

## LIMIT OF DELEGATED AUTHORITY IN DEALING WITH DEVELOPMENT APPLICATIONS AND COMPLYING DEVELOPMENT CERTIFICATES

### Summary:

The purpose of this policy is to provide clear direction on delegations when dealing with Development Applications and Complying Development Certificates lodged with Council for assessment and determination.

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<b>Department</b>	Office of Chief Corporate
<b>Policy Custodian</b>	Manager Planning & Development Services
<b>Superseded Documents</b>	N/A
<b>Related Legislation</b>	N/A
<b>Delegations of Authority</b>	Manager Planning & Development Services

### 1. Overview

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 Chief Corporate Officer. These functions allow the Chief Corporate Officer 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 Department of Local Government (DLG) and the Independent Commission Against Corruption (ICAC) recommend that Councils put in place procedures to reduce corruption risks in the development approval process.

### **Where this Policy Applies**

This policy applies to the entire Tenterfield Shire Local Government Area.

## **2. Policy Principles**

To set standards and principles for the delegation of authority when dealing with DA's and CDC's.

## **3. Policy Objectives**

This policy aims 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 are highly conscious of the potential for even the slightest impropriety that may lead to suspicion of misconduct.

### **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.

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. (Sections 442 and 443).

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 position to improperly influence other council officials in the performance of their public or professional duties to secure a private benefit for yourself or for somebody else. It 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 himself or herself or for any other person or body.

### **Procedure for approvals**

The procedures for determining level of Delegated Authority in the approval of Development Applications and Complying Development Certificates are outlined below.

#### **3.1 Applications where Council may have a perceived conflict of interest**

Where Council is the owner of land and the developer requires a consent for a sale to proceed:

Assessment of application to be conducted by suitably qualified Town Planner independent of Council and report considered by full Council.

3.1.1 Where Council has sold land however Council is still the owner of the land:

- Assessment of application to be conducted by suitably qualified Town Planner independent of Council and report considered by full Council.

3.1.2 Where Council owns land and is the applicant:

- Applications to be prepared independent of Department of Planning and Regulation Services;
- Where development does not exceed \$300,000 assessed by Planning and Regulation Services staff and approved by the Chief Corporate Officer and reported to Council monthly meeting;
- Where development exceeds \$300,000 and is not greater than \$750,000 in value assessed by Planning and Regulation Services staff and report considered by full Council; and
- Where development exceeds \$750,000 assessment of application to be conducted by suitably qualified Town Planner independent of Council and report considered by full Council.

### **3.2 Applications where Council staff may have a perceived conflict of interest**

3.2.1 Where Senior Staff (management team members), Planning and Development Services Staff and Engineering staff involved in development assessment are applicants and / or owners for commercial development:

- Where development does not exceed \$300,000 assessed by independent member of Planning and Regulation Services and considered by full Council;
- Development exceeding \$300,000 assessment of application to be conducted by suitably qualified Town Planner independent of Council and report considered by full Council.

3.2.2 Where Senior Staff (management team members), Planning and Development Services staff and Engineering staff involved in development assessment and are applicants and / or owners for residential development:

- Where development does not exceed \$100,000 assessed by independent member of Planning and Regulation Services Staff and approved by Chief Corporate Officer and reported to Council monthly meeting;

- Applications involving the Chief Corporate Officer where development does not exceed \$100,000 assessed by independent member of Planning and Regulation Services Staff and considered by full Council;
- Development exceeding \$100,000 application to be assessed by independent member of Planning and Regulation Services Staff and approved by full Council; and
- All applications involving the Chief Corporate Officer exceeding \$100,000 to be assessed by suitably qualified Town Planner independent of Council and report considered by full Council.

### **3.3 Applications of public interest**

Applications whereby three (3) or more submissions are received objecting to the development on valid planning grounds:

Application assessed by Planning and Regulation Services Staff and considered by full Council.

Applications of public interest being commercial developments exceeding \$500,000:

Application assessed by Planning and Regulation Services Staff and considered by full Council.

Applications recommending refusal on planning principles:

Application assessed by Planning and Regulation Services Staff and considered by full Council.

## **4. Policy Statement**

To set standards and principles for the delegation of authority when dealing with DA's and CDC's.

## **5. Scope**

To identify appropriate delegations for the assessment of DA's and CDC's

## **6. Accountability, Roles & Responsibility**

### **Elected Council**

As required.

### **Chief Executive, Executive and Management Teams**

As required.

### **Management Oversight Group**

As required.

### **Individual Managers**

Manager Planning & Development Services

## 7. Definitions

Nil.

## 8. Related Documents, Standards & Guidelines

- *Environmental Planning & Assessment Act, 1979;*
- Independent Commission Against Corruption (ICAC) Anti-corruption Safeguards and the NSW Planning System February 2012
- *Local Government Act 1993*

## 9. Version Control & Change History

Version	Date	Modified by	Details
V1.0	26/03/14	Council	Adoption of Original Policy (Res No. 79/14)
V2.0	23/08/17	Council	Review/Amended (Res No. 168/17)
V3.0	23/09/20	Council	Review/Amended (Res No. 196/20)
V4.0	21/12/22	Council	Re adoption of Policy (Res No 248/22)