

Council-Related Development Application Policy



1.0 Purpose

The Council-Related Development Application Policy (Policy) aims to manage potential conflicts of interest and increase openness and transparency at all stages of the development process for council-related development by Canterbury- Bankstown Council (Council).

2.0 Scope

This Policy applies to all council-related development.

3.0 Terms and Definitions

In this Policy the terms below have the following meanings:

Term	Definition
Application	An application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> (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-related development application	A development application for which the Council is the consent authority (whether lodged by or on behalf of Council) or the landowner, lessee, licensee, or has a commercial interest in the land that is the subject of the application.
Development process	Application, assessment, determination, and enforcement.

4.0 Policy Statement

This Policy relates to the Leading and Engaged destination of *CBCity 2036 Community Strategic Plan*.

Council is committed to a development process that is open and transparent, accountable and compliant with its legal obligations.

Council supports good governance practices that allows it to strengthen its relationship with communities, as well as build and enhance public trust.

This Policy has been prepared in accordance with NSW Government's "Council related Development Application Conflict of Interest Guidelines" and *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022*.

5.0 Policy Criteria

The following criteria capture Council's approach to the management of potential conflicts of interest specific to council-related development applications only under the *Environmental Planning and Assessment Act (EPA Act) 1979* (NSW):



Identifying and managing potential conflicts of interest

5.1 Management controls and strategies

5.1.1 Management Strategy – controls for assessment and determination for Council related development applications.

Any application for Council related development, will be assessed within the requirements of the *EPA Act 1979*, the *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* and this Policy. Development applications and applications to modify a development consent will be exhibited for 28 days in accordance with Council's Community Participation Plan and the *EPA Act 1979*.

The following management controls will be applied to the assessment and determination of an application for Council-related development.

Identify the conflict of interest risk category based on the type of proposed development.

(a) If the type of application is for the following purposes:

- (1) Commercial fit outs and minor changes to the building façade;
- (2) Internal alterations or additions to buildings that are not a heritage item;
- (3) Advertising signage;
- (4) Minor building structures projecting from a building facade over public land (such as awnings, verandahs, bay windows, flagpoles, pipes, and services); or
- (5) Development where the council might receive a small fee for the use of their land,

(subject to any further Local Planning Panel (LPP) referral criteria arising during the notification period or at any other time during the assessment period), then Council staff undertake the assessment and determination of the application in accordance with Council's adopted delegations. Any recommendation by the assessing officer is to be reviewed by the Coordinator Planning, Manager Development and Director Planning.

(b) If the application is required to be reported to the LPP in accordance with the "*Local Planning Panels Direction – Development Applications and Applications to modify Development Consents*", then Council staff may undertake the assessment of the application and engage an external consultant to conduct an independent peer review for inclusion in the report to the LPP.

(c) As per Clause 3 of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021*, Council related development applications with a capital investment value over \$5 million must be reported to the Sydney South Planning Panel (SSPP) for determination. In these circumstances, Council will engage an independent external consultant to undertake the assessment of the application. This application will then be submitted to the SSPP for determination.

5.1.2 Management Strategy – controls for regulation for Council related development applications

- (a) If the application falls within the scope identified at 5.1.1(a), then Council staff may undertake the certification function of the proposed development.
- (b) If the application falls within the scope identified at 5.1.1(b) to (c) above, then Council will not undertake the certification function of the development. The person having the benefit of the consent would need to seek the services of a private certifier.



5.1.3 Management Strategy – controls for investigation and enforcement for Council related development applications

- (a) If the application falls within the scope identified at 5.1.1(a), then Council staff will undertake the investigation and enforcement functions for Council related development in accordance with the EPA Act and the *Local Government Act 1993*.
- (b) If the application falls within the scope identified at 5.1.1(b) to (c) above, then Council will not undertake the investigation and enforcement function of the development and will seek advice from Council's Internal Auditor and / or General Counsel.

5.2 Conflict of interest risk assessment

Council-related development applications lodged with Council are to be referred to the Director Planning (or a delegate) for a conflict-of-interest risk assessment. The Director Planning could determine that no management controls are necessary in the circumstances. Alternatively, the Director Planning may seek guidance from Council's Audit, Risk and Improvement Committee (ARIC) on the types of controls that could be applied in certain circumstances. The following is to occur:

- (a) The Director Planning will document the proposed management approach for the proposal in a conflict-of-interest management statement that is published on the NSW Planning Portal.
- (b) Council will record conflicts of interest in connection with each Council related development application and the measures taken to manage the conflicts in Council's Development Application register.
- (c) Reporting to Council on a quarterly basis on key milestones specific to Council-related development applications.

6.0 Approval and Review

6.1 Policy Owner

Manager Development

6.2 Authorisation

Adopted by Canterbury-Bankstown Council on [DD/MM/YYYY]. (Only indicate the original adoption date)

7.0 Related Documents

7.1 Laws and Standards

- *Environmental Planning and Assessment Act 1979* (NSW)
- *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022* (NSW)
- *Environmental Planning and Assessment Regulation 2021* (NSW)
- *Local Government Act 1993* (NSW)
- *State Environmental Planning Policy (Planning Systems) 2021* (NSW)



7.2 Policies and Procedures

- Code of Conduct
- 'Council-related Development Application Conflict of Interest Guidelines' NSW Government
- Delegation Register
- Local Planning Panels Direction – Development Applications and Applications to modify Development Consents
- Public Interests Disclosure Policy

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