



CONFLICT OF INTEREST COUNCIL-RELATED DEVELOPMENT POLICY

Adopted: 26th April 2023

CM: 078578.2023



Conflict of Interest Council-related Development Policy

DIRECTORATE: Planning & Compliance
BUSINESS UNIT: Development Assessment

1. INTRODUCTION

1.1. Under the provisions of the *Environmental Planning and Assessment Regulation 2021*, Council must adopt a policy that specifies how conflicts of interest in connection with Council-related development applications lodged with Liverpool City Council and within the Liverpool Local Government Area will be identified, assessed, and managed. The Policy must also comply with the Department of Planning and Environment's *Council-related Development Application Conflict of Interest Guidelines*.

2. PURPOSE

2.1. This policy aims to

- Manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development; and
- To meet the legislative requirements of *Section 66A Environmental Planning and Assessment Regulation 2021*.

3. SCOPE

3.1. This Policy applies to council-related development.

4. DEFINITIONS

4.1. A word or expression in this policy has the same meaning as it has in the *Environmental Planning & Assessment Act 1979* (the Act), and any instruments made under the Act, unless it is otherwise defined in this Policy.

4.2. In this policy-

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

4.2.2. **Development 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.

4.2.3. **Council** means Liverpool City Council.

4.2.4. Council-related development means a development application, for which a council is the consent authority, that is—

- made by or on behalf of the council, or
- for development on land other than a public road within the meaning of the *Local Government Act 1993*-
 - of which the council is an owner, a lessee, or a licensee, or
 - otherwise vested in or under the control of the council.

Note: Land vested in or under the control of Council includes public land within the meaning of the *Local Government Act 1993*.

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

4.2.6. DA means development application.

4.2.7. LGA means Local Government Area.

4.2.8. LPP means Local Planning Panel.

4.2.9. SWCPP means Sydney Western City Planning Panel.

5. POLICY STATEMENT

5.1. Liverpool City Council is the development regulator within the Liverpool Local Government Area. However, Liverpool City Council can also be the developer, landowner, or hold a commercial interest in the land they regulate. Where Liverpool City Council has this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

5.2. Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows Council to strengthen their relationship with communities and build and enhance trust.

6. POLICY

Council's policy specifies how conflicts of interest in connection with Council-related development applications will be identified, assessed, and managed.

6.1. Management Controls & Strategies

Management controls and strategies are identified and applied to all Council-related development applications.

6.1.1. Strategy

Council has determined to adhere to a low-risk strategy for managing Council-related development applications. Council is to outsource the assessment of Council-related development applications as per the management controls tabled under section 6.1.2 of this policy and refer them to the LPP or alternatively the SWCPP for determination.

Pursuant to the *Local Planning Panels Direction – Development Applications to Modify Development Consents*, and the *Instruction on Functions Exercisable by Council on behalf of Sydney District or Regional Planning Panels – Applications to Modify Development Consents*, the following development applications are not referred to the LPP or SWCPP for determination, and are delegated to Council’s Director Planning & Compliance, or their delegate, to determine:

- internal alterations and additions to any building that is not a heritage item;
- advertising signage;
- maintenance and restoration of a heritage item;
- minor building structures projecting from a building over public land (such as awnings, verandahs, bay windows, flagpoles, pipes and services, and sun shading devices); or
Section 4.55 (1) and (1A) applications as defined by the *Environmental Planning and Assessment Act 1979*, that are not required to be referred to the Liverpool LPP or SWCPP for determination.

6.1.2. Management Controls

The following table identifies types of management controls that apply for the assessment and determination stages of a Council-related development application where the need for controls is identified.

Development Application	Assessment	Determining Body
Minor/Standard DA <ul style="list-style-type: none"> • Development that is small-scale, routine, or non- controversial 	External town planning consultant	Liverpool Local Planning Panel, or otherwise delegated by the panel to Council staff
Major DA <ul style="list-style-type: none"> • Large scale, significant or controversial • Regionally significant development 	External town planning consultant	Sydney Western City Planning Panel

6.1.3. No Management Controls

In certain circumstances, Council may determine the risks associated with a Council-related development application are sufficiently low and no specific controls are required. No management controls need to be applied to development applications listed as excluded development within section 6.1.1 of this policy.

To ensure transparency a statement confirming no management controls are required must still accompany these applications upon lodgment and publishing to the NSW Planning Portal.

6.1.4. Documentation

A *Conflict of Interest Management Strategy Statement* which explains how Council will manage potential conflicts of interest is required for all council-related development applications. The statement must reflect the terms and requirements of this policy.

The statement is to accompany the application at time of lodgment to the NSW Planning Portal and is to be published with the application.

6.1.5. Public Exhibition

Council-related development applications must be exhibited for a minimum of twenty-eight (28) days to ensure transparency during the assessment process.

6.1.6. Records Management

Council must record conflicts of interest in connection with each council-related development application, and the measures taken to manage the conflicts, in their existing DA register.

6.2. Conflict of Interest Risk Assessment

6.2.1. Prior to lodgment of a council-related development application, the proposal is to be referred to the Director Planning & Compliance, or their delegate, to undertake a conflict-of-interest risk assessment.

6.2.2. In reviewing the development application, the Director Planning & Compliance, or their delegate, will:

- assess whether the application is one in which a conflict of interest applies;
- identify the phase(s) of the development process at which the identified conflict of interest arises;
- assess the level of risk involved at each phase of the development process;
- determine what (if any) management controls should be implemented to address the identified conflict of interest;
Note: The Director Planning & Compliance, or their delegate could determine no management controls are necessary; and
- prepare the *Conflict of Interest Management Strategy Statement*, and issue to the Chief Executive Officer to endorse.
- *The endorsed statement will be forward Council's Coordinator Governance to register.*

7. RELEVANT LEGISLATIVE REQUIREMENTS

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2021
Local Government Act 1993

8. RELATED POLICIES & PROCEDURE REFERENCES

Department of Planning & Environment: Council-related Development Application
Conflict of Interest Guidelines
Local Planning Panels Direction – Development Applications and Applications to
Modify Development Consent Instruction on Functions Exercisable by Council on
behalf of Sydney District or Regional Planning Panels – Applications to Modify
Development Consents

AUTHORISED BY

Council Resolution

EFFECTIVE FROM

This date is the date the policy is adopted by Council resolution.

REVIEW DATE

April 2025

This policy must be reviewed every two years or as legislation is updated.

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1.0	Manager Development Assessment	New policy due to legislation changes	April 2023	078578.2023

THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

Development Assessment (Planning & Compliance)
Compliance and Standards (Planning & Compliance)
Governance (Corporate Support)