



DEVELOPMENT APPLICATIONS

***MANAGING CONFLICT OF INTEREST
POLICY***

Adopted: TBC 2025

CM: TBC

Development Applications
Managing Conflicts of Interest
Policy

DIRECTORATE: **Planning & Compliance**
BUSINESS UNIT: **Development Assessment**

1. INTRODUCTION/PURPOSE

1.1. This policy is established to manage deemed or perceived conflicts of interest when assessing development applications, ensuring transparency and fair decision-making throughout the planning process. The policy outlines how the Council will identify, disclose, and address any conflicts that may arise during the assessment of a development application.

1.2. Additionally, in accordance with *Section 66A* of the *Environmental Planning and Assessment Regulation 2021 (NSW)*, Council must adopt a policy that specifies how conflicts of interest in connection with Council-related development applications lodged with Liverpool City Council and within the Liverpool Local Government Area will be identified, assessed, and managed. The Policy must also comply with the Department of Planning and Environment's *Council-related Development Application Conflict of Interest Guidelines*.

2. SCOPE

2.1. This policy applies to all development and modification applications lodged with Liverpool City Council where:

- Liverpool City Council is the applicant, developer, landowner, or
- holds a commercial interest in the land they regulate, or
- the applicant or landowner is a-
 - Councillor,
 - Member of Council Staff,
 - Member of Parliament,
 - a relative of the above, as defined in 4.4 of Liverpool City Councils Code of Conduct.

3. DEFINITIONS

A word or expression in this policy has the same meaning as it has in the *Environmental Planning & Assessment Act 1979* (the Act), and any instruments made under the Act, unless it is otherwise defined in this Policy.

Act: the *Environmental Planning and Assessment Act 1979*.

Development Application: 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.

Conflict of Interest: as defined in this policy.

Consent Authority: as defined in Division 4.2 of the Act.

Council: Liverpool City Council.

Councillor: a person elected or appointed to civic office and includes a Mayor.

Council-related development means a development application, for which Council is the consent authority, that is—

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

Note: Land vested in or under the control of Council includes public land within the meaning of the *Local Government Act 1993*

Development process: application, assessment, determination, and enforcement.

DA: development application.

LGA: Local Government Area.

LPP: Local Planning Panel.

Relative: in relation to a person, any of the following—

- a. the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse or de facto partner,
- b. the spouse or de facto partner of the person or of a person referred to in paragraph (a).

Regulation: *Environmental Planning and Assessment Regulation 2021 (NSW)*,

NSWPP: New South Wales Planning Portal

MP: Member of Parliament

SWCPP: Sydney Western City Planning Panel.

4. POLICY STATEMENT

- 4.1.** Liverpool City Council is the development regulator within the Liverpool Local Government Area. However, Liverpool City Council can also be the developer, landowner, or hold a commercial interest in the land they regulate. Where Liverpool City Council has this dual role, an inherent conflict can arise between their interests in the development and their duty as regulator or consent authority.
- 4.2.** A conflict can also arise for applications lodged by or on behalf of Councillors (or their relative), or a member of Council staff (or their relative), or a Member of Parliament (or their relative) based upon their positions.
- 4.3.** Prelodgement meetings held prior to the lodgement of a development application are a standard service provided by the Council and any comments provided at such meetings are advisory only and do not bind the consent authority in its assessment or determination of a future application.
- 4.4.** Identifying these conflicts of interest early and finding ways to address them is crucial to good governance and allows Council to strengthen their relationship with communities and to build and enhance trust.

5. POLICY

This Policy specifies how Council will identify, assess and manage conflicts of interest in relation to development applications.

5.1. Identifying Conflicts of Interest

Conflicts of interest may be identified during the various stages of development application assessment, including but not limited to the following table.

Stage	Assessment
Stage 1 - Pre-lodgement	<ul style="list-style-type: none">• Applicant or other may advise Council of the deemed or perceived conflict of interest prior to submission to the NSWPP.
Stage 2 - Lodgement	<ul style="list-style-type: none">• Applicant may indicate a COI on the application via the NSWPP.• Preliminary assessment may reveal COI during initial checks.
Stage 3 - Assessment	<ul style="list-style-type: none">• During the assessment the DA Planner may identify information which indicates a conflict of interest.

5.2. Management Controls & Strategies

Management controls and strategies are identified and applied to all conflict of interest development applications.

5.2.1. Strategy

Council's strategy to manage COI applications is to complete a risk assessment based on the application parameters as outlined in section 5.2.2 of this policy and to apply the relevant management controls as outlined in section 5.2.3 of this policy.

5.2.2. Risk Categories

Level	Risk	Application Parameters
1	Low	<p>A low-risk COI application is any application where the Local Planning Panel have deferred its functions as consent authority to Delegated Council staff; including:</p> <ul style="list-style-type: none"> • internal alterations and additions to any building that is not a heritage item; • advertising signage; • maintenance and restoration of a heritage item; • minor building structures projecting from a building over public land (such as awnings, verandahs, bay windows, flagpoles, pipes and services, and sun shading devices); or • Section 4.55 (1) and (1A) applications as defined by the Environmental Planning and Assessment Act 1979, that are not required to be referred to the Liverpool LPP or SWCPP for determination.
2	Medium	<p>A medium risk COI application is any application for which the Local Planning Panel is the consent authority or the application includes-</p> <ul style="list-style-type: none"> • Changes of use which have a capacity to create more than minor impacts on the amenity.
3	High	<p>A high-risk COI application is an application where an external panel is the consent authority and:</p> <p>Local Planning Panel</p> <ul style="list-style-type: none"> • Any council-related development in relation to which council has resolved to provide a grant, or • Council-related development applications with an estimated cost of works of \$2 million, or • Council holds a commercial interest, or • The applicant/owner (or their relative) is employed by Liverpool City Council in and is involved in the preparation or assessment of development application or, • The applicant/owner (or their relative) is a current Councillor of Liverpool City Council. <p>Sydney Western City Planning Panel</p> <ul style="list-style-type: none"> • Council-related development with a capital investment value of more than \$5 million. <p><i>Where there is an inconsistency between the two categories, the higher category will apply.</i></p> <p><i>Additionally, a council-related development application may be assessed as being high risk by the Director Planning & Compliance (or their delegate) due to the circumstances of the application (for example, where there is a significant public interest due to the nature of the proposed development)</i></p>

5.2.3. Management Controls

The following table identifies types of management controls that apply for the assessment and determination stages of a conflict of interest development application where the need for controls is identified.

Level	Risk	Assessment	Determining
1	Low	<ul style="list-style-type: none"> Council staff under delegation 	<ul style="list-style-type: none"> Council staff under delegation
2	Medium	<ul style="list-style-type: none"> Council staff under delegation 	<ul style="list-style-type: none"> Local Planning Panel
3	High	<ul style="list-style-type: none"> External Consultant 	<ul style="list-style-type: none"> Local Planning Panel, or Sydney South-West City Planning Panel

Where a council-related development application becomes the subject of any proceeding before the Land and Environment Court, the management controls applied shall be the same as the development application.

6. 5.2.4 Identifying whether a potential Conflict of Interest Exists

Development applications lodged with Liverpool City Council are to be assessed with consideration to potential for conflicts of interest.

Liverpool City Councils *Managing Conflict of Interest Development Applications Procedure* is to be referred to for the detailed steps of this risk assessment throughout the development process.

6.1. Records Management

A *Conflict of Interest Management Strategy Statement* which explains how Council will manage potential conflicts of interest is required for deemed or perceived conflict of interest development applications. The statement must reflect the terms and requirements of this policy.

The statement is to be prepared as soon as practicable post notification of the potential conflict of interest.

Council must record conflicts of interest in connection with each conflict of interest development application, and the measures taken to manage the conflicts, within the designated Governance Register.

6.2. Public Exhibition

To ensure transparency and in accordance with The Act (schedule 1, Clause9B), during the assessment process development applications must be exhibited for minimum periods. See table below:

Application Type	Exhibition Period
Councillors / Council staff / MP (or their relative)	14 Days
Council-related development	28 Days

7. RELEVANT LEGISLATIVE REQUIREMENTS

Environmental Planning & Assessment Act 1979
Environmental Planning & Assessment Regulation 2021
Local Government Act 1993

8. RELATED POLICIES & PROCEDURE REFERENCES

Department of Planning & Environment: Council-related Development Application Conflict of Interest Guidelines

State Environmental Planning Policy (Planning Systems) 2021 – Schedule 6 Regionally significant development triggers

Sydney District & Regional Planning Panels Operational Procedures (November 2022)

Local Planning Panels Direction – Development Applications and Applications to Modify Development Consent (May 2024)

Liverpool City Council Conflicts of Interest Policy (September 2024)

Liverpool City Council Code of Conduct (May 2025)

AUTHORISED BY

Council Resolution

EFFECTIVE FROM

This date is the date the policy is adopted by Council resolution.

REVIEW DATE

TBC 2027

This policy must be reviewed every two years or as legislation is updated.

VERSIONS

Version	Amended by	Changes made	Date	TRIM Number
1.0	Manager Development Assessment	New policy due to legislation changes	April 2023	0785782023-024
2.0	Manager Development Assessment	Policy update	TBC	TBC

THIS POLICY HAS BEEN DEVELOPED IN CONSULTATION WITH

Development Assessment (Planning & Compliance)
Compliance and Standards (Planning & Compliance)
Legal & Governance (Corporate Support)