



New South Wales

Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022

under the

Environmental Planning and Assessment Act 1979

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Environmental Planning and Assessment Act 1979*.

ANTHONY ROBERTS, MP
Minister for Planning

Explanatory note

The object of this Regulation is to impose requirements on councils to manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority.

A ***council-related development application*** is a development application, for which the council is the consent authority, that is—

- (a) made by or on behalf of the council, or
- (b) for development on land—
 - (i) of which the council is an owner, a lessee or a licensee, or
 - (ii) otherwise vested in or under the control of the council.

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1 Name of Regulation

This Regulation is the *Environmental Planning and Assessment Amendment (Conflict of Interest) Regulation 2022*.

2 Commencement

This Regulation commences on 3 April 2023.

3 Amendment of Environmental Planning and Assessment Act 1979 No 203

Schedule 1 Community participation requirements

Insert after clause 9A—

9B Council-related development applications

- (1) Minimum public exhibition period for a council-related development application—28 days.
- (2) In this clause—
council-related development application means a development application, for which a council is the consent authority, that is—
 - (a) made by or on behalf of the council, or
 - (b) for development on land—
 - (i) of which the council is an owner, a lessee or a licensee, or
 - (ii) otherwise vested in or under the control of the council.

Note— Land vested in or under the control of the council includes public land within the meaning of the *Local Government Act 1993*.

Schedule 1 **Amendment of Environmental Planning and Assessment Regulation 2021**

[1] **Section 30B**

Insert after section 30A—

30B Council-related development applications

A council-related development application must be accompanied by—

- (a) a statement specifying how the council will manage conflicts of interest that may arise in connection with the application because the council is the consent authority (a *management strategy*), or
- (b) a statement that the council has no management strategy for the application.

[2] **Section 66A**

Insert after section 66—

66A Council-related development applications—the Act, ss 4.16(11)

- (1) A council-related development application must not be determined by the consent authority unless—
 - (a) the council has adopted a conflict of interest policy, and
 - (b) the council considers the policy in determining the application.
- (2) In this section—

conflict of interest policy means a policy that—

 - (a) specifies how a council will manage conflicts of interest that may arise in connection with council-related development applications because the council is the consent authority, and
 - (b) complies with the *Council-related Development Application Conflict of Interest Guidelines* published by the Department and available on the NSW planning portal.

[3] **Section 240 Council to keep a register of development applications and development consents**

Insert after section 240(3)(m)—

- (m1) for a development consent granted in response to a council-related development application—
 - (i) conflicts of interest that may arise in connection with the application because the council is the consent authority, and
 - (ii) measures taken by the council to manage the conflicts of interest,

[4] **Schedule 7 Dictionary**

Insert in alphabetical order—

council-related development application has the same meaning as in the Act, Schedule 1, clause 9B.