Councillor Interaction with Developers, Lobbyists and Submitters Policy

1. Purpose

The purpose of this policy is to:

- provide guidance to councillors with regard to how they should interact with developers, lobbyists and submitters in matters relating to land use planning;
- promote transparency, equity, consistency and public accountability, and to assist in better decision making in the planning process;
- ensure that all decisions are legal, ethical, impartial and in accordance with all relevant legislation;
- maintain free and open accessibility to councillors; and
- provide guidance in addition to the requirements and processes imposed upon councillors by legislation and other Council policies, including the *Local Government Act, 2020*, the *Planning and Environment Act, 1987*, and the *Model Councillor Code of Conduct*.

2. Objective

Councillors will manage their interactions with developers, lobbyists and submitters to:

- preserve confidence in the good governance of the city; and
- minimise the likelihood of claims being made of improper dealings, bias or conflict of interest.

3. Scope

Unless otherwise stated, this policy applies to any and all contact between councillors and developers, lobbyists and submitters with regard to land use planning related matters within the municipality of Wodonga City.

This policy does not apply to a social interaction that does not discuss current land use planning matters between councillors and other persons simply because those other persons are developers, lobbyists, or submitters. However, councillors are reminded of their obligation to both avoid conflicts of interest and disclose potential conflicts of interest and are required to carefully consider possible implications of social interaction with developers, lobbyists, and submitters.

This policy applies to all members of Council staff when present at a meeting between, councillors and permit applicants, lobbyists or submitters.

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4. Definitions

Contact	Any communication or information exchange between a councillor and a developer, lobbyist and / or submitter, regardless of whether it was expected, planned, solicited or reciprocated and regardless of the means of communication.
Council	Wodonga City Council.
Councillor/s	An elected member/s of Wodonga City Council which includes the Mayor.
Developer	A business, government agency or individual who is seeking to gain Council approval for the development of land for more than one dwelling or to use or develop land for commercial purposes. This includes any consultants, advisors, agents, representatives or persons closely associated with the developer who is appointed to promote or advocate for the developer's interests or proposal. For the purpose of this policy, developer does not mean those individuals seeking to gain planning approval from Council for non-commercial projects being a replacement dwelling, or single dwelling renovations or extensions.
Lobbyist	A person or entity that carries out a lobbying activity for a third-party client, such as a developer, or whose employees or contractors carry out a lobbying activity for a third party, but does not include: • Charitable, religious and other organisations endorsed as deductible gift recipients • Non-profit organisations or associations that represent the interests of their members • Individuals making representations on behalf of family and friends regarding their personal affairs • Members of trade delegations visiting Australia • Members of professions whose activities are regulated by an Australian government scheme dealing with government representatives as part of their day-to-day work • Members of professions who occasionally make representations to a level of government on behalf of others as an incidental part of their professional services, such as doctors, lawyers and accountants • Representatives of other Government agencies
Submitter	A person or entity that makes, or proposes to make, a submission to a land use planning application or similar. Such submissions could be either in support of, or in opposition to, a land use planning application.

5. Policy

5.1 Potential developers and lobbyists (where no proposal is currently before Council)

Councillors should encourage responsible and appropriate development. Councillors should not feel inhibited in any communications, with potential developers and lobbyists (for a potential development) in promoting the benefits of developing in the city.

However, 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 only and cannot give advice about, or commit to, the development's chance of success;
- should suggest the developer or lobbyist seek independent professional advice;
- if applicable, must encourage potential developers and lobbyists to seek preliminary advice on their proposal by utilising the established process within Council for pre-lodgement meetings with Council officers;
- should focus on asking open-ended questions that seek to gather information, clarify perspectives, and engage in constructive dialogue on behalf of the community, rather than advocating for a particular stance or viewpoint;
- must not make up their minds about the merits of a proposal until it has been advanced to a formal application, and they have read the officer's reports and heard all sides of the debate; and
- must avoid making public comments, including comments at meetings with developers, lobbyists and submitters, that could be seen as supporting or opposing a potential development.

5.2 Potential submitters (where no proposal is currently before Council)

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. Councillors:

- must make it clear to potential submitters that they can provide general information on the application process only and cannot give advice about the developments chance of success;
- should suggest that the submitter seeks independent professional advice;
- should focus on asking open-ended questions that seek to gather information, clarify perspectives, and engage in constructive dialogue on behalf of the community, rather than advocating for a particular stance or viewpoint;
- must not make up their minds about a proposal until it has been advanced to a formal application, and they have read the officer's reports and heard all sides of the debate; and
- must avoid making public comments, including comments at meetings with developers, lobbyists and submitters, that could be seen as supporting or opposing a potential development.

5.3 Meetings between councillors, developers, lobbyists and / or submitters (after a development application has been lodged with Council)

After a development application has been lodged, any requests for meetings between councillors and developers, lobbyists or submitters must only occur by arrangement through the Chief Executive Officer (CEO) or the Director Infrastructure and Growth (DIG).

All councillors will be invited to attend these meetings and a Council officer (with adequate knowledge of the development application) must be present. The purpose of these meetings will be to listen to the position of the relevant person or group.

To ensure a fair and transparent process, where such meetings occur, councillors must then also make themselves available to all other parties involved in the matter to hear their views should they similarly request to be heard.

At any meeting with developers, lobbyists and / or submitters, councillors:

- should advise the contact that the meeting will be registered in accordance with the policy, and should proceed only if the contact understands and agrees;
- must make clear that they are only in attendance to listen to the person or group, that they can provide general information on the application process only and they cannot give advice about the development's chance of success;
- should focus on asking open-ended questions that seek to gather information, clarify perspectives, and engage in constructive dialogue on behalf of the community, rather than advocating for a particular stance or viewpoint;
- must not make up their minds about the merits of a proposal until it has been advanced to a formal application, and they have read the officer's reports and heard all sides of the debate;
- must avoid making public comments, including comments at meetings with developers, lobbyists and submitters, that could be seen as supporting or opposing a potential development; and
- should state that in relation to Council's possible decision on the application, that, where it is a decision to be made at a Council meeting, the councillor's principal obligation is to serve the public interest by ensuring that their decision is:
    - consistent with the planning legislation, Council's planning scheme and policies; and
    - 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.

5.4 Meetings between councillors, developers, submitters and/or lobbyists (where a development application is subject to legal proceedings)

In the event that a land use planning application is proceeding to any type of court or tribunal proceeding, no meetings between councillors and developers, lobbyists and / or submitters should take place unless approved by the CEO or the DIG with such meeting being approved on a "without prejudice" basis.

5.5 Presentations at councillor briefings

Periodically, arrangements may be made for councillors to receive briefings from applicants concerning noteworthy planning proposals. This is done to ensure that councillors are well-informed about matters that may impact the city and / or be the subject of broader community interest, examples include: master plans for significant redevelopment proposals and public housing proposals.

Such briefings serve to enable councillors to be more comprehensively informed, providing them capacity to pose inquiries, request additional information, and equip them to address potential community questions more effectively.

The CEO, or the DIG, or nominees must be in attendance at these meetings.

5.6 Other communications

After a land use planning application has been lodged, if a councillor engages in a form of contact not detailed above with a developers, lobbyists and / or submitters they:

- must make clear that they are only able to listen to the person or group, that they can provide general information on the application process only and they cannot give advice about the development's chance of success;

- should focus on asking open-ended questions that seek to gather information, clarify perspectives, and engage in constructive dialogue on behalf of the community, rather than advocating for a particular stance or viewpoint;
- must not make up their minds about a proposal until it has been advanced to a formal application, and they have read the officer's reports and heard all sides of the debate; and
- must avoid making public comments, including comments at meetings with developers, lobbyists and submitters, that could be seen as supporting or opposing a potential development; 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 their 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.

5.7 Record of communication – register of contact with developers, lobbyists and / or submitters

Councillors should keep a written record of the matters discussed at any interaction with a developer, lobbyist and / or submitter. A *Councillor Declaration of Contact with Developers, Lobbyists and Submitters Form* (see Appendix 1) should be completed and forwarded to the CEO for inclusion in the *Register of Contact with Developers, Lobbyists and Submitters* within 7 days of the meeting taking place.

The *Register of Contact with Developers, Lobbyists and Submitters* shall be made publicly available in an electronic format on the Council's website and updated on a monthly basis.

6. Attachments

Nil.

7. Related policies

- Model Councillor Code of Conduct
- Public Transparency Policy
- Conflict of interest guide for councillors, committees and staff

8. Related legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Local Government Act 2020*
- *Local Government (Governance and Integrity) Regulations 2020*
- *Planning and Environment Act 1987*

9. References

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N/A

10. Review

Council may review this policy at any time but unless otherwise requested at least every four years from date of adoption. Minor amendments to the policy may be authorised by the CEO at any time where such changes do not alter the substance of the policy eg: typographical errors, a change to the name of a related policy, or a change to the name of legislation.

Title:	Title
Reference No:	Record Number
Business Unit:	Owner.Display Name
Category:	Document Label
Approved By:	Manager Owner.Display Name
Next Review:	Review Date

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APPENDIX 1

Councillor Declaration of Contact with Developers, Lobbyists and Submitters Form (electronic copy in Docs On Tap).

	Insert Details Below
Councillor Name:	
Name of developer, lobbyist and/or submitter:	
Date, place and time of contact:	
Type or method of contact:	
Property of development discussed:	
Nature of issue covered in the contact:	
Did you advise the developer, lobbyist or submitter of the Contact Register?	
How did you advise them about the Contact Register?	
Any other comments?	

Signed:

Date: