



Blackall-Tambo

Regional Council

Councillor Contact with Lobbyists, Developers & Submitters Policy

Document Number: Stat 19	Effective Date: 20 July 2022
Version Number: Three	Review Date: 20 July 2024
Policy Compiled by: Chief Executive Officer	
Policy Approved by: Chief Executive Officer	

1. SCOPE

This policy applies to all Councillors and officers of Council regarding Council business related contact between Councillors and Council officers, and lobbyists, potential developers, developers and submitters.

This policy does not apply to unanticipated or social engagements that occur from time to time between councillors, developers or submitters. However, councillors should carefully consider the implications of social engagements with these persons and be mindful of their obligations under the *Local Government Act 2009* and the Code of Conduct for Councillors in Queensland.

2. PURPOSE

The purposes of this policy are to:

- Maintain free and open access to Councillors and Council itself.
- Clarify how councillors may engage with developers in the current and future interest of the local government area.
- 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.
- Ensure that all decisions are legal, ethical and impartial. Such principles are reflected in section 4 of the *Local Government Act 2009* and comply with the responsibilities of councillors set out in section 12 of the Act.
- Provide further guidance on where a councillor has, or is likely to have, a prescribed or declarable conflict of interest in relation to a particular development application.

3. DEFINITIONS

To assist in interpretation the following definitions shall apply:

Contact means contact via telephone, video conference, email, written correspondence and face-to-face meetings.

Council means Blackall-Tambo Regional Council.

Document #: Stat 19	Date Effective: 20.7.2022	Version: Three	Page 1 of 5
---------------------	---------------------------	----------------	-------------

Councillor means a Councillor of Blackall-Tambo Regional Council within the meaning of the *Local Government Act 2009*, which includes the Mayor.

Council Officer means all officers of council, whether employed on a permanent, temporary, part-time or consultancy basis.

Development application means an application for development that requires assessment against the provisions of the planning scheme

Developer means an application for development approval or prospective applicant for a development approval, their advisors and representatives. It includes any lobbyist acting on behalf of a developer. If the applicant is a partnership, the term includes partners and Council officers of the applicant.

Lobbyist has the same meaning as defined in the *Integrity Act 2009*, that is, a person or entity who carries out lobbying for a third-party client.

Submitter is a person who has made a submission, or expressed an intention to make a submission, about a development application as provided under the *Planning Act 2016*. It includes any lobbyist or consultant acting on behalf of a submitter.

4. POLICY STATEMENT

Council aims to ensure all decisions are legal, ethical, and impartial. Such principles are reflected in section 4 of the *Local Government Act 2009* (i.e., the “local government principles”) and section 12 of the *Local Government Act 2009* (Responsibilities of Councillors).

5. COUNCILLOR ROLES IN DEVELOPMENT APPLICATIONS

If a developer or lobbyist wants to discuss a development matter with a councillor this should be referred to the office of the CEO to co-ordinate a meeting appointment. When meeting with a developer or submitter about a development application, a councillor must conduct the meeting with an appropriate third party such as the CEO.

While Councillors are entitled to express a personal opinion about a development application, they should be aware that the expression of a personal opinion, whether positive or negative may impact on the perception of their impartiality as a decision maker should they be required to decide on the matter.

When the local government is deciding on an application, the provisions of the *Planning Act 2016*, particularly the *Development Assessment Rules*, require that councillors individually and the local government collectively, must not pre-determine an application and cannot consider matters that are irrelevant to a development assessment process.

Under the *Integrity Act 2009*, lobbyists are required to inform Councillors that they are a lobbyist when making initial contact. In addition to the record keeping requirements detailed below, interactions between Councillors and lobbyists must be recorded in Council’s Register of Contact with Lobbyists. Nothing in this policy requires a Councillor to meet with a lobbyist at any time.

As prescribed by legislation, it is an offence for Councillors to accept gifts, benefits or donations from property developers at any time.

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

Councillors or Council officers may encourage responsible and appropriate development in Council's area. Councillors or Council officers should not feel inhibited, in any communications, with potential developers or 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 and Council officers:

- (a) Can provide general information on the application process but cannot give definitive advice on the chances of success;
- (b) Make it clear that a final decision can only be made after all relevant material has been prepared and considered;
- (c) Should suggest that the developer or lobbyist seeks independent professional advice;
- (d) If applicable, must encourage potential development applicants and lobbyists to seek preliminary advice on their proposal by utilizing the established process for pre-lodgement meetings with Council officers; and
- (e) Must state that any opinions expressed by the Councillor or employee are personal 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 and Council officers should not feel inhibited about discussing what is publicly known about a potential development application. Councillors and Council officers:

- (a) Can provide general information on the application process but cannot give definitive advice about the chances of success; and
- (b) Should suggest that the submitter seeks independent professional advice; and
- (c) Must state that any opinions expressed by the Councillor or relevant employee are personal and do not in any way represent the Council's possible attitude to the potential application.

In all exchanges of communication with a lobbyist (for a potential development), Councillors and Council officers must keep and maintain a written record. This written record must detail, as a minimum, the date and time of the exchange, the format of the exchange (for example, face-to-face meeting, telephone call, exchange of emails or exchange of correspondence), a summary of the matters raised with the Councillor or relevant employee and a summary of the Councillor's or relevant response.

5.2 Meetings (after a development application has been lodged)

Once a development application is lodged and is being assessed by council officers, Councillors should not initiate or seek to be involved in internal meetings or meeting with the developer about the application under assessment.

If a Councillor or employee engages in telephone discussions, email or other correspondence exchange with a developer, lobbyist, or submitter (where they are seeking the Councillor's or employee's support or opposition, as the case may be, to a development application), any such response from the Councillor or employee shall include the following statements:

- (a) That any opinions expressed by the Councillor or employee are personal and do not in any way represent the Council's possible attitude to the development application;
- (b) In relation to Council's possible decision on the application, that the Councillor's or employee's principal obligation is to serve the public interest by ensuring that his/her decision is:
 - (i) Consistent with planning legislation, Council's planning scheme and policies;
 - (ii) Made after having appropriate regard to any Council employee's (or Council appointed consultant's) advice; and
 - (iii) Not influenced by any other irrelevant or inappropriate consideration; and
- (c) Councillors and Council officers must keep a written record of any such communications.

This written record must detail, as a minimum, the date and time of the exchange, the format of the exchange (for example, face-to-face meeting, telephone call, exchange of emails or exchange of correspondence), a summary of the matters raised with the Councillor or relevant employee and a summary of the Councillor's or relevant response.

If a Councillor has a prescribed or declarable conflict of interest in relation to a development application which is under assessment, they must not:

- (a) Discuss the matter with any other Councillor or Council officer who is or may be a participant in deciding the matter; or
- (b) Interact with a developer or submitter in relation to that matter.

5.3 Post-development Decision and Appeal (after an application has been decided)

Once a decision has been made by Council, Councillors are required to respect that decision.

The post-decision stage of any development application is particularly sensitive and can involve negotiations between parties having an interest in the outcome of the application. Under the *Planning Act 2016*, every applicant has the right to negotiate with Council on conditions and the scope of any approval issued by Council. All such negotiations must be attended by Council officers or representatives, and Councillors should not be involved.

From the time a decision has been made until the end of the appeal period, Councillors must not engage with the relevant developer or submitter in relation to the matter.

If an appeal is lodged, Councillors must refrain from interactions with the appellants or co-respondents and should avoid commenting publicly about matters before the Planning and Environment Court.

Council officers and Council's legal representatives manage the conduct of an appeal. During the course of an appeal 'without prejudice' meetings may be held between the parties to try and reach an agreement or limit the issues in dispute. Councillors do not attend 'without prejudice' meetings. Council officers will advise Council:

- When an appeal is lodged;
- When something significant occurs in relation to an appeal; and
- When an appeal is resolved.

Councillors must not seek to influence the manner in which conditions of development approval are implemented by Council officers.

6. REFERENCES / POLICIES

- *Local Government Act 2009*
- *Planning Act 2016*
- *Economic Development Act 2012*
- *Integrity Act 2009*
- *Public Records Act 2020*
- CEO's Guidelines for Mayoral and Councillor Requests to Council officers for Advice Policy
- Councillor Code of Conduct Policy
- Blackall-Tambo Region Planning Scheme

7. POLICY REVIEW

This policy will be reviewed when any of the following occur:

1. As required by legislation.
2. The related documents are amended or replaced.
3. Other circumstances as determined by the Chief Executive Officer.

Notwithstanding the above, this policy is to be reviewed at intervals of no more than four (4) years.

Version Control

Version One	27.10.2010
Version Two	12.08.2014
Version Three	20.07.2022