>
<b>Policy Title:</b>	<b>Council Development Application - Conflict of Interest Policy</b>
<b>Section Responsible:</b>	<b>Development &amp; Environment</b>
<b>Minute No/Ref:</b>	<b>23/017</b>
<b>Doc ID:</b>	<b>643794</b>

---

## **1. INTENT**

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for Council-related development.

## **2. SCOPE**

This Policy applies to all Councillors, Council employees, committee members, contractors and volunteers.

## **3. OBJECTIVE**

The objectives of this policy are to:

- ensure that development assessment recommendations are properly made, and that all parties are dealt with fairly
- avoid any occasion for suspicion of improper conduct in the exercise of development assessment functions
- ensure that no action, statement or communication to any party conveys any suggestion of willingness to improperly provide concessions or preferential or unduly unfavourable treatment.

## **4. POLICY STATEMENT**

Council is committed to ensuring that development assessment recommendations are provided to Council in a defensible, open and transparent manner where there is a conflict of interest or perceived conflict of interest in relation to the landowner, applicant or applicant's consultant.

## 5. PROVISIONS

### 5.1 Conflict of Interest

For the purposes of this policy, there is a conflict of interest or a perceived conflict of interest for development applications for which the landowner, applicant or applicant's consultant (who may represent the applicant and/or have prepared the Statement of Environmental Effects, architectural plans or other development application documentation) is:

- a. the Council
- b. a Councillor
- c. a Council staff member
- d. a member of Parliament (either the Parliament of New South Wales or Parliament of the Commonwealth)
- e. a person who was a Council staff member within the previous three years
- f. a company or other body of which a person referred to in paragraphs a. to e., or a nominee, partner or employer of the person, is a shareholder or member
- g. a relative (within the meaning of the Local Government Act 1993) of a person referred to in paragraphs a. to e.

### 5.2 Management controls and strategies

A number of developments undertaken by Council will be considered exempt under State Environmental Planning Policy (Transport and Infrastructure) 2021 or State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, however for those that require development consent, consideration to the type of management controls is considered below.

- a. The following management controls may be applied to *non-controversial small-scale development*, with no submission received during public consultation process.
  - i. The assessment of an application for Council-related development.
    - to be undertaken by Council staff.
  - ii. The determination of an application for Council-related development.
    - to be undertaken by Council staff under delegation
  - iii. The regulation and enforcement of approved Council-related development.
    - to be undertaken by Council staff under delegation, who are not directly involved with the delivery of the development.
- b. The following management controls may be applied to *controversial development*, where submission or notable community interest is received during public consultation process.
  - i. The assessment of an application for Council-related development.
    - to be undertaken by Council staff, with a peer review to be undertaken by another council or consultant.
  - ii. The determination of an application for Council-related development.

- to be undertaken by Council at a formal Council meeting.
- iii. The regulation and enforcement of approved Council-related development.
  - to be undertaken by Council staff and reporting of key milestones to the full Council.
- c. The following management controls may be applied to *development with a capital investment value of \$2 to \$5 million dollars*.
  - i. The assessment of an application for Council-related development.
    - to be undertaken consultant.
  - ii. The determination of an application for Council-related development.
    - to be undertaken by Council at a formal Council meeting.
  - iii. The regulation and enforcement of approved council-related development.
    - peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council or engagement of a private certifier.

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.

### **5.3 Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls**

- a. Development applications lodged with the Council that are Council-related developments are to be referred to the General Manager (or a delegate) for a conflict-of-interest risk assessment.
- b. The General Manager is to:
  - i. assess whether the application is one in which a potential conflict of interest exists
  - ii. identify the phase(s) of the development process at which the identified conflict of interest arises
  - iii. assess the level of risk involved at each phase of the development process
  - iv. 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 clause 5 of the policy and the outcome of the general manager's assessment of the level of risk involved as set out clause 5.3.b.iii of the Policy

*Note: The General Manager could determine that no management controls are necessary in the circumstances.*

- c. Document the proposed management approach for the proposal in a statement that is then to be published on the NSW Planning Portal.

## **6. DEFINITIONS**

### 6.1 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 Narrandera Shire 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 that is the subject of the application, where it will also be the regulatory or consent authority.
- *development process* means application, assessment, determination, and enforcement
- *the Act* means the *Environmental Planning and Assessment Act 1979*.
- *non-controversial small-scale development* means a development in which community has little or no objection or concern and could include buildings or subdivision of land which is already zoned for the specific purpose of the subdivision.
- *controversial development* means a development that has attracted negative comments or submission throughout the project planning or development exhibition period.

6.2 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.

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

## **7. ROLES AND RESPONSIBILITIES**

### **7.1 STAFF**

- Read, understand and comply with this Policy.

### **7.2 MANAGER DEVELOPMENT ENVIRONMENT & DEPUTY GENERAL MANAGER INFRASTRUCTURE**

- Provide guidance to Councillors, Executive and other Council staff as to the content and implementation of this Policy
- Ensure the timely review of this Policy
- Assist in investigations of alleged non-compliance with this Policy.

### **7.3 GENERAL MANAGER & DEPUTY GENERAL MANAGERS**

- Lead staff (either directly or through delegated authority) in their understanding of and compliance with this Policy and related documents.

## 7.4 COUNCILLORS

- Provide leadership in adhering to the requirements of this Policy.

## 8. RELATED LEGISLATION

- Environmental Planning and Assessment Act 1979
- Local Government Act 1993

## 9. RELATED POLICIES AND DOCUMENTS

- Code of Conduct
- Code of Conduct Procedures

## 10. VARIATION

Council reserves the right to review, vary or revoke this policy in accordance with legislation, regulation and award changes, where applicable. Council may also make changes to this policy and the relevant procedures from time-to-time to improve the effectiveness of its operation.

## 11. PREVIOUS VERSIONS

Reference to a superseded policy number and/or name is also considered a reference to the new policy number. This policy was previously named:

- N/A

---

### POLICY HISTORY

<b>Responsible Officer</b>	<b>Manager Development &amp; Environment</b>		
<b>Approved by</b>	<b>General Manager</b>		
<b>Approval Date</b>	<b>14 April 2023</b>		
<b>GM Signature</b> <i>(Authorised staff to insert signature)</i>			
<b>Next Review</b>	<b>1 April 2026</b>		
<b>Version Number</b>	<b>Endorsed by ELT</b>	<b>Endorsed by Council</b>	<b>Date signed by GM</b>
<b>1 Adopted</b>	-	28/02/2023	14/04/2023
<b>2 Reviewed</b>	DD/MM/YYYY	DD/MM/YYYY	DD/MM/YYYY

**NOTE: This is a controlled document. If you are reading a printed copy, please check that you have the latest version via Council's website (external) or MagiQ (internal). Printed or downloaded versions of this document are uncontrolled.**

## 12. Acknowledgement of Training Received

I hereby acknowledge that I have received, read and understood a copy of Council's Council Development Application – Conflict of Interest Policy.	
Employee Name	
Position Title	
Signature	
Date	