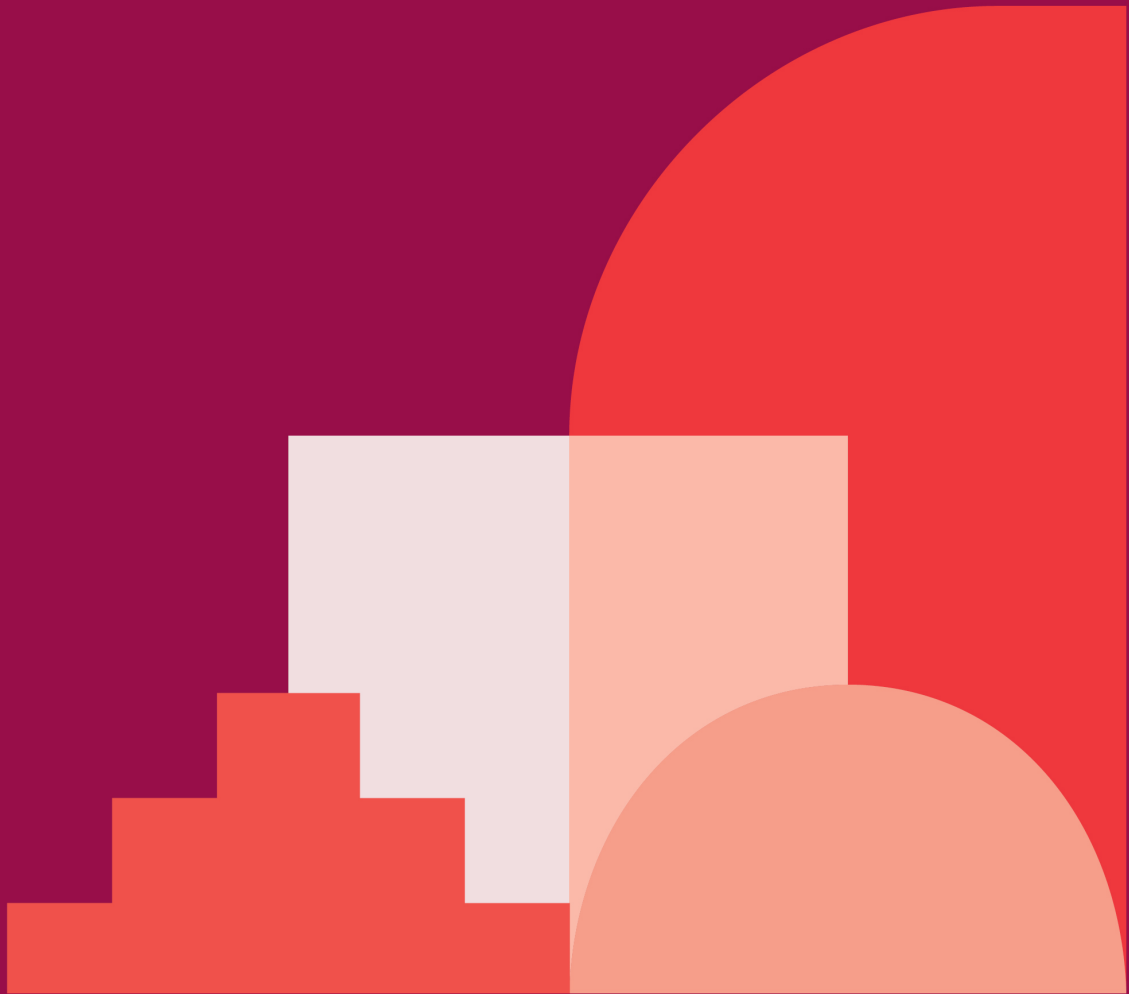


Conflict of Interest Policy

VI



Title	Conflict of Interest Policy
Summary	<p>The policy establishes the requirements for how Council Officers and Councillors deal with a conflict of interest, both generally (referring to the Code of Conduct) and in respect to Council-related development applications.</p> <p>This Conflict of Interest Policy should be read in conjunction with the Code of Conduct.</p>
Document Type	Policy
Relevant Strategic Plan Objective	Strategic Direction 5: Progressive responsive and effective civic leadership.
Legislative Reference	<ul style="list-style-type: none"> • <i>Local Government Act 1993</i> • <i>Environmental Planning and Assessment Act 1979</i> • <i>Environmental Planning and Assessment Regulation 2021</i> • <i>Environmental Planning and Assessment (Conflict of Interest) Regulation 2022</i>
Related Council Documents	<ul style="list-style-type: none"> • Model Code of Conduct • Procedures for the Administration of the Model Code of Conduct • Code of Meeting Practice • Gifts, Benefits and Hospitality Protocol • Fraud and Corruption Control Policy • Fraud and Corruption Control Procedure
Version Control	See last page

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1. Purpose

The purpose of this Conflict of Interest Policy is to document the system for identifying, disclosing, and actively managing conflicts of interest arising from Councillors and Council Officers in the course of carrying out their Council functions.

The policy also outlines specifically the management of conflicts of interest in connection with Council-related development applications.

Implementation of this Conflict of Interest Policy will encourage the identification, disclosure and active management of conflicts of interest to maintain a high standard of integrity within Council and to encourage stakeholder confidence.

This Conflict of Interest Policy shall be read in conjunction with Council's Model Code of Conduct, the Procedures for the Administration of the Model Code of Conduct and the Code of Meeting Practice.

2. Scope

This Conflict of Interest Policy applies to all Council Officials, volunteers and service providers/service partners.

3. Definitions

In this Conflict of Interest Policy, the following terms have the following meanings:

Term	Meaning
application	means an application for consent under Part 4 of the <i>Environmental Planning and Assessment Act 1979</i> 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	Includes either a: <ul style="list-style-type: none">• pecuniary conflict of interest;• a significant non-pecuniary conflict of interest;• a non-significant non-pecuniary conflict of interest, as defined in the Code of Conduct and described in section 7 of this Conflict of Interest Policy.
Council committee member	A person other than a Councillor or Council Officer who is a member of a Council committee other than a wholly advisory committee, and a person other than a Councillor who is a member of Council's audit, risk and improvement committee.

Councillor	Inner West Council elected representative.
Council Officer	Inner West Council members of staff (including full-time, part-time, casual and contracted staff).
Council Official	Councillors, Council Officers, Council committee members and delegates of Council.
Council-related development	The meaning given in Schedule 1, clause 9B of the <i>Environmental Planning and Assessment Act 1979</i> , or if Schedule 1, clause 9B of the <i>Environmental Planning and Assessment Act 1979</i> meaning: development for which 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.
de facto partner	A de facto partner has the same meaning as defined in section 21C of the <i>Interpretation Act 1987</i> .
development process	means application, assessment, determination, and enforcement.
delegate of Council	A person (other than a Councillor or Council Officer) or body, and the individual members of that body, to whom a function of Council is delegated.
Manager	Any Council Officer who manages or is in any way responsible for any other Council Officer, Councillor, volunteer or service provider/service partner.
OLG	NSW Office of Local Government.
relative	A relative is any of the following persons: <ul style="list-style-type: none"> (a) The person’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child. (b) The person’s spouse’s or de facto partner’s parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child. (c) the spouse or de facto partner of a person referred to in paragraphs (a) or (b).
service provider/service partner	A person or company engaged to provide services to Council.

volunteer

A formally recognised, unpaid member of the public who assists with the provision of Council services e.g. Visitor Information Centre/Library.

4. Statement

This Conflict of Interest Policy implements a three-step process for managing conflicts of interest and potential conflicts of interest. This process is as follows.

1. Avoid – all situations which may give rise to conflicts of interest of any type.
2. Identify – any conflicts of interest.
3. Disclose and manage – and declare verbally and in writing all conflicts of interest, to allow Council and the conflicted person to manage that conflict of interest accordingly.

Councillors and Council Officers must disclose and manage pecuniary, significant non-pecuniary and non-significant non-pecuniary conflicts of interest in accordance with parts 5 and 6 of the Model Code of Conduct and Code of Meeting Practice.

Volunteers and service providers/service partners must comply with the terms of the Model Code of Conduct relating to conflicts of interest as if they were Council Officers. Conflicts of interest arising from volunteers or service providers/service partners will be dealt with in accordance with the Model Code of Conduct as if the volunteer or service provider/service partner were a Council Officer.

5. Avoiding a conflict of interest

Council Officials, volunteers and service providers/service partners must avoid situations that would give rise to conflicts of interest. This includes ensuring that Council Officials, volunteers and service providers/service partners are aware of this Conflict of Interest Policy, the Model Code of Conduct and the Code of Meeting Practice (where applicable) and encouraging identification and disclosure of conflicts of interest.

Examples of avoiding conflicts of interest include the following:

- Ensuring that a Councillor is not present at, or insight of, a meeting of the Council where they have a pecuniary or significant non-pecuniary conflict of interest in any matter with which the Council is concerned.
- Taking a proactive approach to ensure that Council Officers are sufficiently educated on their obligation to disclose their conflict of interest and remove themselves from decision making where the Council Officer is aware a pecuniary or significant non-pecuniary conflict of interest exists.

6. Identifying a conflict of interest

The Model Code of Conduct sets out the differing types of a conflict of interest that a person may have.

There are different disclosure and management obligations for different types of conflicts of interest, so it is important to understand the difference between each type. The types of conflicts of interest are set out below.

Pecuniary conflicts of interest

A pecuniary interest is an interest that a person has in a matter because of a reasonable likelihood or expectation of appreciable financial gain or loss to the following:

- The person themselves.
- The person's spouse or de facto partner; relative, or their partner or employer.
- A company or other body of which the person, or their nominee, partner or employer, is a shareholder or member.

Note that a person will not have a pecuniary interest in relation to the second and third points above if any of the following apply:

- The person is unaware of the relevant pecuniary interest of their spouse, de facto partner, relative, partner, employer or company or other body.
- just because the person is a member of, or is employed by, a council or statutory body, or is employed by the Crown.
- The person is a member of, or a delegate of a council to, a company or other body that has a pecuniary interest in the matter, so long as the person has no beneficial interest in any shares of the company or body.

Examples of pecuniary interests:

- A Council Officer who has budgetary responsibilities for a business unit but also has a personal interest in an activity that will be funded by that business unit. For example, a Council Officer is responsible for allocating funds to support various education programs one of which their spouse plays an active role in.
- A Council Officer is on the committee of a sporting organisation and manages sponsorships within Council.
- A Councillor or Council Officer owns a block of residential land nearby land that is proposed to be developed by Council, which will increase the value of their residential land.
- Council needs to procure a supplier for the supply of goods and services for a particular project. A Councillor or Council Officer's spouse owns and runs a business that is interested in tendering to be the supplier.

Non-pecuniary conflicts of interest

Non-pecuniary interests are private or personal interests that a person has that do not amount to a pecuniary interest. These commonly arise out of family or personal relationships, or out of involvement in sporting, social, religious or other cultural groups and associations, and may include an interest of a financial nature. However, they can also arise out of relationships or circumstances within Council and between Council Officers, for example, where a Council Officer has loaned money from another Council Officer or is otherwise indebted to a Council Officer.

A non-pecuniary conflict of interest exists where a reasonable and informed person would perceive that a Council Official could be influenced by a private interest when carrying out their official functions in relation to a matter. Note that personal or political views do not constitute a private interest.

There are two different types of non-pecuniary conflicts of interests – significant and non-significant.

Significant non-pecuniary conflicts of interest involve any of the following:

- A relationship between a Council Official and another person who is affected by a decision or matter under consideration that is particularly close, such as a current or former spouse or de facto partner, a relative or another person from the Council Official's extended family that the Council Official has a close personal relationship with, or another person living in the same household.
- Other relationships with persons who are affected by a decision or a matter under consideration that are particularly close, such as friendships and business relationships.
- An affiliation between the Council Official and an organisation such as a sporting body, club, religious, cultural or charitable organisation, corporation or association that is affected by a decision or a matter under consideration that is particularly strong.
- Membership, as Council's representative, or the board or management committee of an organisation that is affected by a decision or a matter under consideration, in circumstances where the interests of Council and the organisation are potentially in conflict in relation to the particular matter.
- A financial interest that is not a pecuniary interest.
- The conferral or loss of a personal benefit other than one conferred or lost as a member of the community or a broader class of people affected by a decision.

Non-significant non-pecuniary conflict of interests are essentially any of the above that a Council Official believes is not significant. For example, a Council Official may have an acquaintance relationship with a person who may be affected by the decision.

Examples of non-pecuniary interests:

- A Council Officer who has responsibilities for a business unit also has a personal interest in an initiative that is to be carried out by that unit.
- A Council Officer is on the committee of a sporting organisation and manages community sporting initiatives within Council.
- Council seeks to communicate their support for a particular cause in which a Council Official is specifically affected by and holds strong views for.
- A Council Official involved in a community organisation in their private capacity seeks to use their Council position to raise the profile of that organisation.

Actual, perceived or potential?

The following provides descriptions to help identify the differences between the type of identified conflicts of interests. All types of conflicts of interests must be disclosed and managed in accordance with this Conflict of Interest Policy and the Model Code of Conduct.

Actual conflict of interest	Perceived conflict of interest	Potential conflict of interest
A Council Official's compliance with their obligations is influenced by their private interests.	A Council Official's compliance with their obligations appears to be influenced by their private interests.	A Council Official's compliance with their obligations may be influenced by their private interest in the future .

7. Disclosing and managing a conflict of interest

Declaring a conflict of interest

New Council Officials shall be provided with Conflict of Interest form at the commencement of their roles in Council.. All Council Officials must declare any Conflict of Interests applicable to their role at Council, in accordance with the Conflict of Interest Policy and Model Code of Conduct. Annexure C. All Council Officials must update this information promptly in the case of any changes to their declared circumstances.

Note that disclosing or declaring a conflict of interest may involve the disclosure of personal information. Council will handle all disclosed information in accordance with the *Privacy Act 1998*.

Disclosing a conflict of interest

Once a person has identified a conflict of interest (of any nature), the person must disclose the conflict of interest in any and all situations where the conflict of interest is in respect of a matter for which they will perform their official functions.

Where a Council Officer has a pecuniary or a significant non-pecuniary conflict of interest, the Council Officer must disclose their interest to their Manager, Senior Manager, Director or to the General Manager. In the case of the General Manager, such disclosure is to be made to the Mayor. Where a Councillor or Council committee member has a pecuniary interest or significant non-pecuniary interest in a matter which the Council is concerned, and who is present at a meeting of the Council or committee at which the matter is being considered, the Councillor or Council committee member must disclose the nature of the interest to the meeting as soon as practicable. Council Officials must remove themselves from any discussions and decisions regarding a matter which they have declared a pecuniary or significant non-pecuniary conflict of interest.

Note that even if the conflict of interest is a non-significant non-pecuniary conflict of interest, the interest must still be disclosed in writing with an explanation of why the person considers that the non-significant non-pecuniary interest is not significant and does not require further action in the circumstances.

Disclosures to be made in writing

Any disclosures made by a person must be recorded in writing using the template forms provided in Annexure A.

Managing a conflict of interest

Where a Council Officer discloses a pecuniary or significant non-pecuniary conflict of interest, the conflict of interest will be managed with the direction of the Manager, Senior Manager, Director or General Manager. The Council Officer must not participate in consideration of, or decision making in relation to, the matter in which the Council Officer has the conflict of interest. The matter must be allocated to another person for consideration or determination.

A Councillor or Council committee member who has disclosed a pecuniary or significant non-pecuniary conflict of interest at a meeting must not be present at, or in sight of, the meeting of the Council or committee at any time during which the matter is being considered or discussed by the Council or committee, or at any time during which the Council or committee is voting on any question in relation to the matter. A Councillor who has a pecuniary interest in a matter may participate in a decision to delegate consideration of the matter in question to another body or person. A disclosure made at a Council meeting or committee meeting must be recorded in the minutes of the meeting.

Monitoring a conflict of interest

The identification and management of conflict of interests are subject to regular review from the Senior Manager Governance and Risk or Governance Manager. This review will occur periodically, or in response to any changes in circumstances relating to the conflict of interest. Monitoring should include the review and assessment of:

- The original situation that gave rise to the declaration of the conflict of interest.
- Any actions taken to manage the conflict of interest.
- Any changes to the situation that may have an impact on the management strategy implemented.
- Any perception that may be held by other Council Officials that the conflict of interest is having an influence on a Council matter.

Reporting conflicts of interest

The General Manager must report any breaches of the pecuniary interest requirements to the OLG.

8. Recording and maintaining a conflict of interest register

Council's Governance and Risk department shall maintain Council's Conflict of Interest register, which will record all conflicts of interests declared or disclosed. The register shall record the actual conflict of interest disclosed and the action taken to manage the conflict of interest.

9. Council-related development

The *Environmental Planning and Assessment Act 1979* requires Council to implement specific measures to deal with conflicts of interest which may arise as a result of Council-related development. To deal with such conflicts of interest, Council must implement a policy which achieves the following:

- Establishes management controls and/or a management strategy to address potential conflicts of interest at the different phases of the development process for the types of Council-related development that Council could be involved in.
- Outlines the process through which potential conflicts of interest will be identified, the risks assessed and the appropriate management controls determined.
- Outlines the process that will be followed to publicly communicate the management approaches for each development subject to the policy.

Council is not to consent to a Council-related development unless it has first considered this Conflict of Interest Policy.

Before consenting to any Council-related development, Council must ensure Council Officers are aware of their obligations to disclose any and all conflicts of interest in accordance with the Conflict of Interest Policy and Model Code of Conduct.

Identification and assessment of Council-related development conflicts of interest

Development applications lodged with Council that are Council-related development are to be referred to the General Manager (or a delegate) for a conflict of interest risk assessment.

The General Manager is required to do the following:

- Assess whether the application is one in which a potential conflict of interest exists.
- Identify the phase(s) of the development process at which the identified conflict of interest arises.
- Assess the level of risk involved at each phase of the development process.
- Determine what (if any) management controls should be implemented to address the identified conflict of interest (in each phase of the development process if necessary) having regard to any controls and strategies outlined in the policy and the outcome of the general manager's assessment of the level of risk involved as set out above.
- Determine whether or not management controls are necessary in the circumstances.
- Document the proposed management approach for the proposal in a statement that is published on Council's web page.

Management Controls

The following risk management controls may be applied to the following:

The assessment of an application for council-related development

- Removing the involvement of any Council Officers that have a conflict of interest.
- Referral of the application for assessment to an external party, such as an independent planning consultant or another council, particularly where Council has a commercial interest in the land or where the development is seen to be a political priority for Council.

The determination of an application for council-related development

- Determination of the application by either the Local Planning Panel or Sydney District Planning Panel in accordance with the Minister's Direction.
- Where not required to be determined by a planning panel be determined by the Director of Planning or the General Manager.

The regulation and enforcement of approved council-related development

- Requiring peer review by a neighbouring council for the regulation and enforcement.

Council need not implement management controls in respect to conflicts of interest where the Council-related development is for any of the following:

- Internal fit outs or minor changes to a building façade.
- Internal alterations or additions to buildings that are not a heritage item.
- Advertising signage.
- Minor building structures projecting from a building façade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services).
- Where the cost investment value is below \$500,000 and no submissions in objection are received.
- Development where Council might receive a small fee for the use of the land.

Councillors and Council Officers are still at all times required to disclose and manage conflicts of interest in accordance with their obligations set out in the Code of Conduct.

Management statement

A Council-related development must be accompanied by a management strategy identifying how the Council will manage conflict of interest, including the management controls that will be implemented or that management controls are not required.

Council must prepare a management statement in the template set out in Annexure B and submit it with the development application. An example of a management statement is below, as set out in the Council-related Development Application Conflict of Interest Guidelines prescribed pursuant to 66A of the *Environmental Planning and Assessment Regulation 2021*. The management statement will be made publicly available on Council's webpage.

Example Scenario

Inner West Council is upgrading one of their assets, 'Blue River Civic Place'. Council is the landowner and the applicant and is proposing to redevelop the site into a mixed-use development with a total capital investment value (CIV) of \$4.9 million. The development application seeks approval for the construction and use of an additional 2 stories on an existing 3 story building comprising a childcare centre, commercial office spaces and partial use of the building for council's public administration.

Example management statement

Council conflict of interest management statement

Project name	Blue River Civic Place
DA number	DA21/0001
Potential conflict	Inner West Council is the applicant. Blue River Civic Place has an estimated capital investment value of \$4.9 million and the council expects to receive revenue through renting
Management Controls	<p>The council is managing potential conflicts of interest in this matter as follows:</p> <ul style="list-style-type: none"> • The application will either be (one will be selected): <ul style="list-style-type: none"> ○ referred to the Local or Sydney District Planning Panel in accordance with the Minister’s Directions. ○ Peer reviewed by a neighbouring Council. ○ Determined by the Director of Planning or the General Manager. • Council development assessment staff not involved with preparing the application will assess the DA. The staff will remain separated from the project team. • Green Hill Council has agreed to peer review any regulatory decisions should compliance decisions be made. • Key project milestones following the development consent will be reported at a public council meeting.
Contact	Anyone with concerns about council fulfilling its obligations should report their concerns to the council.

General Manager

Bob Smith

Date: 12/07/2023

Approval:

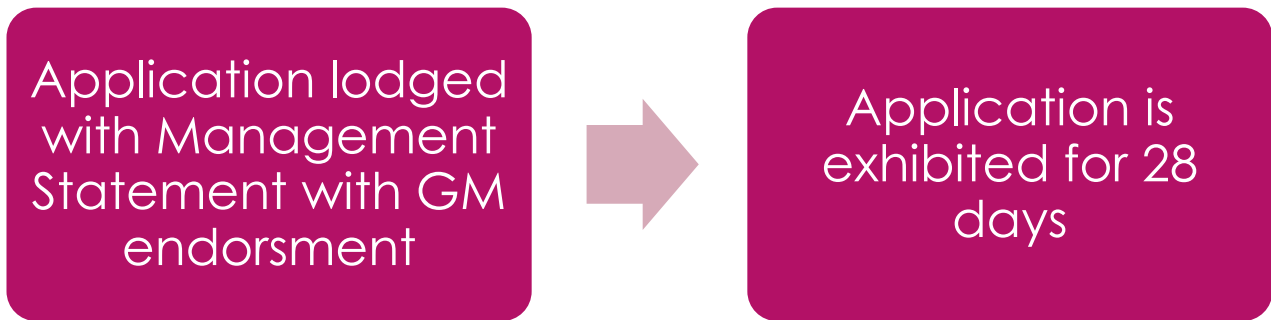
Recording Council-related development application conflicts of interest

Council must record conflicts of interest in connection with each Council-related development, and the measures taken to manage the conflict, in Council’s existing development application register.

Public exhibition

Council-related development applications must be exhibited for a minimum of 28 days on the NSW Planning Portal to ensure transparency during the assessment process.

Process



10. Breaches of this policy

Breaches of this policy may result in an investigation of the alleged breach in line with relevant Council policies including the Model Code of Conduct.

Any alleged criminal offence or allegation of corrupt conduct will be referred to the relevant external agency.

Specifically in relation to Projects

If it is discovered that this Conflict of Interest Policy has not been complied with in relation to a particular project or action, Council may not proceed further with that project or action until this Conflict of Interest Policy has been complied with. Where there is a greater risk to Council than continuation of the project without compliance with this Conflict of Interest Policy, Council may take minor steps to mitigate such risk.

11. Administrative Changes

From time-to-time circumstances may change leading to the need for minor administrative changes to this document. Where an update does not materially alter this document, such a change may be made including branding, Council Officer titles or department changes and legislative name or title changes are considered minor in nature and not required to be formally endorsed.

12. Version Control – Policy History

This policy will be formally reviewed every three years from the date of adoption or as required.

Governance use only:

Document	Conflict of Interest Policy	<i>Uncontrolled Copy When Printed</i>	
Custodian	Senior Manager Governance and Risk and DA Operations and Special Projects Manager	Version #	Version 1
Approved By	Council	ECM Document #	37617637
Next Review Date	April 2026		

Amended by	Changes made	Date
Governance and Risk and DA	New Policy	11 April 2023



13. Annexure A: Conflict of Interest Disclosure

14. Annexure B: Conflict of Interest Management Statement template

Conflict of Interest Management Statement

Project Name	[Insert]
DA Number	DA[Insert]
Potential Conflict	[Insert]
Management Controls	Council is managing potential conflicts of interest in this matter as follows: [Insert]
Contact	[Insert]
General Manager Approval	[Insert]