

COUNCIL POLICY

**Policy Name**

Council Related Development Applications Conflict of Interest

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

Dates	Policy or amendment approved	15 Mar 2023
	Policy or amendment takes effect	17 Apr 2023
	Policy is due for review (up to 4 years)	15 Mar 2027
Endorsed by	Council	
Approved by	Gunnedah Shire Council at its Ordinary Meeting held on 15 Mar 2023 Resolution number: 12.03/23	
Policy Custodian	Director Planning and Environmental Services	
Relevant to	All Council owned land and applications by or applications on behalf of Council	
Superseded Policies	N/A	
Related documents	Nil	
Related legislation	Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Regulation 2021 Local Government Act 1993 Building and Development Certifiers Act 2018	

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1. Purpose

- 1.1 This Policy outlines the process by which development applications are to be assessed for **Council-related development applications**.
- 1.2 The objective of this Policy is to increase transparency at all stages of the development process and provide guidelines to manage a conflict of interest when dealing with Council-related development applications or applications lodged by Council officers or an elected member of the Council, and to establish principles for action where a potential conflict of interest arises.

2. Scope

- 2.1 This Policy applies to council-related development; and
- 2.2 The lodgement of a Development Application, Construction Certificate, Complying Development Certificate and/or Occupation Certificate; and
- 2.2 Clearly establishes the minimum public exhibition period for Council-related development applications.

3. Definitions

- 3.1 **CIV** means Capital Investment Value

Compliance Certificate means a certificate issued by a Certifying Authority under Part 6 of the *Environmental Planning and Assessment Act 1979*.

Complying Development Certificate means an application for consent made under Division 4.5 of the *Environmental Planning and Assessment Act 1979*.

Construction Certificate means a certificate issued by a Certifying Authority under Part 6 of the *Environmental Planning and Assessment Act 1979*.

Council-related development application means development for which 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.

Council means Gunnedah Shire Council.

Development Application means an application for consent under Part 4 of the *Environmental Planning and Assessment Act 1979* to carryout development and includes an application for a Complying Development Certificate and an application to modify a development consent.

Occupation Certificate means a certificate issued by a Certifying Authority under Part 6 of the *Environmental Planning and Assessment Act 1979*.

Principle Certifier someone who under takes certification work under the meaning of the *Building and Development Certifiers Act 2018*.

Subdivision Certificate means a certificate issued by a Certifying Authority under Part 6 of the *Environmental Planning and Assessment Act 1979*.

Subdivision Works Certificate means a certificate issued by a Certifying Authority under Part 6 of the *Environmental Planning and Assessment Act 1979*.

4. Policy Principles

- 4.1 Councils are development regulators, but they also can be the developer, landowner or hold a commercial interest in the land they regulate. Where councils have this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator.

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

5. Policy Statement

- 5.1 This Policy applies to development applications under Part 4 of the *Environmental Planning and Assessment Act 1979* relating to Council owned land, land in which Council has a vested interest and land Council manages, where the application is lodged by or on behalf of Council. The Policy does not apply to development applications for temporary uses or ancillary works within roads associated with an adjoining development.

- 5.2 Application Documentation and lodgement

Where Council is the consent authority for a Council-related development application, the application is not to be prepared or submitted to the NSW Planning Portal by Council’s Planning and Development Team. Applications are permitted to be prepared by Council officers within other departments or directorates or an external consultant.

- 5.3 Development Assessment and Determination

Procedures involved with the assessment of a development application to which this Policy applies must be undertaken in accordance with the method relating to the specific type of development in the following table.

Type of Development	Assessment and Determination
Minor Developments: <ul style="list-style-type: none">• Development with a CIV of less than \$1,000,000 and where <u>no</u> public	<ul style="list-style-type: none">○ Assessment by Council officer not involved in the preparation of any document submitted with the Development Application.○ Applications to be Determined:<ul style="list-style-type: none">• Under Delegated Authority; or

<p>submissions have been received.</p>	<ul style="list-style-type: none"> • By Council Resolution
<p>Minor Developments:</p> <ul style="list-style-type: none"> • Developments with a CIV of less than \$1,000,000 where public submissions <u>have</u> been received. <p>Major Developments:</p> <ul style="list-style-type: none"> • Development with a CIV of \$1,000,000 or more; or • Integrated Development; or • Designated Development. 	<ul style="list-style-type: none"> ○ Assessment by Council officer not involved in the preparation of any document submitted with the Development Application. ○ The assessment of a Development Application receiving a public submission is to be peer reviewed or undertaken by an independent planning professional (for example, planning staff from another Council or practicing planning professional) ○ Applications to be Determined: <ul style="list-style-type: none"> • By Council Resolution; or • By the Regional Planning Panel in the circumstances of regionally significant development identified under Schedule 6 of <i>State Environmental Planning Policy (Planning Systems) 2021</i>.

Nothing within this Policy prohibits Council from seeking an independent planning professional from undertaking the assessment or peer review of a prepared assessment report for a development identified by senior Council officers as requiring further transparency or independent review.

5.4 Regulation and enforcement of council-related development

The regulation and enforcement of approved council-related development may be undertaken by:

- a) A private certifier; or
- b) Council, under delegation for building and subdivision work where Council is nominated as the Certifying Authority or required to by the *Environmental Planning and Assessment Act 1979* or *Building and Development Certifiers Act 2018*; or
- c) Council staff under delegation in accordance with Council’s compliance policy ensuring separation of regulation/enforcement activities and project management; or
- d) Engagement of an independent third party.

6. Accountability, roles and responsibility

6.1 Policy Custodian

Director Planning and Environmental Services

6.2 Responsible Officer

Manager Development Assessment

7. Acknowledgements

- 7.1 The following acknowledgments are made recognising organisations or documents that have provided a basis, instructive comment or templates that have been used to develop Council' Policy on Council Development Applications:
- a) Department of Planning and Environment, 'Council-related Development Application Conflict of Interest Guidelines;
 - b) Tweed Shire Council, 'Draft Managing Conflicts of Interest for Council related development, Version 1';

8. Version Control and change history

Date	Version	Approved by & Resolution No.	Amendment
15 Mar 2023	1	Ordinary Meeting 15 Mar 2023 Resolution 12.03/23	