



Conflicts of Interest Policy for Council-Related Development

Application	Developers and Planning Staff
Responsible Officer	Building and Regulatory Services Manager
File No	CM:POL:CWP
Authorised by	Council
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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.

Legislative requirements

The following requirements to address conflicts of interest in council related development, pursuant to the *Environmental Planning and Assessment Regulation 2021*;

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with council-related development applications will be handled (Section 66A).
- Council-related development applications must now be accompanied by either a management strategy statement, which explains how the council will manage potential conflicts of interest, or a statement that the council has no management strategy for the application (Section 30B).
- Councils must record conflicts of interest in connection with each council-related development application, and the measures taken to manage conflicts, in their existing DA register (Section 240).
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (*Environmental Planning and Assessment Act 1979*, Schedule 1, clause 9B).

Scope

This policy applies to council-related development.

Definitions

- 1) In this policy:

application means an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent

council means the Carrathool 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 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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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

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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.

Policy statements

Process for identifying and managing potential conflicts of interest

MANAGEMENT CONTROLS AND STRATEGIES

Council as applicant

- 1) The following applications submitted by/on behalf of Council are to be assessed externally and referred to the Western Regional Planning Panel for determination:
 - (a) Applications with a development cost over \$5 million.
- 2) The following applications submitted by/on behalf of Council are to be assessed externally and referred to the Council for determination:
 - (a) Applications with a development cost over \$2 million.

Note:

Where the application is for the alteration, extension and/or upgrade of existing facilities a decision with regard to the external assessment and determination of the proposal will be made following advertising/notification.

Where there are no or few submissions or where it is determined there is limited public interest and the issues raised are minor or may be adequately addressed via amendments or conditions the application may be assessed internally and under delegation.

- (b) Applications which fall outside staff delegations.

Note:

Where the application is for the alteration, extension and/or upgrade of existing facilities a decision with regard to the external assessment of the proposal will be made following advertising/notification.

Where there are no or few submissions or where it is determined there is limited public interest and the issues raised are minor or may be adequately addressed via amendments or conditions the application may be assessed internally).

- (c) Applications that are considered likely to be subject of significant community interest and/or have significant impacts (e.g. permanent markets, late opening uses etc.).

Where Council is land owner and is not the applicant

- 1) The following applications where Council is the land owner and is not the applicant are to be assessed externally and referred to the Western Regional Planning Panel for determination:



- (a) Applications with a development cost over \$5 million.
- 2) The following applications where Council is the land owner and is not the applicant are to be assessed externally and referred to the Council for determination.
 - (a) Applications with a development cost over \$2 million.
 - (b) Applications where Council is likely to gain a significant financial return, above that expected from carrying out its normal business.

Other applications

Other circumstances may arise from time to time where a conflict of interest, or perceived conflict of interest, may occur (e.g. where council has recently sold land, is in the process of purchasing land or owns adjacent land (excluding roads). In such circumstances the General Manager will determine how the application is to be assessed having regard to the above criteria.

No Management Controls

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 façade over public land (such as awnings, verandahs, bay windows, flagpoles, pipes, and services)
- (e) development where the council might receive a small fee for the use of their land
- (f) where other State bodies are the consent authority for council-related development.

IDENTIFYING WHETHER A POTENTIAL CONFLICT OF INTEREST EXISTS, ASSESSMENT OF LEVEL OF 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.

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 outcomes of the general manager's assessment of the level of risk involved as set out above (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.



Reference

This policy complements other legislation and where it is silent on matters referred to in the following legislation such matters must be followed in accordance with the legislation.

- *Environmental Planning & Assessment Act 1979*
- *Environmental Planning & Assessment Regulation 2021*
- *Carrathool Shire Council Local Environmental Plan 2012*

Revision Table

Minute /Date	Amendment Summary (Reason or Reference)
0523/16.05.2023	Creation of New Policy

Associated Documents

Nil

Review

This policy may be amended from time to time and will be reviewed within four years of its adoption (or latest amendment) with reference to any relevant legislation, best practice guides, or other factor.