

Dealing with Development Applications for Councillors and Employees

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Division Planning and Environment

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Document Revision History
Notes
This Council Policy replaces the equivalent Management Policy titled <i>Dealing with Development Applications for Councillors and Staff</i> adopted 1 June 2009 and reviewed 19 September 2016.

POLICY

PURPOSE

1. To provide a transparent protocol for the determination of development applications lodged by Councillors, Council employees or family members thereof.
2. To facilitate compliance with Council's adopted Code of Conduct which requires in Clause 3.7 that council employees "*... avoid any occasion for suspicion of improper conduct in the development assessment process.*"

BACKGROUND AND RELATED LEGISLATION

- Environmental Planning and Assessment Act, 1979; and
- Model Code of Conduct for Local Councils in NSW - November 2015.

SCOPE

This Council Policy applies to development applications (related modifications and Review of Determinations) lodged by or on behalf of Councillors, Council employees or family members thereof.

DEFINITIONS

Councillors - means a person elected or appointed to civic office, and includes a mayor.

Development and associated staff means any:

1. Employee of the Planning and Environment Division (excluding both the Director Planning and Environment (DPE) and the Manager Building and Development Services (MBDS));
2. Employee of the Council who has qualitative/decision making dealings within the process of assessing and determining Development Applications;
3. Member of the Executive Leadership Team (excluding both the DPE and the Chief Executive Officer (CEO));

and includes *family members* thereof.

Family members means any of the following:

- the spouse of the employee;
- the de-facto spouse (who lives with the employee as a de-facto);
- the child or an adult child (including adopted child, step child or foster child);
- parent (including a foster parent, step parent and legal guardian);
- parent of spouse;
- grandparent;
- grandchild or sibling (including half, foster and step sibling); and
- the relative of the employee who is a member of the same household.

Development Unit (DU) – The Development Unit is a multi-disciplinary committee comprised of staff from three (3) distinct Divisions, being Planning and Environment, Infrastructure and Operations, and Community and Recreation. One of the primary functions of the DU is to recommend the determination of complex applications following receipt of required referrals, reports and recommendations from the assessing officer.

Principal place of residence means - a property owned by *Development and associated staff* or a *family member* thereof, that is utilised as their main residence and relates to all domestic ancillary building structures.

Independent assessor means – a person with suitable tertiary planning/building qualifications and experience, not being an employee of Council and being a person with limited involvement in the development industry in the Dubbo Local Government Area.

POLICY

Council has adopted a Code of Conduct that applies to all Councillors and staff. Of particular significance is the Code's requirements in respect to conflict of interest, personal dealings with Council, gifts and bribery, improper or undue influence, as well as to staff in performing their respective responsibilities in evaluating and determining development applications.

To facilitate compliance with the Code of Conduct, the table below details the protocol for determination of a development application (related modifications and Review of Determinations), lodged by or on behalf of a *Councillor*, Council employees, *Development and associated staff* or *family members* thereof, based on the type of development.

It is the responsibility of individual Councillors and staff (or their *family members*) who are affected to complete a 'Declaration of Conflict of Interest' where they are the applicant and/or owner in respect of the application and where relevant, whether the application relates to non-commercial development associated with the *Principal place of residence* or other development types.

Applicant/Owner	Development Type	Required Level of Determination
<p>Section 1</p> <p>Council employees</p> <p><i>(excluding Development and associated staff, MBDS, DPE, CEO).</i></p>	<p>Section 1.1</p> <p>All development types.</p>	<p>Determined under delegated authority (unless separate Council policy or legislation directs otherwise).</p>
<p>Section 2</p> <p><i>Development and associated staff*</i></p>	<p>Section 2.1</p> <p>Non-commercial development associated with the <i>Principal place of residence</i>.</p> <p>Section 2.2</p> <p>All other development types.</p>	<p>Assessment undertaken by unrelated staff member and recommendation provided by the <i>Development Unit</i> to the CEO for determination.</p> <p>Assessment referred to independent assessor for peer review with a recommendation provided to the CEO for determination.</p>
<p>Section 3</p> <p>Councillors*</p>	<p>Section 3.1</p> <p>Non-commercial development associated with the <i>Principal place of residence</i>.</p> <p>Section 3.2</p>	<p>Assessment referred to independent assessor for peer review with a recommendation provided to the DPE or CEO for determination.</p>

Applicant/Owner	Development Type	Required Level of Determination
	All other development types.	Application referred to independent assessor for assessment with a recommendation provided to the DPE or CEO for determination.
<p>Section 4</p> <p>Director Planning and Environment* and Manager Building and Development Services*</p>	All development types.	Application referred to independent assessor for assessment with a recommendation provided to the CEO for determination.
<p>Section 5</p> <p>Chief Executive Officer*</p>	All development types.	Application referred to independent assessor for assessment with a recommendation provided to a full Council meeting for determination.

* Includes *family members* thereof.

RESPONSIBILITIES

The responsibility for implementing this policy is the Manager Building and Development Services.