

Councillor Contact with Developers, Submitters & Lobbyists Policy

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1. PURPOSE

Councillor compliance with this Policy is on a voluntary basis. Councillors are not mandated or obligated to register their contact with Developers, Submitters and Lobbyists but are encouraged to do so for the reasons and benefits set out further in this document.

The purpose of this policy is to:

- provide guidance to Councillors with regard to how they should interact with developers, submitters and lobbyists in matters relating to land use planning;
- provide ethical guidance for Councillors when dealing with developers, submitters and lobbyists who have made, or are proposing to make, a land use planning application or submission;
- 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 Council itself which is vital for efficient and effective Local Government;
- encourage and support high quality projects and facilitation of new investment in the region by way of major projects and investment facilitation; and
- provide guidance in addition to the requirements and processes imposed upon Councillors and others by the *Local Government Act 2020*.

2. BACKGROUND

Council recognises that interactions with developers, submitters and lobbyists are a necessary and essential part of a healthy democracy and every person, organisation and interest group has a right to put a case forward to elected officials as part of the land use planning decision making process.

Council is committed to open public accountability and transparency. Councillors are expected to uphold the highest standards of professionalism, integrity and transparency in relation to contact with developers, submitters and lobbyists and any conflict of interest or perceived conflict of interest is required to be recorded consistently.

The *Local Government Act 2020* requires Councillors to declare direct or indirect conflicts of interest on matters that come before them for consideration. Greater Dandenong City Council seeks to go beyond the minimum requirements set out in legislation and commits itself to a higher standard of transparency in the highly important function of proposed and actual land use planning and development decision making.

By going beyond the minimum requirements set out in legislation and registering the contact by councillors in accordance with this Policy, councillors are benefitted by being protected from allegations or perceptions of inappropriate assistance or endorsement on matters in which they might ultimately have a role in seeing progressed through the land use planning decision making process.

3. SCOPE

This policy applies to any and all contact between Councillors and developers, submitters and lobbyists in Greater Dandenong City Council (Council) with regard to land use planning related matters.

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, submitters or

lobbyists. 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, submitters and lobbyists.

4. DEFINITIONS

Unless otherwise specified within this policy, the following words are defined to mean the following in terms of this policy:

Contact	any communication or information exchange between a Councillor and a developer, submitter and/or lobbyist, regardless of whether it was expected, planned, solicited or reciprocated and regardless of the means of communication.
Council	Greater Dandenong City Council.
Councillor/s	a Councillor or Councillors of Greater Dandenong City Council which includes the Mayor.
Developer	an applicant, or proposed applicant, for a land use planning application or similar. This includes any consultants, advisors, agents, representatives or person closely associated with the developer who is appointed to promote or advocate for the developer's interests or proposal.
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.
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.

5. POLICY

5.1 POTENTIAL DEVELOPERS AND LOBBYISTS (WHERE NO PROPOSAL IS CURRENTLY BEFORE COUNCIL)

Councillors should 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, 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 the City Planning and Design Department at Council for pre-lodgement meetings with Council officers; and
- should not state any opinions or provide any advice regarding the proposal (other than that stated above). 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.

5.2 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; and
- should not state any opinions regarding the proposal (other than that stated above). 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.

5.3 MEETINGS BETWEEN COUNCILLORS, DEVELOPERS, SUBMITTERS AND/OR LOBBYISTS (AFTER A DEVELOPMENT APPLICATION HAS BEEN LODGED WITH COUNCIL)

After a development application has been lodged at Council, any request for a meeting between Councillors and developers, submitters and/or lobbyists may occur only 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, submitters and/or lobbyists, Councillors:

- should advise the contact that the meeting might 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 not state any opinions or provide any advice regarding the proposal (other than that stated above). 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
- should state that 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.

5.4 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, submitters and/or lobbyists should take place unless approved by the Chief Executive Officer or the Director, City Planning Design & Amenity with such meeting being approved on a "without prejudice" basis.

5.5 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 developer, submitter and/or lobbyist 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 not state any opinions or provide any advice regarding the proposal (other than that stated above). 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 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.

5.6 RECORD OF COMMUNICATION – REGISTER OF CONTACT WITH DEVELOPERS, SUBMITTERS AND LOBBYISTS

Councillors should keep a written record of the matters discussed at any interaction with a developer, submitter and/or lobbyist. A *Councillor Declaration of Contact with Developer, Submitter and Lobbyist Form* (see Appendix 1) should be completed and forwarded to the Chief Executive Officer for inclusion in the *Register of Contact with Developers, Submitters and Lobbyists* within 10 business days of the meeting taking place.

The Governance Unit (on behalf of the Chief Executive Officer) is responsible for maintaining the *Register of Contact with Developers, Submitters and Lobbyists*. The Register shall be made publicly available in an electronic format on the Council's website and updated on a monthly basis.

6. RESPONSE TO THE OVERARCHING GOVERNANCE PRINCIPLES OF THE LOCAL GOVERNMENT ACT 2020

Section 9 of the *Local Government Act 2020* states that a Council must in the performance of its role give effect to the overarching governance principles. This policy responds to the overarching governance principles by contributing to the following points:

- Council decisions are made and actions taken in accordance with the relevant law;
- priority is to be given to achieving the best outcomes for the municipal community, including future generations;
- the economic, social and environmental sustainability of the municipal district, including mitigation and planning for climate change risks, is promoted when considering all land use planning matters;
- the municipal community is engaged in strategic planning and strategic decision making;
- innovation and continuous improvement are pursued;

- regional, state and national plans and policies are to be taken into account in strategic planning and decision making for all land use matters; and
- the transparency of Council decisions, actions and information is ensured by the development of the Register of Contact.

7. CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES ACT 2006 – COMPATIBILITY STATEMENT

The Victorian Charter of Human Rights and Responsibilities Act 2006 has been considered in relation to whether any human right under the Charter is restricted or interfered with in any way by enacting any part of this policy. It is considered that this policy is consistent with the rights outlined in the Charter.

8. RESPONSE TO THE GENDER EQUALITY ACT 2020

Council's Diversity, Access and Equity Policy and the *Gender Equality Act 2020* have been considered in the preparation of this policy but are not relevant to its contents. The policy is purely administrative in nature and does not benefit any one gender group over any other.

9. CONSIDERATION OF CLIMATE CHANGE AND SUSTAINABILITY

Council's Declaration on a Climate and Ecological Emergency, Council's Climate Change Emergency Strategy 2020-2030 and the requirements of the *Local Government Act 2020* in relation to the overarching governance principle on climate change and sustainability have been considered in the preparation of this policy but are not relevant to its contents. The policy is purely administrative in nature and Councillors will be provided with access to electronic formats of both the policy and the *Contact with Developer, Submitter and Lobbyist Declaration Form* so that hard copies are not required.

10. RESPONSIBILITIES

Councillors should keep a written record of the matters discussed at any interaction with a developer, submitter and/or lobbyist. A *Councillor Declaration of Contact with Developer, Submitter and Lobbyist* should be completed and forwarded to the Chief Executive Officer for inclusion in the *Register of Contact with Developers, Submitters and Lobbyists* within 10 business days of the meeting taking place.

The Governance Unit (on behalf of the Chief Executive Officer) is responsible for maintaining the *Register of Contact with Developers, Submitters and Lobbyists* shall be made publicly available in an electronic format on the Council's website and updated on a monthly basis.

11. REPORTING, MONITORING AND REVIEW

A periodic review of this policy will be undertaken to ensure that any changes required to strengthen or update the policy are made in a timely manner.

Councillors should keep a written record of all matters discussed at any interaction with a developer, submitter and/or lobbyist. A Councillor *Declaration of Contact with Developer, Submitter and/or Lobbyist Form* (see Appendix 1) must be completed and forwarded to the Chief Executive Officer for inclusion in the *Register of Contact with Developers, Submitters and Lobbyists* within 10 business days of the meeting taking place.

The *Register of Councillor Contact with Developers, Submitters and Lobbyists* register will be monitored by the Governance Unit on behalf of the Chief Executive Officer.

The *Register of Councillor Contact with Developers, Submitters and Lobbyists* will be placed on Council's website in accordance with this policy.

12. REFERENCES AND RELATED DOCUMENTS

Legislation

- *Charter of Human Rights and Responsibilities Act 2006*
- *Gender Equality Act 2020*
- *Local Government Act 2020*
- *Planning and Environment Act 1987*

Related Council and Other Policies, Procedures, Strategies, Protocols, Guidelines (in alpha order)

- Greater Dandenong City Council Climate Change Emergency Strategy and Action Plan 2020-30
- Greater Dandenong City Council Conflict of Interest Policy
- Greater Dandenong Planning Scheme

13. APPENDIX 1 – COUNCILLOR CONTACT WITH DEVELOPER.SUBMITTER OR LOBBYIST FORM



COUNCILLOR DECLARATION OF CONTACT WITH DEVELOPER, SUBMITTER OR LOBBYIST

	Insert Details Below
Councillor Name:	
Name of developer, submitter and/or lobbyist:	
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, submitter or lobbyist of the Contact Register?	
How did you advise them about the Contact Register?	
Any other comments?	

Signed: _____

Date: _____