

Gwydir Shire Council

Conflicts of Interest Policy

- dealing with Council
related development
throughout the
development process

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Document data

Department	Planning & Building
Responsible Manager	Planning & Environment Team Leader
Date Adopted	30 March 2023
File reference	23/7381
Version no	2
Next Review	15 March 2026

Revision record

Date	Version	Revision details	Officer	Next Review
1/3/2023	1	Document Created	Planning & Environment Team Leader	2026
30/3/2023	2	Adopted at Council Ordinary Meeting	General Manager	2026

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

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.

Scope

This policy applies to council related or initiated development whether lodged by Council or a consultant acting on Council's behalf.

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 Gwydir Shire 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.

Process for Identifying and managing potential conflicts of interest

Management controls and strategies

1. The following management controls may be applied to:

a) the **assessment** of an application for council related development

- *Staff involved in assessment not to be involved in preparing the application.*

- *Risk assessment to determine risk category – low, moderate, high, very high.*
- *Consideration of the type of development – including but not limited to: scale, value, commercial interest, controversy.*
- *An application categorised as very high will be, where practicable, assessed by either:*
 - a) *a consultant engaged by council,*
 - b) *another council,*
 - c) *local planning panel.*

b) the **determination** of an application for council-related development

- *Applications categorised as Very high will be determined by a report to the Council to be determined at the Council meeting where practicable.*

c) the **regulation and enforcement** of approved council related development

- *A register will be kept of all council related development that include ongoing development consent elements and compliance to be reported on annually.*
- *Publication of certificates issued under Part 6 of the Act on the NSW Planning Portal*
- *Regulation and enforcement in accordance with the Council's Enforcement Policy*
- *Outcomes of Regulatory and Enforcement actions of council related development to be included in monthly reports to council meetings.*

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.

Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

1. Development applications lodged with the council that are council related development are to be referred to the general manager (or a delegate) for a conflict of interest risk assessment.

Note: Council-related development is defined under **Definitions** page 3.

2. The general manager (or a 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 the 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.

Legislative References

Environmental Planning and Assessment Act 1979