

POLICY TITLE:	CONFLICT OF INTEREST POLICY FOR PROPOSED COUNCIL DEVELOPMENT AND APPLICATIONS INVOLVING COUNCIL STAFF OR COUNCILLORS	
FOLDER NUMBER:	F2007/00307	
POLICY OWNER / DIVISION:	Planning and Compliance	
POLICY OWNER / BRANCH:	Development Assessments	
FUNCTION:	Council Property & Land Development	
RELEVANT LEGISLATION:	Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Regulation 2000 Local Government Act 1993	
POLICY ADOPTION/AMENDMENT DATE:	8 February 2023	REPORT NUMBER: PC1/23
REVIEW YEAR:	2025	
AMENDMENT HISTORY:	18 February 1998 (Report No ST5/98) 21 June 2000 (Report PLN 180/00) 14 July 2004 (Report PLN 168/04) 3 May 2006 (Report PLN108/06) 17 July 2013 (Report PL69/13) 9 December 2015 (Report PL101/15) 12 September 2018 (Report PL24/18)	

Part 1: Preliminary

(1) Scope

This policy applies to council-related development and development submitted by councillors and council staff.

(2) 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 to modify a development consent. It does not include an application for a complying development certificate.

council means Hornsby 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

Note: *Council-related development applications do not include development applications which includes development on public roads managed by a council, such as driveway for a dwelling house across a footpath or other minor works.*

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.

Note: This policy does not apply to activities under Part 5 of the Act and Review of Environmental Factors (REF)

Part 2: Development Applications submitted by councillors or council staff

(3) Aim

This Part aims to manage potential conflicts of interest and increase transparency at all stages of the development process for councillor and council staff-related development to ensure:

- (1) impartial and comprehensive development assessment of development applications submitted by councillors or council staff (including any relatives); and
- (2) development applications in which councillors or council staff have a pecuniary or other interest are independently assessed, free of any influence or bias.

(4) Management controls and strategies

- (1) The management controls outlined in Clause 2 apply to development where the applicant or land owner is:
 - a) a councillor; or
 - b) a member of council staff who is principally involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979.
 - c) a member of council staff who is not involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979, however, public submissions are received by way of objection to the application.including any relatives of the above.
- (2) Development applications for specified applications under this Part shall be managed as follows:
 - a) The assessment of an application and/or modification of an application must be undertaken by an Independent Town Planning Consultant.
 - b) The application be determined by the Hornsby Local Planning Panel in accordance with the Minister for Planning's Local Planning Panel Direction – Development Applications and Applications to Modify Development Consents under Section 9.1 of the Environmental Planning and Assessment Act, 1979 (unless excluded under the Minister's Direction).

- (3) Where an application and/or modification is made by a member of council staff (including any relatives); who is not involved in the exercise of council's functions under the Environmental Planning and Assessment Act 1979 and no public submissions are received by way of objection to the application, the application may be assessed by Council staff and the Manager Development Assessments or the Director Planning and Compliance may determine the application under delegated authority.

Part 3 Development Applications submitted by council

(5) Aim

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

(6) Management controls and strategies

(1) The following management controls apply to:

- a) the assessment of an application for council-related development (Development Application)
 - The assessment of an application and/or modification of an application must be undertaken by an Independent Town Planning Consultant.
- b) the determination of an application for council-related development
 - By the Hornsby Local Planning Panel in accordance with the Minister for Planning's Local Planning Panel Direction – Development Applications and Applications to Modify Development Consents under Section 9.1 of the Environmental Planning and Assessment Act, 1979 (unless excluded under the Minister's Direction)
 - Council applications with a Capital Investment Value (CIV) of more than \$5 million are required to be determined by the Regional Planning Panel in accordance with State Environmental Planning Policy (Planning Systems) 2021.
- c) the regulation and enforcement of approved council-related development
 - By a private certifier
- d) Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process.

(2) 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); or
- e) development where the council might receive a small fee for the use of their land.

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

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

(2) 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 clause 6 of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out clause 7(2)(c) of the policy,

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

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

(8) Implementation

To be implemented by Hornsby Shire Council.

(9) Declarations of Conflicts of Interest

Where a staff member, team within Council, or a Councillor, is party to a development application as applicant and/or land owner, the person(s) must advise their supervisor of their conflict of interest and ensure that this procedure and Council's Code of Conduct are adhered to. Declarations must be made when submitting an application via the NSW Planning Portal.

(10) Review

This policy must be reviewed within one year of the election of every new Council, or earlier should circumstances arise to warrant revision.