



Council Policy CONTACT WITH LOBBYISTS

Corporate Plan Reference:	<i>Good Governance</i>
Endorsed by Council:	4 June 2015
Policy Author:	Governance Advisor

POLICY BACKGROUND

This policy is intended to provide guidance for Councillors and Council Officers when dealing with lobbyists.

Free and open access to Councillors, and Council itself, is vital to efficient and effective local government. It is accepted that Councillors and Council Officers may be approached or lobbied by members of the community on a broad range of issues. However, there is a difference between the type of lobbying carried out by members of the community representing their own interests and professional lobbyists engaged by a third party client for a fee or reward to influence local government decision-making.

Regulation of the activities of professional lobbyists is via the *Integrity Act 2009* which defines lobbying and related concepts, places limitations on lobbying activities and also requires the registration of professional lobbyists with the Integrity Commissioner.

To ensure that there is no confusion as to who is classified as a lobbyist and what are considered lobbying activities, it is important to have a clear understanding of the definition of “lobbyist” and “lobbying activity” as set out in the *Integrity Act 2009*.

It is always the aim of Council to ensure that all decisions are legal, ethical and impartial. Such principles are reflected in s4 *the Local Government Act 2009* (i.e. the “local government principles”) and s12 of that Act (the responsibilities of Councillors). Providing a policy as to how Councillors and Council Officers should deal with lobbyists will assist in better decision-making for Councillors and Council Officers relating to lobbyists dealings with Noosa Council and can also be used to confirm Council’s approach with potential lobbyists.

POLICY STATEMENT

This policy confirms Council’s commitment to:

- Compliance with relevant Codes of Conduct, the *Local Government Act 2009* and the *Integrity Act 2009* which regulates contact between lobbyists and local government representatives;
- A consistent and transparent approach with regard to Councillors’ and Council Officers’ contact with lobbyists to ensure that the public’s expectations of transparency and integrity are upheld; and
- Ensuring that careful consideration is given to any recommendations or directions provided by the Integrity Commissioner in relation to lobbying.

The focus of this Policy is on lobbying activities conducted by lobbyists (as defined below) however it is important to note that in certain circumstances, such as, Council's Expression of Interest and Tender Process, the act of lobbying a Councillor or Council Officer may not be permitted under any circumstances whether it is conducted by a lobbyist (as defined below) or an individual acting on their own behalf.

This Policy should be read in conjunction with Council's Development Assessment – Roles and Responsibilities of Councillors and Council Officers Policy, which provides specific guidance for Councillors' and Council Officers' involvement in discussions with parties having a direct material interest in any particular development proposal or development application.

DEFINITIONS

A **lobbyist** is an entity such as a body corporate, partnership, unincorporated body, individual or trustee that carries out a **lobbying activity** for a third party client or whose employees or contractors carry out a lobbying activity for a third party client.

A **third party client** is an entity that engages another entity to provide services constituting, or including, a lobbying activity for a fee or other reward that is agreed to before the other entity provides the services.

The following entities, or an employee or contractor of, or person otherwise engaged by such entities, are **not considered lobbyists**:

- A non-profit entity;
- An entity constituted to represent the interests of its members (for example, an employer group, a trade union, a professional body such as the Queensland Law Society);
- Members of trade delegations visiting Queensland;
- An entity carrying out incidental lobbying activities;
- An entity carrying out a lobbying activity only for the purpose of representing that entity's own interests.

A **non-profit entity** is an entity that is not carried on for the profit or gain of its individual members (for example, a charity, church, club or environmental protection society).

An entity carries out **incidental lobbying activities** if the entity undertakes, or carries on a business primarily intended to allow individuals to undertake, a technical or professional occupation in which lobbying activities are occasional only and incidental to the provision of professional or technical services. Examples of incidental lobbying activities include:

- An entity carrying on the business of providing architectural services, as or by using, a practicing architect under the *Architects Act 2002*.
- An entity carrying on the business of providing professional engineering services as, or by using, a registered professional engineer under the *Professional Engineers Act 2002*;
- An entity carrying on the business of providing legal services as an Australian legal practitioner or a law practice under the *Legal Profession Act 2007*;
- An entity carrying on the business of providing accounting services as, or by using, an accountant who holds a practising certificate issued by CPA Australia, the Institute of Chartered Accountants in Australia or the Institute of Public Accountants.

A **lobbying activity** is:

Contact with a **government representative** in an effort to influence State or Local Government decision-making, including –

- i. The making or amendment of legislation; and
- ii. The development or amendment of a government policy or program; and
- iii. The awarding of a government contract or grant; and
- iv. The allocation of funding; and
- v. The making of a decision about planning or giving of a development approval under the *Sustainable Planning Act 2009*;

Contact includes telephone contact, email contact, written mail contact and face-to-face meetings.

The following contact is **not a lobbying activity** –

- (a) Contact with a committee of the Legislative Assembly or a Local Government;
- (b) Contact with a member of the Legislative Assembly, or a Councillor, in his or her capacity as a local representative on a constituency matter;
- (c) Contact in response to a call for submissions;
- (d) Petitions or contact of a grassroots campaign nature in an attempt to influence a government policy or decision;
- (e) Approved contact in response to a request for tender;
- (f) Statements made in a public forum;
- (g) Responses to requests by government representatives or Opposition representatives for information;
- (h) Incidental meetings beyond the control of a government representative or Opposition representative (for example, a Minister or the Leader of the Opposition speaks at a conference and has an unscheduled discussion with a lobbyist who is a conference participant).
- (i) Contact on non-business issues, including, for example, issues not relating to a third party client of the lobbyist or lobbyists' sector; or
- (j) Contact only for the purpose of making a statutory application.

A **statutory application** means an application under an Act that is considered and decided by a government representative under that Act (for example, an application for a licence, permit or other authority).

A former **senior government representative** is someone who was previously one of the following positions:

- (a) The Premier or another Minister;
- (b) An Assistant Minister;
- (c) A Councillor;
- (d) A public sector officer, who was a chief executive, senior executive or senior executive equivalent (an employee, other than chief executive, whose remuneration is equal to or greater than the remuneration payable to a senior executive);
- (e) A ministerial staff member; or
- (f) An assistant minister staff member.

A **related lobbying activity**, for a person who is a former senior government representative or former Opposition representative, means a lobbying activity relating to the person's official dealings as a government representative or Opposition representative in the 2 years before becoming a former senior government representative or a former opposition representative.

The **Lobbyists Register** is a register of registered lobbyists kept by the Integrity Commissioner. The register is published on the Integrity Commissioner's website.

The **Lobbyists Code of Conduct** is approved by the Integrity Commissioner for lobbyists in relation to lobbying activities. The purpose of the Lobbyists Code of Conduct is to provide standards of conduct for lobbyists to ensure that contact between lobbyists and government and opposition representatives is carried out in accordance with public expectations of transparency and integrity.

KEY ROLES AND RESPONSIBILITIES

Lobbyists' obligations

It is the responsibility of lobbyists to register on the Lobbyists' Register held by the Integrity Commissioner and to ensure that all lobbying is conducted in accordance with the Lobbyists Code of Conduct, as approved by the Commissioner.

When a lobbyist makes initial contact with a Councillor or Council Officer in order to carry out a lobbying activity, that lobbyist must inform the Councillor or Council Officer that they are:

- (a) A lobbyist currently listed on the register of registered lobbyists held by the Integrity Commissioner, or
- (b) A listed person for a lobbyist who is currently on the register of registered lobbyists; and
- (c) Making contact on behalf of a third party; and
- (d) The name of the third party; and
- (e) The nature of that third party's issues; and
- (f) The reasons for the approach.

When a lobbyist who became a former senior government representative (including a former Councillor) less than two years earlier makes contact with a Councillor or Council Officer, they must indicate all of the following:

- (a) That they are a former senior government representative;
- (b) When they became a former senior government representative; and
- (c) That the matter is not a 'related lobbying activity' - an activity prohibited under the *Integrity Act 2009*.

In addition to the above, the Integrity Commissioner requires a lobbyist to record details of any lobbying contact made with a Councillor or Council Officer. For avoidance of doubt, this policy does not set out all of the requirements and processes imposed upon lobbyists by the *Integrity Act 2009*.

Council obligations

Pursuant to s71 of the *Integrity Act 2009*, a Councillor or Council Officer must not knowingly permit an entity that is not a registered lobbyist to carry out a lobbying activity for a third party client.

If a Councillor or Council Officer becomes aware that an entity seeking to carry out a lobbying activity for a third party client is not a registered lobbyist, Council is required to advise the Integrity Commissioner as soon as practicable.

Pursuant to s70 of the *Integrity Act 2009*, for 2 years after a person becomes a former senior government representative the person must not carry out a related lobbying activity for a third party client and a Councillor or Council Officer must not knowingly permit a related lobbying activity. If a Councillor or Council Officer is aware that an entity seeking to carry out a lobbying activity for a third party client is not a registered lobbyist, the details must be provided to the CEO and the Integrity Commissioner is to be advised as soon as practicable.

Pursuant to the advice of the Queensland State Archivist made under the *Public Records Act 2002*, records need to be created and retained of all contact by our Councillors and Council Officers with all entities seeking to influence government decision-making whether the lobbyist was registered or not.

The Integrity Commissioner requires that Council maintains its own register of contact with lobbyists, and be able to provide this to the Office of the Integrity Commissioner as required. Council will maintain a Contact with Lobbyists' Register, which is to be made available to the Integrity Commissioner. Attachment 1 sets out the format of the Register of Contact with Lobbyists' Register as provided by the Integrity Commissioner.

Council's Organisational Guideline 'Contact with Lobbyists' will set out the specific procedures to assist Councillors and Council Officers comply with their obligations.

Compliance with ethical standards

The *Integrity Act 2009* seeks to ensure that contact between lobbyists, as defined by The Act, and a Council representative is conducted in accordance with public expectations of transparency and integrity, and in the public interest. In this regard, Councillors and Council Officers should remember that they are bound by legislation, codes of conduct and Council policies to ensure that all actions taken and decisions made are legal, ethical and impartial.

Such principles are reflected in s4 of the *Local Government Act 2009* ("the local government principles") and s12 and 13 of that Act (s12 responsibilities of councillors; s13 Responsibilities of local government employees).

Relevant codes of conduct and Council policies are:

Contact with Lobbyists (Organisational Guideline)
Development Assessment – Roles and Responsibilities of Councillors and Council Officers
Councillors Code of Conduct
Employee Code of Conduct
Procurement Policy

RELEVANT LEGISLATION

Integrity Act 2009
Public Sector Ethics Act 1994
Public Records Act 2002
Local Government Act 2009

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	New		Council	4/06/2015

REGISTER OF CONTACT WITH LOBBYISTS								
Date of Contact	Name of Councillor/Officer contacted	List of all persons present during contact/meeting	Name of Registered Lobbyist (including all lobbyists present)	Client of Lobbyist (including the names of all present)	Method of Contact (insert from drop down menu)	Purpose of Contact (insert from drop down menu)	Issue (insert from drop down menu)	Outcome from contact (insert from drop down menu)
					(insert from drop down menu)			
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1								
2								
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