



City of Salisbury Values: Respectful, Accountable, Collaborative, Helpful

Development Assessment of Council Developments Administrative Policy

Adopted by:	Executive Group
Responsible Division:	Development Services
First Issued/ Adopted:	March 2018
Last Reviewed:	August 2023
Next Review Date:	August 2027

1. Purpose

The intent of this policy is to provide a probity framework for staff involved in the assessment of Council development under the *Planning, Development and Infrastructure Act 2016*, and in the development of Council property, to manage any perceived and actual risks of conflict of interest in Council's various roles.

2. Scope

This guideline applies to those circumstances when Council's property development and property management activities have the potential to create real or perceived conflicts in Council's role as the relevant authority.

3. Legislative Requirements and Corporate Policy Context

- Planning, Development and Infrastructure Act 2016
- Local Government Act 1999

4. Interpretation/Definitions

Council Development - is a development undertaken by or on behalf of Council that requires approval under the *Planning, Development and Infrastructure Act 2016*.

Relevant Authority - is the authority assigned to make a determination under the *Planning, Development and Infrastructure Act 2016*.

5. Policy Statements

- 5.1. The following points provide general guidance for those circumstances where perceived, actual or potential conflicting roles exist. The application of these guidelines will depend upon the circumstances of each case including the type and scale of development being considered or undertaken.
- 5.2. A project management framework will include a risk assessment, including an assessment of risk in relation to conflict of interest.
- 5.3. The project management plan for each project will also factor in any need for development approval and the time frames for same.

Significant Business Activities, Major Projects

- 5.4. Significant business activities, major projects or activities that require a prudential management report to be prepared should have early stage input from external legal practitioners, probity advisers and/or independent planning consultants to assist in identifying real, potential and perceived conflicting roles. The cost of external advice should be factored into the overall costs of project delivery.
- S.S. Where a real, potential or perceived conflict of interest exists, the application will be referred to the Minister for Planning pursuant to section 94(1)(g) under the *Planning, Development and Infrastructure Act 2016*, outlining the reasons for the conflict, requesting that the State Commission Assessment Panel be declared as the relevant authority for the application.
- 5.6. Should the Minister refer the application back to the Council for determination, other than for non-commercial projects, the Council may appoint an independent planning consultant to prepare the assessment report. For non-commercial projects the assessment process may be undertaken by Council staff. This will be determined on a case-by-case basis.

- 5.7. Council staff will manage the administrative processes including coordination of cross-Council input to the application and, where relevant, provide comment to the consultant on Council's behalf.
- 5.8. The Council Assessment Panel (CAP), as an independent body, will then determine the application.
- 5.9. The Assessment Manager will determine development applications that are not significant business activities or major projects, as prescribed by the *Planning, Development and Infrastructure Act 2016*.

Building Consent

- 5.10. In the situation where Building Rules Consent is sought under the *Planning, Development and Infrastructure Act 2016* and the project is one where the City of Salisbury is the applicant, this consent should be sought from an independent Private Certifier.

Pre-Lodgement Advice

- 5.11. Council's statutory role also involves provision of advice to developers on development applications prior to lodgement. Such advice may be sought by land owners or prospective developers in relation to properties Council has an interest in acquiring for strategic purposes, or over which a masterplan has been prepared, which goes beyond the provisions in the Planning and Design Code.
- 5.12. In the situation where the Council is approached for pre-application planning advice and Council has a perceived, real or potential conflict of interest then Council staff will generally provide pre-application planning advice in the following manner:
 - 5.12.1. Advice will be limited to the provisions as detailed in the Planning and Design Code.
 - 5.12.2. Factual information will be provided of approved development on adjacent sites.
 - 5.12.3. Information will be provided as to the assessment process that will be undertaken as per the provisions of this guideline.
 - 5.12.4. Should a specific request be made about Council's interest or potential interest in the site then the planner, if/ he is aware of that interest, will refer the inquiry to the General Manager City Development.
 - 5.12.5. A record shall be made by the staff member of the advice given and recorded on Council's records system against the relevant property.

- 5.13. Council staff will not exercise a delegation to make a decision on an application for planning consent, or issue an instruction in relation to the exercise of a delegation held by another person, where they have assisted the applicant in the preparation of the application to the extent that it would lead to an expectation that if the applicant followed the staff advice that the staff member would grant delegated consent to the application.

Staff Conflict of Interest

- 5.14. Council supports an open, transparent and accountable public administration with a commitment to ethical decision making. Council's Code of Conduct for employees states that:

"An employee of Council who has in interest in a matter in relation to which he or she is required or authorised to act in the course of official duties must disclose the interest to the Chief Executive Officer and must not, unless the Chief Executive Officer otherwise determines, act in relation to the matter."

- 5.15. The Code of Conduct acknowledges that full disclosure of actual or perceived conflicts of interest is required. To maintain the integrity of Council's development assessment and property projects, the provisions relating to the inclusion of items on Council's Register of Interests will be extended to staff working in Development Assessment, Strategic Development Projects, and any staff dealing with the acquisition and disposal of property.

- 5.16. The Minister responsible for the administration of the *Planning, Development and Infrastructure Act 2016* has also adopted a Codes of Conduct under the respective Acts , with a view to ensuring that those officers who exercise delegation under the Act uphold the highest standards of behaviour and ensure that they act in accordance with the provisions of the Act at all times. As Delegates, Council staff are also bound by the provisions of the respective Code of Conduct.

Contractor and Consultant Conflict of Interest

- 5.17. Council engages consultants and contractors at various times to assist with strategic property projects, support the development of masterplans and in some cases to assess development applications and provide advice/recommendations. At times this engagement is motivated by resource and expertise considerations while at other times Council is seeking an impartial and objective opinion.

5.18. Although contractors and consultants are covered by the provisions of Council's Code of Conduct, the preparation of contracts for consultants in relation to strategic property matters and for development assessment purposes should include:

- 5.18.1. The requirement to declare pre-existing conflicts of interest.
- 5.18.2. A requirement that consultants declare any conflicts of interests if and when they arise throughout their engagement.
- 5.18.3. Consequences for the failure to comply with contractual requirements such as the declaration of conflicts of interest, which could include termination of the contract with no compensation.
- 5.18.4. A prohibition on consultants working for specified clients that would present a conflict during the term of the contract.
- 5.18.5. A requirement to maintain confidentiality.

6. Related Policies and Procedures

- 6.1. Prudential Management Policy
- 6.2. Codes of Conduct by the Minister for Planning
- 6.3. Delegated Officers Policy.

7. Approval and Change History

Version	Approval Date	Approval By	Change
1	March 2018	Executive	Original
2		Executive	
3	3 February 2021	Executive	Update to POI Act
4	22 December 2021	Executive	Update Assessment of council developments
5	August 2022	Executive	General Review
6	August 2023	Executive	General Review

8. Availability

- 8.1. The Policy is available to be downloaded, free of charge, from Council's website www.salisbury.sa.gov.au
- 8.2. The Policy will be available for inspection without charge at the Civic Centre during ordinary business hours and a copy may be purchased at a fee as set annually by Council.

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9. Review

This Policy will be reviewed in August 2027.

Further Information

For further information on this Policy please contact:

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