



POLICY 3133

COUNCIL DEVELOPMENT - CONFLICT OF INTEREST

1. Intent of Policy

The purpose of this Policy is to manage potential conflicts of interest and increase transparency at all stages of the development process for council-related development.

2. Scope of Policy

This policy applies to council-related development.

3. Definitions and Abbreviations

(1) In this policy:

application means 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.

council means Oberon 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

councillor means a person elected or appointed to civic office on Oberon Council and includes the mayor

designated person means a person defined in clause 4.8 of Council's Code of Conduct

development process means application, assessment, determination, and enforcement

senior member of staff means a member of Council's Executive Management Team

spouse means husband, wife or de facto partner.

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

(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.

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

Process for identifying and managing potential conflicts of interest

Management controls and strategies

1. The following management controls may be applied to:
 - a. the assessment and determination of an application for council-related development
 - *Refer to Table 1 in Appendix 1 for controls.*
 - b. the assessment and determination of an application for Councillors and Designated Persons (including Spouses of Councillors and Designated Persons)
 - *Refer to Table 2 in Appendix 1 for controls*

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

Development applications lodged with the council that are council-related development or lodged by Councillors, Designated staff or their spouses are to be referred to the General Manager (or Director of Planning and Development) for a conflict-of-interest risk assessment to:

- a) assess whether the application is one in which a potential conflict of interest exists,
- b) determine the category of development (See Table 1 and 2 in Appendix 1 and 2) and what (if any) management controls should be implemented

Appendix 3 provides guidance on assessing potential conflicts and determination of appropriate management controls.

6. Accountability, Roles and Responsibilities

This policy will be overseen by Councils Planning and Development Director.

Approving Authority	Oberon Council
Contact	Planning & Development Director
Approval	Ordinary Meeting – 21 March 2023 Item 13.6, Minute 18 21/03/2023
Revision Date	March 2025
Issue Date to Staff	March 2023

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Appendix 1

Table 1 – Assessment & Determination Criteria – Council Related Developments

Category of DA - where Council is the applicant developer (whether lodged by or on behalf of council), landowner, or has a commercial interest in the land *	Assessment Management Control/Strategy**	Determination
Category A – Minor Development Refers to small-scale, routine operational and/ or non-controversial developments. Examples include replacement amenities block, internal refurbishment of a building, subdivision involving the creation of up to 3 lots	Assessment must be by Council staff not involved in the application and peer reviewed by immediate supervisor. In the case of subdivisions a peer review of the assessment (or specific matters raised in objections to the application) by an external independent town planning consultant or another Council may be required, if determined by the Planning and Development Director	Determination under delegated authority (unless precluded by staff delegations). (Other than for development on community land under section 47E of the Local Government Act 1993.)
Category B – Moderate Development Refers to development of a greater scale or potential impact than minor development that complies with zoning, land use provisions and Council policies, with no substantial or numerous submissions Examples include subdivision of 3 to 10 lots, a new amenities block, alterations and addition to existing buildings, development on Council owned land zoned industrial	Assessment by Council staff not involved in the application and peer reviewed by senior member of staff. A peer review of the assessment (or specific matters raised in objections to the application) by an external independent town planning consultant or another Council may be required, if determined by the Planning and Development Director	Determination under delegated authority (unless precluded by staff delegations). (Other than for development on community land under section 47E of the Local Government Act 1993.)
Category C – Major Development Major DAs refer to development that is large-scale, significant and/or controversial. Objections may have been received. Examples include: new industrial estates, subdivision of more than 10 lots, new community facilities and libraries, electricity generating works, entertainment facility, extractive industry, waste or resource management facility	Assessment by Council staff not involved in the application and peer reviewed by senior member of staff or referral to an independent town planning consultant or another Council if deemed appropriate under the circumstances by the Planning and Development Director If assessed by Council staff a peer review of the assessment (or specific matters raised in objections to the application) by an external independent town planning consultant or another Council may be required, if determined by Director	Determination by General Manager or Planning and Development Director (if allowed by staff delegations) otherwise report to Council for determination. (Other than for development on community land under section 47E of the Local Government Act 1993.) Determination by the Regional Planning Panel if the Capital Investment Value (CIV) of the application is >\$5million in accordance with Schedule 6 of the State Environmental Planning Policy (Planning Systems) 2021.

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Appendix 2

Table 2 – Assessment & Determination Criteria – Councillors and Designated Persons

Category of DA - where the applicant or landowner is a Councillor or a Council staff member who is a designated person or spouse of either party or where the application is lodged on their behalf*	Assessment/management Control**	Determination
Category A – Minor Development Refers to development that is small-scale, routine and/ or non-controversial. Examples include - Outbuildings, Alterations and Additions to a Dwelling House and Subdivision creating no more than 1 additional allotment; Home Business, Home Industry or Home Occupation	Assessment by Council staff	Determination under delegated authority (unless precluded by staff delegations).
Category B – Moderate Development Are of greater estimated cost and/or have greater potential to provide financial benefits or an uplift in value to land. Examples Include - Residential Accommodation <i>being attached dwellings, dual occupancies, dwelling houses rural workers dwellings, secondary dwellings and semi-detached dwellings</i> , light industry, Subdivision creating no more than 2 additional allotments	Assessment by Council staff not involved in the application and peer reviewed by senior member of staff. A peer review of the assessment (or specific matters raised in objections to the application) by an external independent town planning consultant or another Council may be required, if determined by the Director Planning and Environmental Services	Determination under delegated authority (unless precluded by staff delegations).
Category C – Major Development Development that is larger-scale, commercial in nature and has the potential to provide an appreciable financial gain to the developer or uplift in value. Examples include - Tourist & Visitor Accommodation, Commercial Premises, Residential Accommodation <i>being boarding houses, group homes, hostels, multi dwelling housing</i> , Industry (excluding light industry) <i>NB - In addition to Development Applications, Planning Proposals on behalf of Councillors, Designated Persons or respective spouses are also deemed to be major and will follow the same independent assessment protocol.</i>	Assessment by referral to an independent town planning consultant or another Council	Determination by General Manager or Planning and Development Director (unless precluded by staff delegations)

Appendix 3

Guidance for assessing potential conflicts and determination of appropriate management controls.

*In determining whether development is Minor, Moderate or Major the General Manager or Planning and Development Director as appropriate shall be guided by:

- The estimated value of the works to be undertaken.
- The potential impact on surrounding residential amenity associated with the proposed development.
- DA's that are Regional Development (under the State Environmental Planning Policy (Planning Systems) 2021 are deemed Major

**In determining whether to refer an application for assessment or peer review to an external party the Planning and Development Director shall be guided by

- In the case of Council developments, the consistency of the proposed works with Council's Operational Plan/Delivery Program; any existing Council Management Plan or strategy.
- Whether the proposal involves any variations greater than 10% from Council's Local Environmental Plan, Development Control Plan or existing Council policy;
- Matters raised in submissions