

COUNCIL PROCEDURE: CONTACT WITH LOBBYISTS, DEVELOPERS AND SUBMITTERS

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| Related Policies/Local Laws/Legislation: | <i>Local Government Act 2009 Integrity Act 2009 Sustainable Planning Act 2009</i> |
| Related Documents: | <i>CEO Guidelines: Reporting of Contact with Lobbyists</i> |

Introduction

Free and open access to Councillors, and Council itself, is vital to efficient and effective local government.

Contact with Councillors is undertaken by many people in the community in relation to a broad range of matters. Lobbyists, developers and submitters seek access to Councillors to discuss potential and existing development applications and other projects. The public has a clear expectation that such contact is carried out ethically and transparently.

This procedure is intended to provide ethical guidance for Councillors when dealing with lobbyists, potential developers or developers who have made a development application.

It is always the aim of Council to ensure that all decisions are legal, ethical and impartial. Such principles are reflected in section 4 the *Local Government Act 2009* (i.e. the “local government principles”) and section 12 of that Act (the responsibilities of councillors).

Providing a procedure as to how councillors should interact with lobbyists and the development industry will assist in better decision making.

For avoidance of doubt, this procedure is in addition to the requirements and processes imposed upon councillors and lobbyists by the *Integrity Act 2009* (for example, the requirement for lobbyists to be registered before undertaking lobbying activities¹).

¹ See section 71 of the *Integrity Act 2009*

Definitions

For the purposes of this procedure, the following terms are defined: -

“councillor” means the mayor and councillors of the Council.

“developer” means an applicant for development approval. If the applicant is a body corporate, the term includes officer holders and employees of the applicant. If the applicant is a partnership, the term includes partners and employees of the applicant.

“development application” means an application for development that requires assessment against the provisions of Council’s town planning scheme.

“development approval” means a development application that has been approved by Council.

“lobbyist” has the same meaning as defined in the *Integrity Act 2009*².

“submitter” has the same meaning as defined in the *Sustainable Planning Act 2009*³.

² See section 41

³ See schedule 3 (Dictionary)

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 developer’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;
- 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.

Similarly, 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;
- 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

In all exchanges of communication⁴ with a potential developer, lobbyist (for a potential development) or potential submitter, councillors should keep and maintain a written record of same. This written record should detail, as a minimum, the date and time of the exchange, the format of the exchange (i.e. face to face meeting, 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.

⁴For example, face to face meetings, telephone calls, emails and other correspondence

Meeting with Developers, Lobbyists and Submitters after a development application has been lodged

Meetings

After a development application has been lodged, any requests for meetings between councillors and developers, lobbyists or submitters should only occur after the councillor has sufficiently appraised him/herself of nature of the development application. If the councillor proposing to attend the meeting is the mayor, he/she should notify the deputy mayor and CEO (or the CEO's delegate) of the mayor's intention to attend such a meeting. If the councillor proposing to attend the meeting is not the mayor, he/she should notify the mayor and CEO (or the CEO's delegate) of the councillor's intention to attend such a meeting.

At any such meetings, 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; 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: -
 1. consistent with the planning legislation, Council's planning scheme and policies; and
 2. made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 3. not influenced by any other irrelevant or inappropriate consideration.

Councillors must a keep a written record summarizing the matters discussed at any such meeting. This written record should detail, as a minimum, the date and time of the meeting a summary of the matters raised with the councillor and a summary of the councillor's response.

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: -
 1. consistent with the planning legislation, Council's planning scheme and policies; and
 2. made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 3. 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.

Acknowledgments

This code has been based, in part, on: -

1. the "Queensland Contact with Lobbyists Code", as it appeared on the website of the Department of the Premier and Cabinet on 12 October 2009; and
2. the (former) Caboolture Shire Council policy entitled "Contact between Councillors and Developers"; policy no. 840/06 dated 5 September 2006.

Note: Prepared by King and Company, Solicitors -
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