



Councillor Interaction with Developers Policy

July 2023



DEFINITIONS

<i>Contact</i>	Any communication or information exchange between Councillor/s and a developer or submitter in relation to planning related matters, irrespective of whether it was expected, planned, solicited or reciprocated and includes all methods of communication.
<i>Councillor</i>	A Councillor or Councillors of Whitehorse City Council which includes the Mayor and Deputy Mayor.
<i>Developer</i>	An individual, body corporate or company engaged in business that: <ul style="list-style-type: none">• Regularly engages in planning related matters in relation with the residential or commercial development or use 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 developer and who is appointed to promote or advocate for the developer's interests or proposal.
<i>Submitter</i>	A person or entity that makes, or proposes to make, a submission to a planning application or similar. Such submissions could be either in support of, or in opposition to, a land use planning application
<i>Lobbyist</i>	A person, company or organisation who conducts lobbying activities on behalf of a third-party client, but does not include: <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>	Any contact with a Council representative to influence Council decision making. For the purposes of this policy, lobbying activity only relates to planning-related matters.

1. PURPOSE

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

Council is often required to make decisions about planning and developments in their municipality and as part of seeking information, may interact with developers regarding forthcoming projects.

This policy serves to preserve the integrity of Council and Councillors when engaging with developers, submitters 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. BACKGROUND

The *Local Government Act 2020* requires Councillors to declare direct or indirect conflicts of interest on matters that come before them for consideration. Whitehorse 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. OBJECTIVES

The objectives of this policy are to

- Ensure that interactions of Councillors with developers, submitters 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

4. SCOPE

This policy applies to all contact between Councillors, developers, submitters and lobbyists in Whitehorse City Council (Council), with regard to planning related matters outside of a Council Forum, Council Briefing or Council Meeting.

5. CONDITIONS OF ENGAGEMENT

5.1 *Developers, submitters and lobbyists*

Developers, submitters and lobbyists shall observe the following conditions when engaging with Councillors:

- They must advise that they are a developer, submitter or lobbyist or employee, contractor or person otherwise engaged by these
- If a lobbyist, they must also advise:
 - 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 planning related matter.
- 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 *Councillors*

When interacting with developers, submitters and lobbyists, the following supports Councillors in managing the requirements of this policy.

Councillors must:

- 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 or accept any gift, in accordance with the *Whitehorse City Council Councillor Gift Policy*
- Within 7 days of the meeting, provide details to the Governance and Integrity department
- 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

Councillors should avoid:

- Meeting with developers one on one
- Making public comments in relation to a planning application that is being assessed by council staff and before a decision has been made.

5.3 *Activities exempt from this policy*

This policy is not intended to apply to interactions:

- That are in the nature of an enquiry or seeking information
- With individuals, or those representing family or friends, regarding personal affairs
- With representatives of community groups and non-profit organisations or associations regarding the interests of their members

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, duration and venue of the contact;
- The name of the Councillor/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;
- Matters discussed; and
- Whether or not a conflict of interest has been declared to exist.

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.

7. RESPONSIBILITIES

Parties	Roles and Responsibilities	Timelines
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 Councillors in accordance with the <i>Principles of Engagement</i> contained within this policy.	Ongoing
Governance Department	Ensure that: <ul style="list-style-type: none"> • Details of interactions are 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. COMPLIANCE

- 8.1 Breaches of this policy may result in action under the *Whitehorse City Council Councillor Code of Conduct*.
- 8.2 Breaches considered to be of a serious nature will be referred to the Independent Broad-based Anti-Corruption Commission (IBAC) and may result in criminal prosecution.

9. RELATED POLICIES & LEGISLATION

Local Government Act 2020

Victorian Government Professional Lobbyist Code of Conduct

Whitehorse City Council Conflict of Interest Guide

Whitehorse City Council Councillor Code of Conduct

Whitehorse City Council Public Transparency Policy

Interactions with Developers - Local Government Inspectorate Guide

10. REVIEW

Responsible department: Governance, Governance and Integrity, Corporate Services

Date Adopted: July 2023

Date of Next Review: July 2025

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