

Attachments

Council Meeting

Monday 13 February 2023

10.2 **Endorsement of Draft Interaction with Developers and Lobbyists Policy for Consultation**

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Winter 2022 Newsletter)

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Whitehorse City Council

Interaction with Developers and Lobbyists Policy

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1. PURPOSE

Council must represent the interests of the community, and engagement with community members is an essential component of the democratic process.

To ensure optimal decision making regarding budgetary and planning proposals, Council requires access to information from both submitters (including community members and developers) and objectors (including individuals or community groups).

Lobbyists provide advice on public policy processes and assist individuals and organisations in communicating their views on matters of public interest to government, with the aim of improving outcomes for individuals and the community. Lobbying activities should be ethical and transparent, enabling Council to make informed decisions in the public interest.

This policy serves to preserve the integrity of Council and its representatives when engaging with developers and lobbyists by ensuring that interaction is conducted in accordance with the highest standards of transparency, integrity and honesty, and is open to public scrutiny.

2. OBJECTIVES

The objectives of this policy are to

- Ensure that interactions of Council representatives with developers and lobbyists are open, transparent and accountable
- Avoid actual or perceived conflicts of interest
- Mitigate lobbying-related risk to minimise opportunities for misconduct or corrupt behaviour

3. SCOPE

This policy applies to all representatives of Whitehorse City Council, in all situations where interaction may occur with developers and lobbyists outside of a Council Forum, Council Briefing or Council Meeting.

4. DEFINITIONS

Council representative

Council representatives include:

- Councillors
- Council officers
- Contracted Council service providers and their employees

Developer

An individual, body corporate or company engaged in business that:

- Regularly involves the making of relevant planning applications in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit; and
- Includes any consultant, lobbyist, advisor, agent, representative or person closely associated with a

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	developer and who is appointed to promote or advocate for the developer's interests or proposal.
<i>Lobbyist</i>	<p>A person, company or organisation who conducts lobbying activities on behalf of a third party client, but does not include:</p> <ul style="list-style-type: none">• 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
<i>Lobbying activity</i>	<p>Any contact with a Council representative in an effort to influence Council decision making, including:</p> <ul style="list-style-type: none">• The making or amendment of a local law; or• The development or amendment of a Council policy or program; or• The awarding of a Council contract or grant, or the allocation of funding. <p>This includes contact by telephone, electronic mail, written mail, online meetings, or face to face meetings.</p>
<i>Register of Lobbyists</i>	<p>The record of registered lobbyists maintained by the Victorian Public Sector Commission</p>

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5. CONDITIONS OF ENGAGEMENT

5.1 *Developers and lobbyists*

Developers and lobbyists shall observe the following conditions when engaging with Council representatives:

- They must advise that they are a developer or lobbyist or employee, contractor or person otherwise engaged by these
- If a lobbyist, they must also advise:
 - Whether they are currently listed on the *Register of Lobbyists*;
 - That they are making contact on behalf of a third party or parties;
 - The name of the third party or parties and the nature of the third party's issue; and
 - Whether they also act for any other third party currently involved in a Council process.
- They should not approach Councillors directly, approaches should be made via Council's normal contact methods by emailing customer.service@whitehorse.vic.gov.au or telephoning 9262 6333
- They must not offer gifts or hospitality to Council representatives
- They must not engage in any conduct that is corrupt, dishonest, or illegal, or cause or threaten any detriment
- They must use all reasonable endeavours to satisfy themselves of the truth and accuracy of all statements and information provided to parties whom they represent, Council, and the wider public

5.2 *Council representatives*

The role of Council staff is to assess an application and provide an impartial, professional opinion and recommendation to councillors.

The role of an elected councillor in the decision-making process is to approve or refuse the application on the information and recommendation provided by council staff. To avoid prejudicing the eventual decision, councillors must not make up their mind about a development application until they have read the officers report and heard all sides of the debate.

When interacting with developers and lobbyists, Council representatives must:

- Prior to meeting:
 - Ensure that any lobbyist is registered on the *Register of Lobbyists* maintained by the Victorian Public Sector Commission prior to meeting
 - Ensure that parties from outside Council are aware of the requirements applying to them under this policy
- Disclose any conflicts of interest, whether general or material, in accordance with Part 6, Division 2 of the *Local Government Act 2020* and Chapter 4 of the *Whitehorse City Council Governance Rules*.
- Neither solicit nor accept any gift, in accordance with the *Whitehorse City Council Councillor Gift Policy* and *Council Staff Gift Policy*.
- Within 7 days of the meeting complete the Declaration of Contact with Developers or Lobbyists (where officer/s and Councillor/s attend the meeting an officer will complete the declaration and include all attendees).

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- Immediately report to the Manager Governance and Integrity if it is known or suspected that a developer or lobbyist has breached any of the above conditions.

The following additional conditions apply to Councillors:

- Ensure that it is clear that they can provide only general information on the application process and cannot give advice about, or commit to the development's chance of success.
- If applicable encourage potential developers and lobbyists to seek preliminary advice on their proposal via the pre-application process set out by the City Planning and Development Department at Council.
- 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.
- When attending a formal meeting with developers or lobbyists Councillors shall request a Senior Council Officer be present.

6. REGISTER OF CONTACT WITH DEVELOPERS AND LOBBYISTS

6.1 Council will maintain a *Register of Contact with Developers and Lobbyists* that contains the following information:

- The date, time and venue of the contact;
- The name and title of Council representative/s in attendance;
- The name and role/organisation of developer or lobbyist;
- The name of the client represented, if applicable;
- The names of any other parties present;
- The mode of contact; and
- Matters discussed.

6.2 The register will be available for public perusal on the Council website and updated on a quarterly basis, with a report providing details of any meetings between Council representatives and developers or lobbyists in the previous 12 months presented to Council's Audit & Risk Committee annually.

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7. RESPONSIBILITIES

Parties	Roles and Responsibilities	Timelines
All Staff	Ensure that any interaction with developers or lobbyists is conducted in accordance with this policy and is reported to the Governance and Integrity department.	Within 7 days of contact
Councillors	Ensure that any interaction with developers or lobbyists is conducted in accordance with this policy and is reported to the Governance and Integrity Department	Within 7 days of contact
Developers and Lobbyists	Conduct any interaction with Council representatives in accordance with the <i>Principles of Engagement</i> contained within this policy.	Ongoing
Manager Governance and Integrity	Ensure that: <ul style="list-style-type: none"> • Details of interactions are saved in content manager and recorded in Council’s <i>Register of Contact with Developers and Lobbyists</i> within 7 days of receipt • The register is published on the Council website on a quarterly basis • An annual report detailing interactions over the previous 12 months is provided to the Audit and Risk Committee. 	Ongoing

8. RELATED POLICIES AND LEGISLATION

Local Government Act 2020

Victorian Government Professional Lobbyist Code of Conduct

Whitehorse City Council Public Transparency Policy

Interactions with Developers - Local Government Inspectorate Guide

Charter of Human Rights and Responsibilities Act 2006

9. REVIEW

Responsible Manager: Manager Governance and Integrity

Date Adopted: March 2023

Date of Next Review: March 2027

This policy has been reviewed for compliance with the *Charter of Human Rights and Responsibilities Act 2006*.

10. APPENDICES

Appendix A – Declaration of Contact with Developers or Lobbyists form

