

<b>Name of policy:</b>	<b>Dealing with Council - Related Development Policy</b>		
<b>Adoption by Council:</b>	<b>22 March 2023</b>	<b>Minute number:</b>	<b>105/2023</b>
<b>Last review date:</b>	<b>March 2023</b>		
<b>Review timeframe:</b>	<b>2 Years</b>		
<b>Next scheduled review date:</b>	<b>March 2025</b>		
<b>Related legislation:</b>	<ul style="list-style-type: none"> <li>• <b>Environmental Planning and Assessment Act 1979</b></li> <li>• <b>Environmental Planning and Assessment Regulation 2021</b></li> <li>• <b>Local Government Act 1993</b></li> <li>• <b>Local Government (General) Regulation 2021</b></li> </ul>		
<b>Associated policies/documents:</b>	<b>MidCoast Council Code of Conduct</b>		
<b>Responsible division:</b>	<b>Corporate Services (Governance)</b>		

## PART ONE

### 1. Policy Summary

This policy ensures that any potential conflicts of interest are managed and increases transparency at all stages of the development process for council-related development.

### 2. Commitment

- 2.1 Council-related development applications will be accompanied by a management strategy statement, which explains how council will manage potential conflicts of interest
- 2.2 Council will record conflicts of interest in connection with each council-related development application which will include the measures taken to manage the conflicts, in a DA register (section 242A).
- 2.3 Council-related development applications will be exhibited for a minimum of 28 days to ensure transparency during the assessment process (Environmental Planning and Assessment Act 1979, schedule 1, clause 9B).

### 3. Scope

This policy applies to council-related development

## PART TWO

### 4. Management Controls and Strategies

4.1 The following management controls may be applied to:

4.1.1 The **assessment** of an application for council-related development

- 4.1.1 (a) The assessment of an application is to be undertaken by council staff under delegation where the proposal is considered to be a low-level risk or non-controversial.
- 4.1.1 (b) Where project may be more controversial, strict (documented) role separation controls are to be imposed.
- 4.1.1 (c) The application could be referred for external assessment by:
- The Department of Planning and Environment
  - Another council
  - A local planning panel where one is in place
  - A regional planning panel (noting that JRPPs are not required to accept referrals)
  - A consultant

The involvement of an external third party might be appropriate for development where council has a commercial interest in the land, or the development is seen to be a political priority for the council.

4.1.2 The **determination** of an application for council-related development

- 4.1.2 (a) The determination of an application is to be undertaken by council staff under delegation where the proposal is considered to be a low-level risk or non-controversial.
- 4.1.1 (b) Where project may be more controversial, strict (documented) role separation controls are to be imposed.
- 4.1.1 (c) The application could be referred for external determination by:
- The Department of Planning and Environment

The involvement of an external third party might be appropriate for development where council has a commercial interest in the land, or the development is seen to be a political priority for the council.

4.1.3 The controls regarding **regulation and enforcement** of approved council-related development include:

- Engagement of a private certifier
- Publication of certificates issued under Part 6 of the Act on the NSW Planning Portal

- Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council
- Reporting of key milestones to the full council.
- Engagement of Council's certification service for Minor developments within the value of works threshold as specified in Clause 25 of the Building and Development Certifiers Regulation 2020

Council may enter into a shared services arrangement with a neighbouring council.

4.2 The management strategy for the following kinds of development is that no management controls need to be applied:

4.2.1 Commercial fit outs and minor changes to the building façade

4.2.2 Internal alterations or additions to buildings that are not a heritage item

4.2.3 Advertising signage

4.2.4 Minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services

4.2.5 Development where the council might receive a small fee for the use of their land

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

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

5.2 The General Manager is to:

5.2.1 Assess whether the application is one in which a potential conflict of interest exists

5.2.2 Identify the phase(s) of the development process at which the identified conflict of interest arises

5.2.3 Assess the level of risk involved at each phase of the development process

5.2.4 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 the policy and the outcome of the general manager's assessment of the level of risk involved as set out Section 4 of the policy

5.2.5 The general manager could determine that no management controls are necessary in the circumstances

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

## 6. Definitions

6.1 The definitions used in this Policy are set out below:

**Application** means an application for consent under Part 4 of the Environmental Planning and Assessment 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 MidCoast 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

6.2 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.