

**CLAUSE 6 – COUNCIL RELATED DEVELOPMENT APPLICATIONS  
CONFLICT OF INTEREST POLICY**

**FILE: P5-110**

**AOP REFERENCE:**

**ATTACHMENT: YES**

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**Purpose**

To consider a draft Policy for public exhibition.

**Background**

In response to concerns identified by the NSW Ombudsman in its report – *An inherent conflict of interest: councils as a developer and regulator* (December 2020) – changes have been made to the *Environmental Planning and Assessment Act 1979* and *Regulation 2021*. The changes take effect from 3 April 2023.

Council is required to adopt a Conflict of Interest Policy for Council-related Development Applications.

**Issues**

Council-related development applications are applications (for which council is the consent authority) that are:

- a) made by or on behalf of the council, or
- b) for development on land, other than a public road within the meaning of the *Local Government Act 1993*.
  - i. of which council is the owner, a lessee or a licensee, or
  - ii. otherwise vested in or under the control of the council.

Section 30B of the Regulation states that a council-related development application must be accompanied by either:

- a) a statement specifying how the local council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority (a management strategy) or
- b) a statement that the council has no management strategy for the application.

A council-related development application cannot be determined unless:

- a) the council has adopted a conflict of interest policy and
- b) the council considers the policy in determining the application.

A conflict of interest policy means a policy that:

- a) specifies how a council will manage conflicts of interest that may arise in connections with council-related development applications because the council is the consent authority, and
- b) complies with the *Council-related Development Application Conflict of Interest Guidelines* published by the Department of Planning and available on the NSW Planning Portal as in force from time to time.

The draft policy has been prepared to comply with the guidelines.

It is proposed to publicly exhibit the draft conflict of interest policy for twenty eight (28) days and prepare a report to either the April or May 2023 Ordinary Meeting of Council.

For the purposes of section 2.22 of the Act, clause 9B (1) of Schedule 1 of the Regulation specifies that the minimum public exhibition period for a Council-related development application is twenty eight (28) days.

As at the 20 March 2023 there are no Council-related development applications requiring assessment and determination. Therefore, particularly if a policy is adopted in April 2023, the proposed process for exhibiting and adopting a required conflict of interest policy will not impact assessment timeframes for future council-related development applications.

### **RECOMMENDATION**

- 1) That the draft Conflict of Interest Policy for Council-related Development Applications be placed on public exhibition for a period of twenty eight (28) days and a further report be presented to Council.**
- 2) That voting on this matter be recorded on the basis of an automatic division as required by legislation.**