

Document Name	Document Version Number	Review Date
Conflicts of Interest Policy For Council Related Development	Version 1.0	As required
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17 May 2023	6441	New Policy

## Purpose

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

## Scope

This policy applies to all Council-related development applications, applications lodged by a Council senior Council staff member, Councillor or where a close family relative or a business partner of a senior Council staff member or Councillor is the applicant.

## Definitions

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** Greater Hume 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. It also includes development where the applicant is a senior council staff member or a Councillor, or where a close family relative or a business partner of a senior Council staff member or Councillor is the applicant.

**Senior council staff member means** a staff member that is a General Manager, Director, or a Manager, or a staff member routinely involved with the assessment and determination of Development Applications.

**Councillor means** a currently elected Councillor of Greater Hume Council.

**Close family relative means** spouse, partner, parent, child, sibling, mother- or father -in- law, son- or daughter-in-law or brother- or sister -in-law.

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

**The Act means** the Environmental Planning and Assessment Act 1979.

(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.

(3) Notes included in this policy do not form part of the policy.

## PART B Procedures

### Management controls and strategies

The following management controls may be applied to:

- the assessment of an application for council-related development,
- the determination of an application for council-related development, and/or
- the regulation and enforcement of approved council-related development

Where a potential conflict of interest is recognised, Council will use an external independent consultant or planning panel, to form part of the assessment and/or determination process. A management strategy statement will form part of the development application, to record the reasons for Council's decisions in relation to managing conflicts of interest.

Different controls apply for dealing with proposed developments based on the level of risk. Controls applied are based on:

- a) risk category – low, moderate, high, very high
- b) types of development – non-controversial small-scale development, development of a certain value with/without a commercial interest, controversial development, or
- c) capital investment value of the proposed development.

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

Development applications lodged with the council that are council-related development are to be referred to the general manager (or a delegate) for a conflict-of-interest risk assessment.

**Note: Council-related development is defined in definitions.**

The general manager is to:

- 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,
- d) 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 the policy and the outcome of the general manager's assessment of the level of risk involved as set out in the policy.

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

- e) document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

Please refer to the following draft sample management statement.

### Greater Hume Council Conflict of Interest Management Statement

<b>Description of the Development</b>	Forty (40) Lot Torrens Title Subdivision (residential)
<b>DA Number</b>	DA 10.2023.X.1
<b>Location (including site address and Lot/Section/Deposited Plan Number)</b>	40 AA St, Culcairn NSW 2660  Lot A Sec B DP XXX
<b>Potential conflict</b>	Greater Hume Council is the applicant and owner of the land. Once the subdivision application is approved, Council is aiming to sell individual allotment for residential purpose and expect to receive revenue through the sale.
<b>Management Strategy</b>	Greater Hume Council is managing potential conflicts of interest in this project as follows: <ul style="list-style-type: none"> <li>- Council development assessment staff will not involve with preparing or assessment of the application.</li> <li>- Key project milestones following the development consent will be reported at a public council meeting.</li> <li>- Engage a suitable qualified external town planning consultant to carry out the assessment.</li> </ul>
<b>Contact</b>	Anyone with concerns about council fulfilling its obligations should report their concerns to the council.

### Assessment and determination

An external third party (qualified external town planning consultant) can be engaged for development where council has a commercial interest in the land.

Where the applicant is a senior Council staff member or a Councillor, the general manager (or Mayor as appropriate) will determine, based on the risk assessment, if the development may be managed through an internal arrangement of separate staff assessment, peer review or if external assessment is required.

### Regulation and enforcement

Where deemed necessary by the general manager, the following controls may be considered to manage potential conflicts of interest in relation to enforcement and regulation.

- a) Engagement of a private certifier
- b) Publication of certificates issued under Part 6 of the Act on the NSW Planning Portal
- c) Reporting of key milestones to the full council.

Councils may seek input from its audit and risk committee to provide guidance for the types of controls that could be applied in specific circumstances.

## Low level risk development

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.

## Links to Policy

- Code of Conduct for Council Staff
- Code of Conduct for Council Committee Members, Delegates and Advisors
- Code of Conduct for Councillors

## Links to Procedure

In summary, prior to the assessment of a Council related DA, the General Manager or their delegate, is to undertake a conflict of interest risk assessment and determine what (if any) management controls will be implemented during the assessment, determination, regulation and enforcement of the applications based on Procedures in the draft 'Conflicts of Interest Policy For Council Related Development.'

## Links to Forms

Development Application Notification Policy and the Greater Hume Council Community Participation Plan

## References

- DPE - Council-related Development Application Conflict of Interest Guidelines;
- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022.

## Responsibility

All Council staff

## Document Author

Director Planning and Environment

## Relevant Legislation

- DPE - Council-related Development Application Conflict of Interest Guidelines;
- Environmental Planning and Assessment Act 1979;
- Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022.
- Environmental Planning and Assessment Regulation 2021.
- Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021.

## Associated Records

Nil.