



7. PLANNING

Policy 7.6

Development Applications by Councillors And Staff (including immediate relatives), Or On Council Owned Land & Conflicts of Interest

Version 6

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7.6 DEVELOPMENT APPLICATIONS BY COUNCILLORS AND STAFF (INCLUDING IMMEDIATE RELATIVES) OR ON COUNCIL OWNED LAND & CONFLICTS OF INTEREST

OBJECTIVE:

To provide a transparent protocol for the determination of development applications lodged by councillors, staff and relatives thereof or development applications for development on Council owned land including dealing with council-related development throughout the development process.

DEFINITIONS:

In this policy:

executive staff includes the General Manager and any Director / Executive Manager that reports directly to the General Manager.

immediate family is a spouse, de facto partner, child, parent, grandparent, grandchild or sibling of an employee, or a child, parent, grandparent, grandchild or sibling of an employee's spouse or de facto partner.

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 Lithgow City 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.

POLICY:

1. That, subject to the exemptions in Part 2 of this Policy, the following development applications shall be referred to Council for consideration and determination:

- a. Any development application lodged where the applicant is a Councillor or a member of Council's Executive staff or immediate family thereof
 - b. Where a Councillor or member of Executive staff, or their immediate family, is the owner of the land to which the application relates.
 - c. Where the development application is on Council owned land
 - d. Where the application is on Crown land managed by Council
 - e. Any application that proposes to dedicate land or an asset to Council if the recommendation is for approval of that application.
2. Staff members, other than Executive staff, who otherwise hold delegated authority to determine development applications, may not determine an application involving land owned (or submitted) by them or their immediate family.

In such cases the application must be determined by referring to a supervising delegated officer or the General Manager or if the application has been called in, the Council.

3. 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

For developments with a Capital Investment Value (CIV) of greater than \$5M, the assessment is to be peer reviewed, or conducted, by an independent town planning consultant, or by a neighbouring council.

- b. the determination of an application for council-related development

Council, but subject to the control at a. above. Recommendations for refusal to be determined by another council.

- c. the regulation and enforcement of approved council-related development

By Council staff, however any disputes are to be resolved subject to legal advice. The independent legal opinion is to be adhered to, or engage a private certifier, as relevant.

(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
- 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.
- f. Capital Investment Value (CIV) of less than \$2M

4. 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 above.

(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,
- 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 3. of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out clause 4.(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.

5. This policy does not apply to applications for the modification of development consent unless the modification represents a significant departure from the original application. However, staff cannot assess or

- determine modification applications involving their development; their land; or development or land involving their immediate family.
6. Development Applications captured by this policy are required to be exhibited for a period in accordance with the Act (& Regulation).

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