

1. Purpose

The purpose of this Policy is to:

- Maintain free and open access to Councillors and Council itself, which is vital to efficient and effective Local Government;
- Provide a Policy, as to how Councillors should interact with Lobbyists and the development industry, which will assist in better decision making and ensures Council fulfils its obligations and is seen to be fulling its obligations and duties in an ethical and impartial manner. Such principles are reflected in Section 4 of the *Local Government Act 2009* (the Act) and comply with the responsibilities of Councillors set out in Section 12 of the Act;
- Provide ethical guidance for Councillors when dealing with Lobbyists, potential Developers or Developers who have made a development application and that the general public has a clear expectation that such contact is carried out ethically and transparently;
- Promote transparency, equity and public accountability, and to assist in better decision making, this Policy provides guidance for Councillors when dealing with Lobbyists, potential Developers, Submitters or their representatives or consultants; and
- Protect Councillors and Council from aspersions of inappropriate behaviour.

For avoidance of doubt, this Policy is in addition to the requirements and processes imposed upon Councillors and Lobbyists by the *Integrity Act 2009 (Qld)* (for example, the requirement for Lobbyists to be registered before undertaking lobbying activities.)

Councillors must ensure that any person engaging in lobbying activity is registered under the *Integrity Act 2009 (Qld)* before contact occurs and must decline further contact if the person is not registered. Councillors must not knowingly permit lobbying activity by a former senior government/opposition representative that relates to their official dealings in the previous two years. For clarity, success fees for lobbying activity are prohibited under the Integrity Act.

2. Scope

This Policy applies to all Councillors who have, or may potentially have, contact with a Lobbyist (whether registered or unregistered), a Developer, or a Submitter in relation to a development application.

This Policy does not prohibit or regulate social interactions between Councillors and other persons solely on the basis that those persons are Lobbyists, Developers, or Submitters in respect of a current or potential development application. However, Councillors are reminded of their obligation to avoid conflicts of interest and to disclose any actual or potential conflicts of interest.

Councillors must carefully consider the potential implications of any social interaction with Lobbyists, Developers, or Submitters, particularly after a development application has been lodged.

3. Responsibility

The CEO is responsible to ensure:

After a development application has been lodged, any request for a meeting between Councillors and Developers, Lobbyists or Submitters should as a default position, be arranged through the Office of the Council's Chief Executive Officer (or delegate) and, where appropriate, be attended by a Council Officer with adequate knowledge of the development application, having regard to probity, fairness and transparency considerations.

In the event that a development application should proceed to any type of court proceeding (i.e. Court of Appeals), no meeting between Councillors and Developers, Lobbyists or Submitters should take place unless approved by the Council's Chief Executive Officer (or his/her delegate), or with such meeting being approved on a without prejudice. No meeting, discussion or site visit concerning a lodged application is to occur unless coordinated through the CEO (or delegate) and attended by a Council officer with relevant knowledge of the matter.

4. Definitions

To assist in interpretation, the following definitions shall apply:

Contact shall mean contact via telephone, email, written correspondence and face-to-face meetings.

Councillors are the elected members of a local government, including the Mayor – for purposes of the *Integrity Act 2009*, a Councillor is included in the definition of a government representative (refer to Section 44 of the *Integrity Act 2009*).

Lobbyist as defined in the *Integrity Act 2009*.

Developer means an applicant for a development approval. If the applicant is a body corporate, the term includes office holders and employees of the applicant. If the applicant is a partnership, the term includes partners and employees of the applicant.

Development Approval means a development application that has been approved by Council.

Lobbying Activity and Control as defined in section 42 of the *Integrity Act 2009*.

Submitter shall mean a person who makes a properly made submission about the application. (Schedule 3 Dictionary of the *Sustainable Planning Act 2009*).

5. Policy

5.1 Meeting or Exchanging other Communication with Potential Developers and Lobbyists (where no proposal presently before Council)

Councillors may encourage responsible and appropriate development in Council's area. Councillors should not feel inhibited, in any communications, with potential Developers and Lobbyists (for a potential development) in promoting the benefits of developing in Council's Local Government area.

However, even in dealings with potential Developers and Lobbyists (for a potential development), Councillors:

- Must make clear to potential Developers and Lobbyists that they can provide general information on the application process but cannot give definitive advice about the development's or Lobbyists chance of success;
- Should suggest that the Developer or Lobbyist seeks independent professional advice;
- If applicable, must encourage potential development applicants and Lobbyists to seek preliminary advice on their proposal by utilising the established process for pre-lodgement meetings with Council staff and; and
- Must state that any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the potential application. The Councillor must be aware that if they do give a personal opinion on the potential development, this may preclude them from being involved in any decisions on the development in the future.

5.1.2 Potential Submitters

In relation to potential Submitters to a development application, Councillors should not feel inhibited about discussing with potential Submitters what is publicly known about a potential development application. Again, Councillors:

- Must make clear to potential Submitters that they can provide general information on the application process but cannot give definitive advice about the Developer's chance of success;
- Should suggest that the Submitter seeks independent professional advice; and
- Must state that any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the potential application. The Councillor must be aware that if they do give a personal opinion on the potential development, this may preclude them from being involved in any decisions on the development in the future.

5.1.3 Record of Communication

In all exchanges of communication with a potential Developer, Lobbyists (for potential development) or proposed Submitter, Councillors are required to keep and maintain a written record of all exchanges of communication with a potential Developer, Lobbyist or Submitter.

The written record should detail as a minimum:

- a) The date and time of the exchange;
- b) The format of the exchange (i.e. face to face meeting, telephone call, exchange of emails or exchange of correspondence);
- c) A summary of the matters raised with the Councillor; and
- d) A summary of the Councillor's response. The standard statements in clauses 5.2.1 and 5.2.3 apply to all Councillor communications about development matters, regardless of the medium (meeting, telephone, email, correspondence, or other). Where an informal or social interaction shifts into discussion of a current or prospective development matter, the Councillor must immediately apply these statements and create a record under clause 5.4.

5.2 Meeting between Councillors with Developers, Lobbyists and Submitters after a Development Application has been lodged with Council

5.2.1 Meetings

After a development application has been lodged, any request for a meeting between Councillors and Developers, Lobbyists or Submitters should only occur by arrangement through the Office of Council's Chief Executive Officer (or his/her delegate) and only in circumstances where a Council Officer (with adequate knowledge of the development application) is also present.

At any such meeting, again Councillors must state:

- That any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the development application. The Councillor must be aware that if they do give a personal opinion on the potential

development, this may preclude them from being involved in any decisions on the development in the future; and

- In relation to Council's possible decision on the application, that the Councillor's principal obligation is to serve the public interest by ensuring that his/her decision is:
 - i. Consistent with the planning legislation, Council's planning scheme and policies; and
 - ii. Made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 - iii. Not influenced by any other irrelevant or inappropriate consideration.

5.2.2 Record of Meeting

Councillors must keep a written record of any such meeting. This written record should detail, as a minimum:

- the format of the exchange (i.e. telephone call, exchange of emails or exchange of correspondence); and
- a summary of the matters raised with the Councillor and a summary of the Councillor's response.

5.1.2 Other Communications

After a development application has been lodged, if a Councillor engages in telephone discussions, email or other correspondence exchange with a Developer, Lobbyist or Submitter (where they are seeking the Councillor's support or opposition (as the case may be) to a development application, any such response from the Councillor must include the following statements:

- that any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the development application; and
- in relation to Council's possible decision on the application, that the Councillor's principal obligation is to serve the public interest by ensuring that his/her decision is:
 - consistent with the planning legislation, Council's planning scheme and policies;
 - made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 - not influenced by any other irrelevant or inappropriate consideration.

Councillors must keep a written record of any such communications. This written record should detail, as a minimum, the date and time of the exchange, the format of the exchange (i.e. telephone call, exchange of emails or exchange of correspondence), a summary of the matters raised with the Councillor and a summary of the Councillor's response.

5.2 Meeting between Councillors with Developers, Lobbyists and Submitters if a Development Application is Subject to Legal Proceedings:

In the event that a development application should proceed to any type of court proceeding (i.e. Court of Appeals) no meeting between Councillors and Developers, Lobbyists or Submitters should take place unless approved by the Council's Chief Executive Officer (or his/her delegate) such meeting being approved on a without prejudice.

Councillors must keep a written record of any such communications. This written record should detail, as a minimum:

- the date and time of the exchange;
- the format of the exchange (i.e. telephone call, exchange of emails or exchange of correspondence); and
- a summary of the matters raised with the Councillor and a summary of the Councillor's response.

5.3 Records

The Act requires that local governments keep proper records of contacts they have with lobbyists, both those on the Lobbyists Register and those who are not, either because they are not obliged to register by Queensland Integrity Act 2009 or because they have failed to do so notwithstanding the requirements of the Act.

Records created under this Policy may be subject to Right to Information (RTI) requests, audit or inquiry by the Office of the Queensland Integrity Commissioner, and disclosure obligations in legal proceedings. Councillors must ensure records are accurate, complete and submitted within the prescribed timeframes.

Both the Crime and Misconduct Commission and the Integrity Commissioner have requested standardisation of the records of contact to be maintained by all agencies for reporting purposes and for public record keeping purposes in accordance with the *Public Records Act 2023* and a template for the recording of contacts with a view to ensuring standardisation has been produced and is annexed hereto marked "A".

It is recommended that Councillors utilise the template for recording of communications as mentioned in the policy, as well as any other communication in which Councillors may be involved.

To enable Council to meet its record keeping requirements and to submit relevant returns of "contacts" as and when required, or upon demand by the Integrity Commissioner, Councillors should remit completed recordings to the office of the Chief Executive Officer within fourteen (14) days of communications as specified occurring.

6. Legal Parameters

- *Local Government Act 2009 -Section 4 Local Government Principles*
- *Local Government Act 2009 – Section 12 Responsibilities of Councillors*
- *Integrity Act 2009- Section 71 Lobbying by unregistered entity prohibited*
- *Public Sector Ethics Act 1994*
- *Public Records Act 2023*
- *Planning Act 2016*

7. Associated Documents

The Chief Executive Officer can approve any Procedures that may be directly associated with this Policy.

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