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Conflicts of Interest Policy

Council-Related Development Applications

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1.0	MM 2023	Development Assessment and Corporate Governance	New policy principles aligning to Section 66A of the <i>Environmental Planning and Assessment Regulation 2021</i>

Contents

1. Scope.....	4
2. Purpose	4
3. Definitions	4
4. Council-Related Development	5
4.1 Background.....	5
4.2 Legislative Framework	5
5. Identifying and Managing Potential Conflicts of Interest	6
5.1 Management Controls and Strategies	6
5.2 Identifying Whether a Potential Conflict of Interest Exists, Assessment of Risk and Determination of Management Controls	8
6. Responsibilities.....	9
7. References and Legislation	9
8. Review and Endorsement.....	9
Attachment 1 – Template Management Strategy Statement.....	10

1. Scope

This Policy applies to all City of Ryde-related development.

2. Purpose

This Policy provides a framework to manage potential conflicts of interest (the scenarios referred to in this Policy are also often referred to as conflict of duties/roles) and increase transparency at all stages of the development process for council-related development.

3. Definitions

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.

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 but it does not include an application for a complying development certificate

Council means the City of Ryde

Council-related development means development for which the council is the applicant or developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land the subject of the development application

The Act means the Environmental Planning and Assessment Act 1979

Low risk council related development means a non-controversial small scale development and includes development applications for the following kinds of development:

- a) Internal alterations and additions to any building that is not a heritage item
- b) Advertising signage that complies with Council's Development Control Plan requirements
- c) Maintenance and restoration of a heritage item
- d) Minor building structures projecting from the building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services and sunshade structures

Moderate risk council related development means any development that is not defined as low risk council related development or high risk council related development

High risk council related development means development that has a capital investment value of more than \$5 million

4. Council-Related Development

4.1 Background

City of Ryde Council ('Council') is a development regulator and, in some instances, can also be a developer, landowner or hold a commercial interest in the land Council regulates.

Where these dual roles interact, a conflict can arise between Council's interests in the development and Council's duty as a development regulator.

4.2 Legislative Framework

In 2022, the *Environmental Planning and Assessment Regulation 2021* ('Regulation') was amended to assist Councils in identifying and managing conflicts of interest. The Regulation requires Council to:

- **Adopt** a policy that governs how conflicts of interest in connection with Council-related development applications will be managed (Section 66A of the Regulation),
- **Publish** a "management strategy statement" (Section 36A of the Regulation) with Council-related development applications to explain:
 - How Council will manage potential conflicts of interest or
 - That Council has no management strategy for the application.

*Note: A template Management Strategy Statement is provided in **Attachment 1**.*
- **Record** conflicts of interest in connection with each Council-related development application, and the measures taken to manage the conflicts, in the DA register (Section 242A of the Regulation) and
- **Exhibit** Council-related development applications for a minimum of 28 days to ensure transparency during the assessment process (*Environmental Planning and Assessment Act 1979* Schedule 1 Clause 9B).

5. Identifying and Managing Potential Conflicts of Interest

5.1 Management Controls and Strategies

The preparation of any development application for council related development is to be managed by the relevant asset manager within Council. Staff within the Development Assessment Department are not to be involved in the preparation of the development application.

The following table provides details of the management controls applicable to the assessment and determination of council related applications as well as the regulations and enforcement of approved council related development. The table has been divided for the different levels of risk associated with council related developments.

Type	Controls		
	Low Risk	Moderate Risk	High Risk
Assessment of an application for Council related development	The assessment of a low risk application may be undertaken by Council staff	The application is to be referred to an external planning consultant to complete the assessment and prepare a planning report. The planning consultant is to be appointed by the Manager Development Assessment. The planning consultant is to be able to demonstrate that they have similar experience in the assessment of other development applications and the preparation of reports to the Local Planning Panel.	The application is to be referred to an external planning consultant to complete the assessment and prepare the planning report. The planning consultant is to be appointed by the Manager Development Assessment. The planning consultant is to be able to demonstrate that they have similar experience in the assessment of other controversial development applications that are considered by the appropriate planning panel. Where considered appropriate by the planning consultant and the Manager Development Assessment, other experts maybe required to be engaged to assess components of the proposed development.

Type	Controls		
	Low Risk	Moderate Risk	High Risk
Determination of an application for council related development	The determination of a low risk application may be undertaken by the Manager Development Assessment under delegation. If 10 or more submissions are received, the development application must be referred to the Local Planning Panel for determination.	Moderate risk council related applications are to be determined by the Ryde Local Planning Panel in accordance with the relevant operational procedures.	The determination of high risk council related applications are to be undertaken by the relevant Sydney district planning panel as identified in the Act.
Regulation and enforcement of approved council related development	A construction certificate or subdivision works certificate may be issued by Council staff under delegation. Council staff may also be appointed as the principal certifier to carry out any inspections of the building works or subdivision works and the issuing of occupation certificates and compliance certificates. Any enforcement matters may be carried out by council staff.	An external private certifier is to be appointed to issue any construction certificate for building works or a subdivision work certificates. An external principal certifier is to be appointed to carry out any inspections of the building works or subdivision works and issue any occupation certificates or compliance certificates. Any enforcement matters or complaints during the construction process are to be initially investigated by the principal certifier	An external private certifier is to be appointed to issue any construction certificate for building works or a subdivision work certificates. An external principal certifier is to be appointed to carry out any inspections of the building works or subdivision works and issue any occupation certificates or compliance certificates. Any enforcement matters or complaints during the construction process are to be initially investigated by the principal certifier. If any complaints are considered well founded, the principal certifier is to notify the Council's project team immediately to

Type	Controls		
	Low Risk	Moderate Risk	High Risk
		who may also issue a written order.	rectify the issue. If Council fails to rectify the matter in a timely manner, the principal certifier may issue a written order.

5.2 Identifying Whether a Potential Conflict of Interest Exists, Assessment of Risk and Determination of Management Controls

Prior to the lodgement of a Council related development application, the application must be referred by the relevant asset manager to the Manager Corporate Governance for a conflict-of-interest risk assessment.

The Manager Corporate Governance, must:

- 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 management controls should be implemented (if any) to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls outlined in Section 5.1 of this Policy and the outcome of the Manager Corporate Governance assessment of the level of risk involved as set out in Section 5.2(c) of this Policy, and
- e) Document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

The Manager Corporate Governance may determine that no management controls are necessary after considering the circumstances of each Council-related development application. In this case, a management strategy statement must still accompany the Council-related development application explaining that Council has no management control for the application in accordance with Section 36A of the Regulation.

6. Responsibilities

The **Manager Corporate Governance** is responsible for:

- Undertaking a conflict-of-interest risk assessment as outlined in Section 5.2 of this Policy,
- Determining the management controls that should be implemented
- Preparation of the management strategy statement.

The **Manager, Development Assessment** is responsible for:

- Reviewing this Policy every four years to ensure it remains fit for purpose and consistent with legislation,
- Referring Council-related development applications to the Manager Corporate Governance for a conflict-of-interest risk assessment (if not already provided),
- Ensuring all Council-related development applications are accompanied with a management strategy statement, which is published on the NSW Planning Portal and City of Ryde's online DA Tracker, and
- Exhibiting Council-related development applications for a minimum of 28 days.
- Ensuring that the management strategy statement and any conflicts of interest in connection with all Council-related development applications are recorded on the DA register.

7. References and Legislation

Environmental Planning and Assessment Act 1979

Environmental Planning and Assessment Regulation 2021

Department of Planning and Environment – [Council-related Development Application Conflict of Interest Guidelines](#)

City of Ryde Code of Conduct – Standards of Conduct

8. Review and Endorsement

This Policy must be reviewed every four years and re-adopted by Council.



Attachment 1 – Template Management Strategy Statement

Council of the City of Ryde Conflict of Interest – Management Strategy Statement	
Address	
Description of Development Assessment Application	
Potential Conflict of Interest	
Management Strategy	<p>City of Ryde is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> • • • • • •
Contact	<p>If you have concerns about Council fulfilling its obligations, please report your concerns to:</p> <p>CONTACT NAME POSITION TITLE EMAIL / PHONE POSTAL ADDRESS</p>