

Ku-ring-gai Council

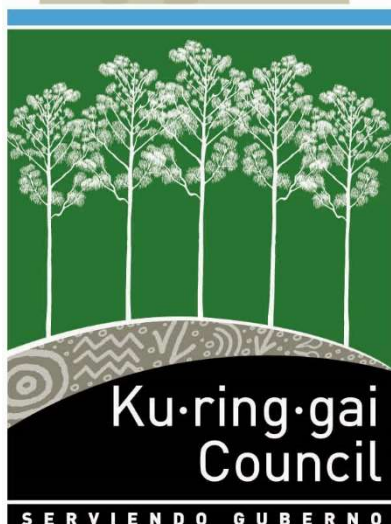
# Policy

## Managing Conflicts of Interest for Council-related development

Version Number 1

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# Managing Conflicts of Interest for Council-related development

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## Controlled Document Information

### Authorisation Details

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### Related Document Information, Standards & References

<b>Related Legislation:</b>	Environmental Planning and Assessment Act, 1979 Environmental Planning and Assessment Regulation 2021	Schedule 1, Clause 9B Section 36A Section 66A Section 242A
<b>Related Policies (Council &amp; Internal)</b>	- Code of conduct - Compliance Policy	
<b>Related Documents - Procedures, Guidelines, Forms, WHS Modules/PCD's, Risk Assessments, Work Method Statements, etc</b>	- Council related Development Application conflict of Interest Guidelines prepared by the Department of Planning and Environment August 2022	
<b>Other References</b>		

## Version History

Version Number	Version Start Date	Version End Date	Author	Details and Comments
1	1 April 2023	TBC	Shaun Garland	First version based off the DPE's sample policy for managing conflicts of interest for council-related development – August 2022. 31 March 2023 – Document adopted by GMD50.

## Part 1 Policy

### (1) Name of policy

Conflicts of Interest Policy – dealing with Council related development throughout the development process.

### (2) Aim of policy

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

### (3) Scope

This Policy applies to Council related development.

### (4) 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 Ku-ring-gai 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.

**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.

## Part 2 Process for identifying and managing potential conflicts of interest

### (5) Management controls and strategies

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

(1) The following management controls may be applied to:

- a. the assessment of an application for Council-related development
  - *the application is to be assessed by an independent planning consultant or*
  - *Council development assessment staff not involved in preparing the application will assess the application. The staff will remain separated from the project team*

- b. the determination of an application for Council-related development
  - *the application be referred to the Ku ring gai Local Planning Panel for determination or*
  - *the Team Leader, Manager Development Assessment Services or Director of Development and Regulation, who were not involved in the preparation of the application and who remained separated from the project team will determine the application*
- c. the regulation of approved council-related development
  - *a private certifier will be engaged to undertake the certification for the development.*

(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)*
- e. *development where the Council might receive a small fee for the use of their land.*

## **(6) 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 their delegate for a conflict-of-interest risk assessment.

*Note: Council-related development is defined in section 4.*

(2) The General Manager or their delegate 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 5 of this Policy and the outcome of the general manager's assessment of the level of risk involved as set out Clause 6(2)(c) of the policy,  
*Note: The general manager could determine that no management controls are necessary in the circumstances.*
- e. document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

*Note: The following is an example of a Management Statement for Council.*

*Example of a Management Statement*

<i>Council conflict of interest management statement</i>	
Project name	#
DA number	#
Potential conflict	#
Management strategy	The council is managing potential conflicts of interest in this matter as follows: <ul style="list-style-type: none"> <li>• #</li> </ul>
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the Council.

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

\* Notes included in this policy do not form part of the policy.