



POLICY NO.	CPPD1
POLICY TITLE	Managing Conflicts of Interest for Council Related Development Policy
STATUS	Council
SERVICE	Planning and Development
DOCUMENT ID	646241

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.

SCOPE

This policy applies to Council-related development and development submitted by Councillors and Council Staff.

DEFINITIONS

Application	Application means an application for consent under Part 4 of the Act to carry out development. This includes an application for a complying development certificate and an application to modify a development consent.
Council	Council means Hunters Hill Council.
Council-related development	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. <i>Note: Council-related development applications do not include development applications which includes development on public roads managed by Council, such as driveway for a dwelling house across a footpath or other minor works.</i>
Development process	Development process means application, assessment, determination, and enforcement.
The Act	The Act means the <i>Environmental Planning and Assessment Act 1979</i> .

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.

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)

POLICY STATEMENT

PART A: DEVELOPMENT APPLICATIONS SUBMITTED BY COUNCILLORS OR COUNCIL STAFF

1. 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:

1.1 Impartial and comprehensive development assessment of development applications submitted by Councillors; or Council Staff; or relatives of Councillors or Staff; and

1.2 Development applications in which Councillors or Council Staff have a pecuniary or other interest are independently assessed, free of any influence or bias.

2. MANAGEMENT CONTROLS AND STRATEGIES

2.1 The management controls outlined in Clause 2.2 apply to development where the applicant or land owner is:

a) a Councillor (or their relative); or

b) a member of Council Staff (or their relative) 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.

2.2 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 Hunters Hill 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).

2.3 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 Director of Town Planning may determine the application under delegated authority.

PART B: DEVELOPMENT APPLICATIONS SUBMITTED BY COUNCIL

1. Aim

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

2. MANAGEMENT CONTROLS AND STRATEGIES

2.1 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 Hunters Hill 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.

2.2 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.

3. IDENTIFYING WHETHER A POTENTIAL CONFLICT OF INTEREST EXISTS, ASSESSMENT OF LEVEL RISK AND DETERMINATION OF APPROPRIATE MANAGEMENT CONTROLS

3.1 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.

3.2 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; and

- 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 2 of the policy and the outcome of the General Manager’s assessment of the level of risk involved as set out clause 3(2)(c) of the policy; and

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.

4. DECLARATIONS OF CONFLICT 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.

RELATED POLICIES/PROCEDURES

CPFM1 - Related Party Disclosures Policy
GOV Pol.15 - Enterprise Risk Management Policy
CPFM3 - Procurement and Contract Management Policy
CORP.S.21 - Access to Information and Access to Information held by Council
CORP.S.6 - Code of Administrative Good Conduct
615201 – Hunter’s Hill Council Code of Conduct
CPCG3 - Procedures for the Administration of the Model Code of Conduct Policy
CORP.S15 – Conflict of Interest Policy
CORP.S.1 – Council Charter
CPPB1 - Policy for Disposal of Council Land 378395 - Fraud and Corruption Prevention Plan
378397 - Fraud and Corruption Prevention Guidelines
CORP.S.24 - Fraud Prevention and Control Policy CPFM2 - Investment Policy CORP.S.17 - Internal Reporting

POLICY AUTHORITY

The Policy Authority is the General Manager.

GETTING HELP

Assistance in the interpretation and implementation of this policy can be obtained from the Director of Town Planning.

REVIEW

This policy is to be reviewed every four years or with any material changes to relevant legislation, Office of Local Government Guidelines, Council policies or organisational structure.

Next scheduled review date is: April 2027

ADOPTED BY COUNCIL/EXECUTIVE:

DATE: 24 April 2023
RESOLUTION NO: 065/23

VERSION CONTROL TABLE

DATE	VERSION	RES. NO.	KEY CHANGES	AUTHOR
24 April 2023	1.0	065/23	Nil - First Revision	K Metcalfe