



GLEN INNES SEVERN COUNCIL

Limit of Delegated Authority in Dealing with Development Applications and Complying Development Certificates.

RESOLUTION NUMBER: 29.09/20	MEETING: 24 September 2020
17.05/14	22 June 2017
22.03/11	22 May 2014
27.06/08	24 March 2011
	27 June 2008

INTRODUCTION

Pursuant to section 378(2) of the *Local Government Act 1993* the General Manager has delegated certain functions under the *Environmental Planning and Assessment Act 1979* to the Development, Planning & Regulatory Services staff. These functions allow the staff to determine development and complying development applications. The delegation further allows for granting consent, either conditionally or subject to conditions or refusing applications.

Both the Office of Local Government (OLG) and the Independent Commission Against Corruption (ICAC) recommend that Councils put in place procedures to reduce corruption risks in the development approval process.

AIMS OF POLICY

It is the aim of this policy to ensure that development decisions are properly made and that parties involved in the development process are dealt with fairly to avoid impropriety. It also aims to ensure to avoid any occasion for suspicion and any appearance of improper conduct.

In determining development applications, it is essential that Council is highly conscious of the potential for even the slightest impropriety that may lead to suspicion of misconduct.

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Related Documents: ICAC -Corruption Risks in NSW development approval process – Position Paper September 2007			

POLICY STATEMENT

Pecuniary and Non-Pecuniary Conflict of interests

A conflict of interests exists when Council or Council staff could be influenced, or a reasonable person would perceive that they could be influenced by a personal interest when carrying out your public duty. Perceptions of a conflict of interests are as important as actual conflict of interests.

Under the provisions of the Model Code of Conduct a conflict of interests can be of two (2) types:

Pecuniary - An interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the person or another person with whom the person is associated.

Non-pecuniary - A private or personal interest the council official has that does not amount to a pecuniary interest as defined in the Act (for example; a friendship, membership of an association, society or trade union or involvement or interest in an activity and may include an interest of a financial nature).

Improper and Undue Influence

The policy aims to ensure that Council and staff do not take advantage of their positions to improperly influence other council officials in the performance of their public or professional duties to secure a private benefit for them self or for somebody else. The Policy also ensures that Council and staff do not take advantage (or seek to take advantage) of their status or position with, or functions performed for, Council in order to obtain unauthorised or unfair benefit for them self or for any other person or body.

Procedure for determining level of Delegated Authority in the approval of Development Applications and Complying Development Certificates

1. Applications where Council may have a perceived conflict of interest:

- 1.1 Where Council is the owner of land and the land is subject to sale or development other than by Council, and the developer requires a consent for a sale to proceed:

Recommended Action

- ❖ Assessment of application to be conducted by suitably qualified Town Planner independent of Council and the application is to be considered by a full meeting of Council.

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1.2 Where Council owns land and is the applicant:

Recommended Action

- ❖ Applications to be prepared independent of the assessment officer and/or delegated approving officer;
- ❖ Where development does not exceed \$1,000,000 assessed and approved by the appropriately delegated officer and reported to Council's ordinary monthly meeting;
- ❖ Where development exceeds \$1,000,000 assessment of the application is to be conducted by a suitably qualified Town Planner, independent of Council, and report considered by full Council.

1.3 Where Council's Director of Development, Planning & Regulatory Services and Building Development Officers are issuing certificates and carrying out inspections:

Recommended Action

- ❖ Certificates and inspections are issued and carried out in accordance with the officer's level of Building Professionals Board accreditation.

2. Development Applications where Council staff may have a perceived conflict of interest:

2.1 Where MANEX members, Development, Planning & Regulatory Services and Infrastructure Services staff are involved in development assessment process and are applicants and / or owners:

Recommended Action

- ❖ Where development does not exceed \$50,000 assessed by independent member of Development, Planning & Regulatory Services and staff and considered by full Council;
- ❖ Development exceeding \$50,000 assessment of application to be conducted by suitably qualified Town Planner independent of Council and report considered by full Council.

2.2 Where MANEX members, Development, Planning & Regulatory Services and Infrastructure Services staff are involved in certification and are applicants and / or owners:

Recommended Action

- ❖ Certification is undertaken in accordance with the Building Professionals Board's Code of Conduct.

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3. Applications of public interest:

- 3.1 Applications whereby 10 or more submissions or a single petition with 10 or more locally identifiable names are received objecting to the development on valid planning grounds:

Recommended Action

- ❖ Application assessed by Development, Planning & Regulatory Services staff and considered by full Council.

- 3.2 Applications recommending refusal on planning principles:

Recommended Action

- ❖ Application assessed by Development, Planning & Regulatory Services staff and considered by full Council.

4. Applications whereby a Declaration is made by an applicant that an affiliation with a Council Officer exists

- 4.1 Where MANEX members, Development, Planning & Regulatory Services and Infrastructure Services staff are involved in development assessment:

Recommended Action

- ❖ In the instance an affiliation exists (an affiliation means by way of family, close personal friendship, or business interest with any of the abovementioned council officers in the previous six months) the General Manager or his or her delegate shall:
 - a. necessitates an assessment of whether an application, in which a declaration is made that an affiliation exists, requires management; and
 - b. requires the management of such applications to avoid where possible, or supervise if necessary, the role of the affiliated council officer.

APPLICABILITY

This Policy applies to the General Manager and all the Executive Management Team, Department of Development, Planning & Regulatory Services and Department of Infrastructure Services staff where applicable.

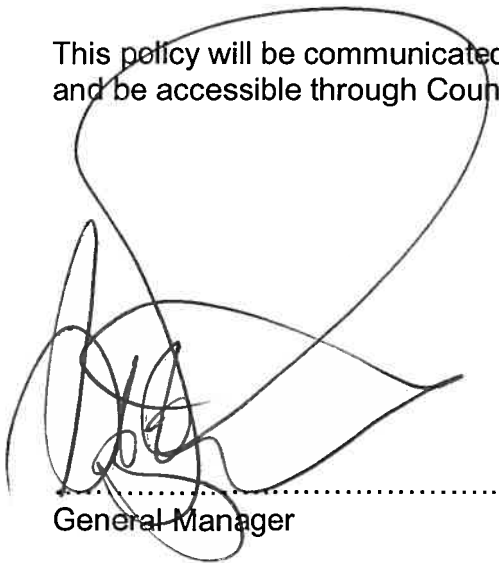
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VARIATION AND REVIEW

This policy shall be reviewed every three (3) years, or earlier if required. Council reserves the right to vary or revoke this policy at its discretion. The term of this policy does not expire on the review date, but shall continue in force until superseded, rescinded or varied either by legislation or a new resolution of Council.

IMPLEMENTATION / COMMUNICATION

This policy will be communicated to all Development Assessment Unit and Manex members and be accessible through Council's Intranet and Policy Register.



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General Manager

18.1.21.
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Date

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