

COUNCIL POLICY:	CONFLICT OF INTEREST POLICY – COUNCIL-RELATED DEVELOPMENT APPLICATIONS
Ref:	

Contact Officer	Director Civil & Environmental Services
Approval Date	22 March 2023 (RES: 2023/28)
Approval Authority	Council
Reviewed	
Date of Next Review	November 2026

## Part 1 Preliminary

### (1) Name of Policy

Conflict of Interest Policy - Council-related Development Applications.

### (2) Aim of Policy

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

### (3) Scope

This policy applies to council-related development applications.

### (4) Definitions

4.1) 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.

**Council** means Inverell 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.

4.2) 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.

4.3) Notes and appendices include in this policy do not form part of the policy.

## **Part 2 Process for identifying and managing potential conflicts of interest**

### **(5) Management Controls and Strategies**

5.1) All council-related development applications must be exhibited for a minimum of 28 days.

5.2) The following management controls may be applied to:

- a. The assessment of the application for Council-related development:
  - Assessment by a neighbouring council via a shared services arrangement
  - Assessment by a suitably qualified consultant
  - Assessment by the Northern Regional Planning Panel (by negotiation)
  - An external third-party review of Council's internal assessment
  - Assessment by a staff member(s) strictly separated from the project.
- b. The determination of an application for Council-related development:
  - Determination by a neighbouring council via a shared services arrangement
  - Determination by a suitably qualified consultant
  - Determination by the Northern Regional Planning Panel (by negotiation)
  - An external third-party review of Council's internal determination.
- c. The regulation and enforcement of approved Council-related development,
  - Peer review by neighbouring council via a shared services arrangement
  - Engagement of a private certifier and/or a consultant town planner
  - Reporting of key milestones to the full council.

5.3) 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, verandas, bay windows, flagpoles, pipes and services)
- e. Development where the Council might receive a small fee for the use of their land
- f. Non-controversial development that is compliant with relevant town planning, engineering and building regulations.

(6) Identify whether potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

- 6.1) 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 Section 4*

- 6.2) The General Manager (or a delegate) 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 Clause 5 of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out in Clause 6.2(c) of the policy.

*Note: The General Manager could determine that no management controls are necessary in this circumstance*

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

*Note: **Appendix 1** includes a checklist for a council-related development. **Appendix 2** includes a template for a statement that could be published by Councils to document its proposed management approach in a particular circumstance.*

## Appendix 1

### Checklist - Potential conflict of interest for a Council-related development application

Potential Conflict of Interest Checklist for Council-related Development Applications				
Project Name:				
Project Description:				
Location:				
Estimated Capital Investment Value:				
Potential Conflict(s):	Describe (anticipated community interest / council commercial benefit / environmental sensitives / cost / perceived council benefit)			
Development for which no management controls need to be applied (Clause 5.2)				
a) Commercial fit outs and minor changes to the building.				
b) Internal alterations or additions to buildings that are not a heritage item.				
c) Advertising sign.				
d) Minor building structures projecting from building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes and services).				
e) Development where Council might receive a small fee for the use of their land.				
f) Non- controversial development that is compliant with relevant town planning, engineering and building regulations.				
<b>NOTE:</b> Development for any of the above (a)-(f) generally do not require any management controls unless there is an obvious conflict as identified above.				
Management Controls				
			YES	NO
DA Assessment	• All council-related development applications must be exhibited for a minimum of 28 days.		✓	
	• Assessment by a neighbouring Council via a shared services arrangement.			



	<ul style="list-style-type: none"> <li>Assessment by a suitably qualified consultant.</li> </ul>		
	<ul style="list-style-type: none"> <li>Assessment by the Northern Regional Planning Panel (by negotiation).</li> </ul>		
	<ul style="list-style-type: none"> <li>An external third-party review of Council's internal assessment.</li> </ul>		
	<ul style="list-style-type: none"> <li>Assessment by a staff member(s) strictly separated from the project.</li> </ul>		
DA Determination:	<ul style="list-style-type: none"> <li>Determination by a neighbouring council via a shared services arrangement.</li> </ul>		
	<ul style="list-style-type: none"> <li>Determination by a suitably qualified consultant.</li> </ul>		
	<ul style="list-style-type: none"> <li>Determination by the Northern Regional Planning Panel (by negotiation).</li> </ul>		
	<ul style="list-style-type: none"> <li>An external third-party review of Council's internal determination.</li> </ul>		
Regulation (Post DA Determination)	<ul style="list-style-type: none"> <li>Peer review by neighbouring Council via a shared services arrangement.</li> </ul>		
	<ul style="list-style-type: none"> <li>Engagement of a private certifier and/or a consultant town planner.</li> </ul>		
	<ul style="list-style-type: none"> <li>Reporting of key milestones to the full Council.</li> </ul>		
Completed by:			
Signature:			
Date:			

## Appendix 2

### Example Management Statement

Council conflict of interest management statement	
Project name	
DA number	
Potential conflict	<i>Describe potential conflict(s) of interest</i>
Management strategy	<p>The council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> <li>Complete management strategies based on those identified within the checklist contained in <b>Appendix 1</b></li> </ul>
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the Inverell Shire Council.