

# City Related Development Applications – Conflict of Interest Policy

## 1 Purpose

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

## 2 Policy

This policy applies to City-related development.

## 3 Definitions

**Application:** Means an application for consent under Part 4 of the Act to carry out development and includes an application for a complying development certificate and an application to modify a development consent.

**City:** Means City of Coffs Harbour.

**City-related development:** Means development for which the City is the applicant developer (whether lodged by or on behalf of the City), 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*.

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.

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

## 4 Management controls and strategies

- (1) The following management controls (but not limited to) may be applied:
  - a) The assessment of an application for City-related development may be undertaken by an external party, with the exception of applications for development identified in section 2.1 of the Development Applications Consideration by Council Policy.
  - b) The determination of an application for City-related development is Council, in accordance with the Development Applications Consideration by Council Policy, or another consent authority as required by planning legislation and regulations.
  - c) The regulation and enforcement of approved City-related development is dependent on the regulation and enforcement activity required, and may be undertaken by:
    - (i) A private certifier; or
    - (ii) The City, under delegation for building and subdivision work, where the City is nominated as the Principal Certifying Authority or required to by the Act; or
    - (iii) City staff under delegation in accordance with Council's compliance policy, ensuring separation of regulation/enforcement activities and project management; or

(iv) Engagement of an independent third party.

- (2) The management strategy for the following kinds of City-related development is that no management controls need to be applied for:
- Community use <\$1,000,000.
  - Internal alterations and additions to any building that is not a heritage item.
  - Advertising signage.
  - Maintenance and restoration of a heritage site.
  - Minor building structures projecting from the building façade over public land (such as awnings, verandahs, bay windows, flagpoles, pipes and services, and sun shading devices).
  - Development where the City might receive a small fee for the use of the land.

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

- (1) Development applications lodged with the City, that are City-related development, are to be referred to the General Manager (or delegate) for a conflict-of-interest risk assessment.

*Note: City-related development is defined in section 3.*

- (2) The General Manager is to:
- Assess whether the application is one in which a potential conflict of interest exists,
  - Identify the phase(s) of the development process at which the identified conflict of interest arises,
  - Assess the level of risk involved at each phase of the development process,
  - 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 section 4 of this Policy and the outcome of this assessment of the level of risk involved as set out in section 5(2)c) of this Policy.

*Note: The General Manager could determine that no management controls are necessary in the circumstances.*

- Document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.

*Note: The appendix is an example of a statement that could be published by the City to document its proposed management approach in a particular circumstance.*

## 6 Key Responsibilities

Position	Directorate	Responsibility
Mayor	Council	To lead councillors in their understanding of, and compliance with, this policy and guidelines.
General Manager	Executive	To lead staff, (either directly or through delegated authority) in their understanding of, and compliance with, this policy and any related procedures. To approve resources to develop, implement and review this policy.
Directors	All Directorates	To communicate, implement and comply with this policy and any related procedures.

Position	Directorate	Responsibility
People Leaders	All Directorates	To communicate, implement and comply with this policy and any related procedures. To lead staff in their understanding of, and compliance with, this policy.
All City Staff	City	To comply with this policy and any related procedures.

## 7 References (laws, standards and other Council documents)

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

## 8 Details of Approval and revision

- **Approval date:** 23/03/2023
- **Responsible Group:** Sustainable Places Group
- **Responsible Section:** Development Assessment
- **Superseded policies/procedures:** N/A
- **Next review date:** 28/08/2025

### Table of amendments

Amendment	Authoriser	Approval ref	Date

## 9 Appendices - Management Strategy Statement Example

Conflict of interest management statement	
<b>Project name</b>	Blue River Civic Place
<b>DA number</b>	DA50/xxxiv
<b>Potential conflict</b>	BlueStar Council is the applicant, Blue River Civic Place has estimated capital investment of \$5.1 million and the council expects to receive revenue through renting commercial office spaces.
<b>Management strategy</b>	<p>The Council is managing potential conflicts of interests in this matter as follows:</p> <ul style="list-style-type: none"> <li>• The application will be referred to the regional planning panel to determine the development application.</li> <li>• Council development assessment staff not involved with preparing the application will assess the DA. The staff will remain separated from the project team.</li> <li>• A private certifier will be engaged to undertake the certification for the development.</li> <li>• Key project milestones following the development consent will be reported at a public council meeting.</li> </ul>
<b>Contact</b>	Anyone with concerns about council fulfilling its obligations should report their concerns to the council.