

NARROMINE SHIRE COUNCIL
ORDINARY MEETING BUSINESS PAPER – 12 APRIL 2023
REPORTS TO COUNCIL – COMMUNITY AND ECONOMIC DEVELOPMENT

1. DEVELOPMENT APPROVALS

Author	Director Community and Economic Development
Responsible Officer	Director Community and Economic Development
Link to Strategic Plans	CSP – 3.1.6 – Encourage developers to consider energy efficiency and sustainable building design options in new developments DP – 3.1.6.1 - Ensure compliance with relevant building codes and regulations

Executive Summary

This report provides information to Council on the approved Development Applications for March 2023.

Report

The approvals for the month of March 2023 brings the total approved Development Applications for the financial year to 39, with a total value of \$9,953,090.42. At this time last year there were 69 development applications approved with a value of \$18,746,571.00.

DA No.	Location	LOT/DP	Description	Value	Assessment Time/Days
2023/10	107 Maple Crescent, Narromine	102/810143	Swimming Pool	\$28,000.00	0
2023/11	9 Kingsford Smith Place, Narromine	5/1271467	Domestic Storage Shed	\$14,100.00	6
2023/13	121 Merilba Street, Narromine	1&2/254703	Domestic Storage Shed	\$44,240.00	14
2023/15	7 Kingsford Smith Pl, Narromine	55/1271467	Dwelling Carport & Hangar	\$418,709.48	Withdrawn
2023/16	7 Kingsford Smith Pl, Narromine	55/1271467	Dwelling & Hangar	\$418,709.48	5

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1. DEVELOPMENT APPROVALS (CONT'D)

There are currently 11 applications under assessment.

Legal and Regulatory Compliance

Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021

Risk Management Issues

Nil

Internal/ external Consultation

Nil

Attachments

Nil

RECOMMENDATION

That the information be noted.

2. CONFLICT OF INTEREST POLICY – DEALING WITH COUNCIL-RELATED DEVELOPMENT THROUGHOUT THE DEVELOPMENT PROCESS

Author	Manager Planning
Responsible Officer	Director Community and Economic Development
Link to Strategic Plans	Delivery Program 2.1.5 New plans and strategies are developed in line with the community's needs and encourages economic growth.

Executive Summary

The intention of this report is to update Council on the changes to the *Environmental Planning and Assessment Regulation 2021* (changes come into effect on 3 April 2023). Councils are required by this date to have a Conflict of Interest Policy in place, otherwise councils will be unable to determine Council-related development applications. This report recommends the adoption of a policy based on the guidelines issued by Department of Planning and Environment (DPE).

Report

When can a conflict exist?

Councils are development regulators/consent authorities. Also, councils can be the developer, landowner or hold a commercial interest in the land they regulate. Where this dual role occurs, an inherent conflict can arise between their interests in the development and the duty as regulator.

2. CONFLICT OF INTEREST POLICY – DEALING WITH COUNCIL-RELATED DEVELOPMENT THROUGHOUT THE DEVELOPMENT PROCESS (CONT'D)

Draft Policy Requirements

Staff have developed a draft Policy in accordance with the guidelines issued by DPE, to address conflict when dealing with Council-related development throughout the process of a development application.

The following requirements have been introduced into the *Environmental Planning and Assessment Regulation 2021* to address conflicts of interest in Council related development:

- Councils must adopt and have a policy that specifies how conflicts of interest in connection with Council-related development applications will be handled. The policy must comply with the requirements in the Guidelines (section 66A).
- Council-related development applications must now be accompanied by either a management strategy statement, which explains how the Council will manage potential conflicts of interest, or a statement that the Council has no management strategy for the application (section 30B).
- Councils must record conflicts of interest in connection with each Council-related development application, and the measures taken to manage the conflicts, in their existing DA register (section 240).
- Council-related development applications must be exhibited for a minimum of 28 days to ensure transparency during the assessment process (Environmental Planning and Assessment Act 1979, schedule 1, clause 9B).

Note: The regulation changes do not mandate the use of the framework once a development consent is issued, however a management strategy should consider any conflicts that may occur after the development consent has been granted.

Flexibility when there is low risk

Council may determine the risks associated with a Council-related development are sufficiently low and no specific controls are warranted. Where this is the case, Council should still publicly communicate that fact to ensure transparency.

Assessment of Risk and Management Controls

The draft policy includes a process whereby development applications lodged with Narromine Shire Council that are Council-related development are to be referred to the General Manager (or delegate) for a conflict of interest risk assessment. Once the areas of conflict are identified and the risks categorised, a management and control strategy is to be adopted. The management approach is to be summarised and written into a brief statement and published on the NSW Planning Portal. This management statement can also be included with a development application exhibition.

2. CONFLICT OF INTEREST POLICY – DEALING WITH COUNCIL-RELATED DEVELOPMENT THROUGHOUT THE DEVELOPMENT PROCESS (CONT'D)

Legal and Regulatory Compliance

*Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021*

Risk Management Issues

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 the Council could be involved in.

Addresses the process through which potential conflicts of interest will be identified, the risks assessed and appropriate management controls determined, and sets a process that will be followed to publicly communicate the management approaches for each development subject to the policy.

Internal/ external Consultation

No external consultation required.

Attachments

- **Attachment No. 1** – Conflict of Interest Policy – Dealing with Council-Related Development throughout the Development Process

RECOMMENDATION

That Council adopt the draft Conflict of Interest Policy – Dealing with Council-related Development throughout the Development Process and implement the measures where Narromine Shire Council has a dual role as regulator and developer to manage the conflict that can arise in these circumstances.

3. SUBDIVISION AND DEVELOPMENT OF DERRIBONG STREET PROPERTY

Author	Director Community and Economic Development
Responsible Officer	Director Community and Economic Development
Link to Strategic Plans	CSP – 4.3.4 Ensure Council's property assets are monitored and well managed DP – 3.1.6.1 - Ensure compliance with relevant building codes and regulations

Executive Summary

This report provides further information to Council in regard to the proposed development and sale at Derribong Street, Trangie for the purposes of residential development.

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3. SUBDIVISION AND DEVELOPMENT OF DERRIBONG STREET PROPERTY (CONT'D)

Report

At the Council meeting held 22 June 2022 a report was presented to Council outlining the outcome of an expression of interest process for the development of land at Derribong Street, Trangie and the recommendation for Council to undertake this development.

Resolved:

That Council undertakes the development of the land of Lot 112 DP 755126 and Lot 152 DP 82458 as outlined in the report.

That the works be funded from land reserves.

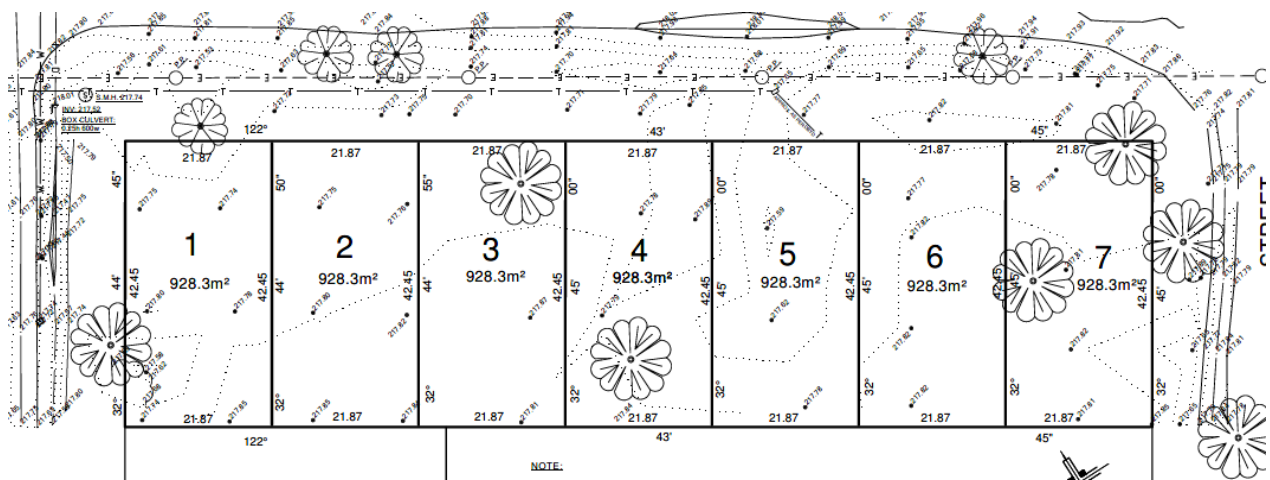
That a further report be provided to Council outlining the recommended sale price of each of the newly created lots. (2022/121)

Following the resolution Council staff began the development process and to date have undertaken the land survey and submitted a development application to undertake the works.

The work to be undertaken would include:

- Survey of land
- Development application and approvals
- Confirmation of subdivision layout
- Installation of water and sewer services and connection points
- Works to the sewer man hole on the corner of Derribong and Belgrove Street
- Ensuring electrical supply and telecommunications extension
- Providing kerb and guttering along Derribong Street
- Provision of fill if required
- Registration with the land titles office

A draft site layout is now provided which provides an indication of the lot sizes to be created.



As at June 2022 the development costs were expected to be approximately \$290,000 and the sale price for each of the lots to be further resolved by Council once development was underway.

3. SUBDIVISION AND DEVELOPMENT OF DERRIBONG STREET PROPERTY (CONT'D)

Over the past several months Council staff have received several enquiries for the purchase of this residential land and believe there will be good demand for these residential allotments.

Interest has been received from the Land and Housing Corporation for Teacher Housing and Western NSW Local Health District for the development of key worker housing in Trangie. Both of these departments are seeking a commitment from Council that once a subdivision has occurred that up to four of these lots would be sold to these entities for the purpose of key worker accommodation.

The Land and Housing Corporation and Western NSW LHD are seeking this early commitment from Council, (subject to pricing and subdivision) that these lots be made available as they are in their own planning and budgeting phases and would look to deliver this housing in the next financial year.

Both entities have indicated that the supply of workforce accommodation is low for teachers and nurses in Trangie and that they would be looking to develop each allotment immediately.

Legal and Regulatory Compliance

Narromine Shire Council Property Strategy
Narromine Shire Council Procurement Policy 2019
Local Government Act 1993
Environmental Planning and Assessment Act 1979
Environmental Planning and Assessment Regulation 2021

Risk Management Issues

As Council is in the early phase of development there are some risks regarding the timing and scope of works to be delivered as well as budget increases. This is mitigated by not confirming the price at this stage.

Internal/ external Consultation

Executive Leadership Team

Attachments

Nil

RECOMMENDATION

That Council make lots 6 and 7 as outlined in the draft layout plan available to the Land and Housing Corporation should they wish to proceed with the development of key worker accommodation for Trangie.

That Council makes lot 4 and 5 as outlined in the draft layout plan available to the Western Area Local Health District should they wish to proceed with the development of key worker accommodation for Trangie.

That a further report be provided to Council outlining the recommended sale price for each of the newly created lots.

4. NARROMINE INDUSTRIAL PRECINCT AND FREIGHT EXCHANGE

Author Director Community and Economic Development
Responsible Officer Director Community and Economic Development

Link to Strategic Plans

Economic Development Strategy

2.5.2 Work with the Economic Development Group to develop a business case utilising industry case studies that support the development of the Inland Rail Project.
4.5 Work with State and Federal Governments to deliver key infrastructure needs

Delivery Plan

2.1.5.1 Review Land Use Strategies in line with results of Economic Development Strategy to ensure planned new land releases to stimulate economy.
2.2.4.1 Work with State Government agencies to appropriately identify high value land resources, where Government priorities are identified.
2.3.3.2 Identify potential value-added sites with good inter-modal transport links

Executive Summary

The development of the Narromine Freight Exchange and Industrial Precinct is ongoing with the deed of execution recently completed between ARTC and Narromine Shire Council. This allows for the deed of funding between the NSW State Government and Council to be signed.

In March 2023 Councillors held a workshop with developer representatives who outlined the development of a project on the Western portion of land to be purchased by Council. The developer now seeks an option to purchase this portion to allow for the planning and development of the project.

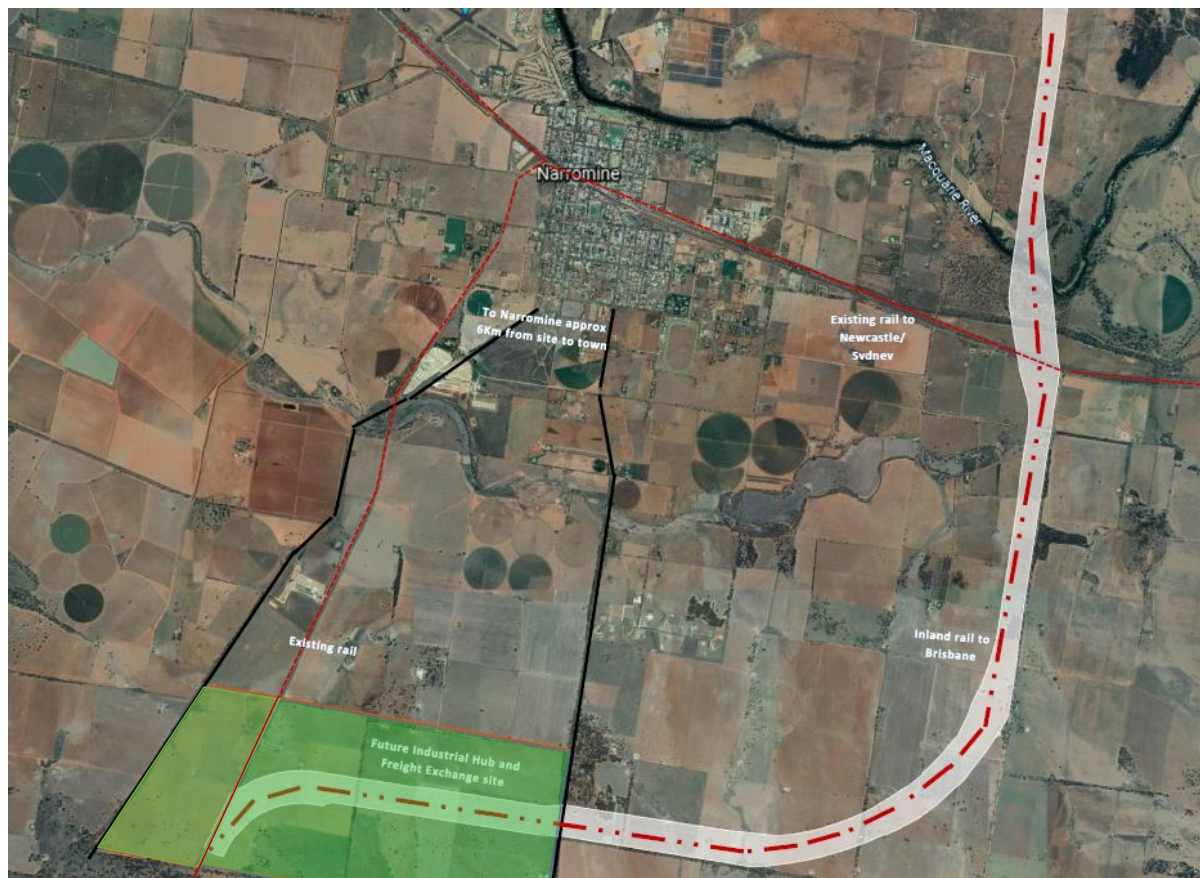
Report

In November 2021 Narromine Shire Council considered a report outlining the progress made in the development of the Narromine Freight Exchange and Industrial precinct.

The development of the precinct is supported by Council's strategic documents including the Employment Lands Strategy and the Local Strategic Planning Statement. These strategies along with many State and Federal regional plans highlight the importance of the Inland Rail and the development of infrastructure to enable the use of this backbone.

4. NARROMINE INDUSTRIAL PRECINCT AND FREIGHT EXCHANGE (CONT'D)

The land identified for development is land that is bound by Narwonah Siding Road and Craigie Lea Lane and is approximately 1000 Ha in size. This land is in one parcel at present and it is planned that the Inland Rail line will run from east to west through the middle of the property. An outline of the location of the property is shown below.



In August 2022 it was resolved:

That Council proceed with the purchase of 494.2HA (approx.) of land from ARTC to enable the immediate development of the Industrial Precinct. The land is outlined as part lot DP 16/755131, DP 17/755131, DP 1/1198931, DP 232/755131, DP 233/755131.

That Council proceed with the purchase at a price of \$3626 per HA plus Stamp Duty and legal costs.

That the General Manager and Mayor be delegated to sign the Put and Call Deed, Lease to ARTC and Contract of Sale documents.

This contract has now been executed with the development of the industrial estate now underway.

4. NARROMINE INDUSTRIAL PRECINCT AND FREIGHT EXCHANGE (CONT'D)

Development

The developer is currently negotiating with joint venture partners to establish an integrated resource recovery and energy generation facility at Narromine.

The plan for Narromine is still being developed but it is expected it will treat in its initial phase up to 150,000 tons of waste per annum with the ability to increase in size if there is demand.

Narromine as a location is seen as desirable as it is:

- Located on the Inland Rail route allowing for future expansion;
- Is equidistant to potential markets;
- Has access to local agricultural by product
- Has access to water
- Can utilise a large greenfield site capable of future expansion

There are significant investors to this plant and it is seeking to meet future needs.

Subsequent to the Councillor workshop held in March 2023 a request has now been made to formally request an option on the property at Craigie Lea Lane.

The State Significant project would be the subject of EPA conditions and would be required to meet any Australian Standard minimums.

It is anticipated that once fully developed a minimum of 250 jobs could be expected during construction and 150 jobs ongoing.

Next steps

Given the nature of the project there is expected to be a considerable lead time in developing and then constructing the project.

It will take significant financial resources in order to undertake the planning and the proponents are seeking to ensure that subject to any planning and other statutory approvals that this land would be available for this project.

Council staff have begun the process of consolidating lot boundaries so that the Western portion of the overall land (west of the Parkes-Narromine rail line) is a discreet lot which at this time will remain RU1 zoned.

If Councillors were to resolve that an option be developed for the future sale of this land (225 HA approx.) then staff would seek an independent valuation of the land to inform the sale price and seek some key project milestones which would be required to be met as part of any option agreement.

4. NARROMINE INDUSTRIAL PRECINCT AND FREIGHT EXCHANGE (CONT'D)

Chapter 6 Part 3 Division 1 of the Local Government Act requires Councils to invite tenders before entering into contracts specified within section 55(1). However, contracts for the purchase or sale of land by Council are specifically excluded from this obligation. The adoption of the Narromine Shire Council Property Strategy outlines that disposal of the land is required to ensure that a *'balanced consideration is given to ensure that the highest possible value for money is achieved through the disposal'*.

The value for money assessment should include:

- Potential for community use after disposal
- The alignment of the purchasers plans for the site with Council priorities
- The price achieved for the property
- An independent assessment of fair market value for the land
- The potential for value adding to the sale

Given the significant employment that would be generated by the project, so long as an independent assessment is made of the land value, Council could agree to a sale of land without the need for a public process and satisfy both the Local Government Act and adopted property strategy.

Financial Implications

At this stage Council has committed to the purchase of 522.1 HA of land at a total price of \$1,893,134.60 (ex GST).

Narromine Shire Council has a commitment from the NSW State Government of \$9M to match \$9M in expenses for the development of the industrial estate. No pricing has been set for the sale of land within the Industrial Estate.

Legal and Regulatory Compliance

Local Government Act 1993.

Disposal of Goods and Property. Local councils are bound by s 55 and s 377 of the *Local Government Act 1993*, and Part 7 of the *Local Government (General) Regulation 2005*.

Environment Planning and Assessment Act 1979

Narromine Shire Council Property Strategy

Risk Management Issues

There is a risk that Council agrees to an option to purchase process and the development does not proceed. This would be mitigated through the development of conditions that may need to be met in order for the sale to proceed. (Such as Development Approval being attained).

4. NARROMINE INDUSTRIAL PRECINCT AND FREIGHT EXCHANGE (CONT'D)

There is a reputation risk to Council that a direct sale is made without a public process and this not being seen as transparent. This is mitigated in a number of ways, including, ensuring a reasonable price is paid for the land, the availability of other land for development and the sale being based on employment outcomes and development spending.

There is some risk that the community see the development of the facility as an overall negative to the local area. This is mitigated through the development approval process, the community consultation that the proponent embarks on and the other positive benefits to the community that may arise.

Internal/External Consultation

- Potential new businesses
- ARTC- Inland Rail
- Department of Regional NSW
- NSW Department of Planning, Industry and Environment

RECOMMENDATION

1. That Council staff develop an option agreement for the sale of 225 HA of land adjacent to Craigie Lea Lane described as Part Lot 16 and Lot 17 DP 755131.
2. That a report detailing the option, including pricing, be brought back to Council for consideration.

Phil Johnston

Director Community and Economic Development



CONFLICT OF INTEREST POLICY- Dealing with Council-Related Development Throughout the Development Process

Environmental Planning and Assessment Regulation 2021

Version Number	Created By	Adopted By Council	Resolution No	Review Period
1.0	Community and Economic Development			4 Years

Part 1 Preliminary

1) Name of Policy

This policy is the Conflicts of Interest Policy - Dealing with Council-Related Development Throughout The Development Process.

2) Aim of Policy

This policy aims to manage potential conflicts of interest and increase transparency at all stages of the development process for Council-related development.

3) Scope

This policy applies to Council-related development (development application and development process).

4) Definitions

(1) In this policy:

application means an application for consent under Part 4 of the Act to carry out development and includes an application to modify a development consent. It does not include an application for a complying development certificate.

Council means Narromine Shire Council.

Council-related development means development for which the 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.

development process means application, assessment, determination, and enforcement.

the Act means the Environmental Planning and Assessment Act 1979.

(2) A word or expression used in this policy has the same meaning as it has in the Act, and any instruments made under the Act, unless it is otherwise defined in this policy.

(3) Notes included in this policy do not form part of the policy.

Part 2 Process for identifying and managing potential conflicts of interest

5) Management controls and strategies

(1) The following management controls may be applied to:

a. the **assessment** of an application for Council-related development

- Control – The assessment of the application is to be undertaken by Council staff delegation.
 - Suitable when proposal is low risk or non-controversial.
 - Appropriate when effective role separation controls are imposed.

(Note: A management strategy is to specify the development assessment staff are not to be involved with preparing the DA and will remain separate from the project team).

- Control – The application is referred for external review, assessment to either: a local planning panel; Consultant; or DPE support staff.
 - Suitable when higher level of role separation is required due to the nature of the project.
 - External party may carry out:
 - Specific matter review for part of an assessment;
 - Carry out a peer review of staff assessment;
 - Perform the role of assessment officer and prepare DA assessment report.

(Note: the involvement of an external third party might be appropriate for development where Council has commercial interest in the land, or the development is seen to be a political priority for the Council).

b. the **determination** of an application for Council-related development

- Control – The determination of the application is to be undertaken by Council staff delegation.
 - Suitable when proposal is low risk or non-controversial.
 - Appropriate when effective role separation controls are imposed.
- Control – The determination of the application is to be undertaken by report to public Council meeting.
 - Suitable when proposal is medium risk or submissions of objection have been received.
 - Appropriate when effective role separation controls are imposed.
- Control – The application is referred for external determination to a Regional planning panel.
 - Suitable when proposal is high risk or controversial.

(Note: the involvement of an RPP would require negotiation as the Panel is not required to accept referrals).

c. the **regulation and enforcement** of an application for Council-related development

- Control – Publication of certificates issued under Part 6 of the Act on Council's Website and NSW Planning Portal.
 - Suitable when proposal is low or medium risk and Council staff are the certifier (construction certificate, subdivision works certificate and occupation certificate).
 - Appropriate when effective role separation controls are imposed.
- Control – Engagement of a private certifier.
 - Suitable when proposal is medium or high risk (construction certificate, subdivision works certificate and occupation certificate).
 - Appropriate when effective role separation controls are imposed.
- Control – Peer review by a neighbouring council and/or entering into a shared services arrangement with a neighbouring council.
 - Suitable when role separation is not able to be achieved for part or whole of process.

- Control – reporting of key milestones to the full Council.
 - Appropriate when effective role separation controls are imposed.
- (2) The management strategy for the following kinds of development is that no management controls need to be applied:
- a. commercial fit outs and minor changes to the building façade
 - b. internal alterations or additions to buildings that are not a heritage item
 - c. advertising signage
 - d. minor building structures projecting from a building facade over public land (such as awnings, verandas, bay windows, flagpoles, pipes, and services)
 - e. development where the Council might receive a small fee for the use of their land.

6) Identifying whether a potential conflict of interest exists, assessment of level risk and determination of appropriate management controls

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

Note: Council-related development is defined in section 4.

- (2) The General Manager is to:
- a. assess whether the application is one in which a potential conflict of interest exists,
 - b. identify the phase(s) of the development process at which the identified conflict of interest arises,
 - c. assess the level of risk involved at each phase of the development process,
 - d. 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 clause 5 of the policy and the outcome of the General Manager's assessment of the level of risk involved as set out clause 6(2)(c) of the policy,

(Note: The General Manager could determine that no management controls are necessary in the circumstances).

- e. document the proposed management approach for the proposal in a statement that is published on the NSW Planning Portal.