

 <p>Mackay REGIONAL COUNCIL</p>	COUNCIL POLICY	
	Councillor Contact with a Lobbyist, Developer & Submitter	
	POLICY NO	054
	DEPARTMENT	ORGANISATIONAL SERVICES
	PROGRAM	GOVERNANCE & SAFETY
ENDORSED BY COUNCIL: 28 September 2016 Folio 39853		

1.0 Scope

This policy applies to all Mackay Regional Council (Council) business related contact between Councillors, Lobbyists, Developers and Submitters.

This policy does not apply to social interaction between Councillors and other persons simply because those other persons act as Lobbyists or Developers, or Submitters in respect of a current development application. 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 Lobbyists, Developers or Submitters.

2.0 Purpose

The purpose of this policy is to:

- Maintain free and open access to Councillors and Council itself, which is vital for efficient and effective Local Government.
- To encourage and support high quality projects and facilitation of new investment in the region by way of the Major Projects and Investment Facilitation.
- Provide a policy, as to how Councillors should interact with Lobbyists and the development industry, which will assist in better decision making.
- Provide ethical guidance for Councillors when dealing with Lobbyists, potential Developers or Developers who have made a development application and that the general public has a clear expectation that such contact is carried out ethically and transparently.
- 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.

- For avoidance of doubt, this policy is in addition to the requirements and processes imposed upon Councillors and Lobbyists by the *Integrity Act 2009* (for example, the requirement for Lobbyists to be registered before undertaking lobbying activities.¹)

3.0 Reference

- *Local Government Act 2009*
- *Integrity Act 2009*
- *Sustainable Planning Act 2009*
- Crime and Corruption Commission

4.0 Definitions

To assist in interpretation the following definitions shall apply:

Contact shall mean contact via telephone, email, written correspondence and face-to-face meetings.

Council shall mean Mackay Regional Council.

Councillor shall mean a Councillor of a Mackay Regional Council within the meaning of the *Local Government Act 2009*, which includes the Mayor.

Developer shall mean an applicant for development approval. If the applicant is a body corporate, the term includes officer holders and employees of the applicant. If the applicant is a partnership, the term includes partners and employees of the applicant.

Development Approval shall mean a development application that has been approved by Council

Lobbyist shall mean an entity 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 (i.e. consultants, legal representatives or private certifiers) as identified in Section 41 of the *Integrity Act 2009*.

Submitter shall mean a person who makes a properly made submission about an application or plan making process. (Schedule 3 Dictionary of the *Sustainable Planning Act 2009*).

5.0 Background

Council recognises that lobbying is a necessary part of a healthy democracy and every person, organisation and interest group has a right to put a case forward to public officials. There is nothing untoward about seeking the assistance of a third party lobbyist to assist in putting forward the case in the best possible way. Council will always be open for legitimate business with worthwhile propositions, irrespective of involvement of lobbyists.

Council is committed to accountability. Councillors and staff are expected to uphold the highest standards of professionalism, integrity and transparency in

¹ See Section 71 of the *Integrity Act 2009*

relation to contact with lobbyists and any conflict of interest or perceived conflict of interest is required to be recorded consistently.

6.0 Policy Statement

6.1 Meeting or exchanging other communication with potential Developers and Lobbyists (where no proposal presently before Council)

Lobbyists and Potential Developers

Councillors may 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 Lobbyists and potential Developers (for a potential development), Councillors:

- Must make clear to potential Developers and Lobbyists that they can provide general information on the application process but cannot give definitive advice about the development's or Lobbyist's chance of success;
- Should suggest that the Developer or Lobbyist seeks independent professional advice;
- If applicable, must encourage potential development applicants and Lobbyists to seek preliminary advice on their proposal by utilising the established process for pre-lodgment meetings with Council staff;
- Must state that any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the potential application. 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

Potential Submitters

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. Again, Councillors:

- Must make clear to potential Submitters that they can provide general information on the application process but cannot give definitive advice about the Developer's chance of success;
- Should suggest that the Submitter seeks independent professional advice;
- Must state that any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the potential application. 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

6.2 Meeting between Councillors with Developers, Lobbyists and Submitters after a Development Application has been lodged with Council.

Meetings

After a development application has been lodged, any request for a meeting between Councillors and Developers, Lobbyists or Submitters should only occur by arrangement through the office of Council's Chief Executive Officer or the Director of Development Services and only in circumstances where a Council Officer (with adequate knowledge of the development application) is also present.

At any meeting with the Lobbyists, Developers or Submitters, Councillors must state:

- That any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the development application. 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 his/her decision is:
 - i. Consistent with the planning legislation, Council's planning scheme and policies; and
 - ii. Made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 - iii. Not influenced by any other irrelevant or inappropriate consideration.

6.3 Meeting between Councillors with Developers, Lobbyists and Submitters if a Development Application is subject to legal proceedings:

In the event that a development application should proceed to any type of court proceeding (i.e. Court of Appeals) no meeting between Councillors and Developers, Lobbyists or Submitters should take place unless approved by the Council's Chief Executive Officer or the Director of Development Services with such meeting being approved on a without prejudiced basis.

6.4 Other Communications

After a development application has been lodged, if a Councillor engages in contact with a Developer, Lobbyist or Submitter (where they are seeking the Councillor's support of opposition (as the case may be) to a development application), any such response for the Councillor must include the following statements:

- That any opinions expressed by the Councillor are personal to the Councillor and do not in any way represent the Council's possible attitude to the development application. 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 his/her decision is:
 - i. Consistent with the planning legislation, Council's planning scheme and policies; and
 - ii. Made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 - iii. Not influenced by any other irrelevant or inappropriate consideration.

6.5 Record of Communication

Councillors and employees must keep a written record of the matters discussed at any interaction with a Lobbyist, Developer or Submitter. A *Declaration of contact with a Lobbyist Form* is required to be completed and forwarded to the Chief Executive Officer for inclusion in the *Register of Contact with Lobbyists* within 14 business days of the meeting taking place.

The Chief Executive Officer is responsible for maintaining a record of all contact with registered and unregistered Lobbyists, Developers and Submitters for reporting to the Integrity Commissioner. Council must retain the record of contacts for the period specified with the Queensland State Archives Schedule.

For contact involving registered Lobbyists, Developers and Submitters the details recorded on the *Contact with a Registered Lobbyist Form* will be summarised on the *Register of Contact with Lobbyists*. Council is required to maintain the Register which is to be submitted to the Office of the Integrity Commissioner upon request.

7.0 Review of Policy

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

1. The related documents are amended or replaced.
2. Other circumstances as determined from time to time by a resolution of Council

Notwithstanding the above, this policy is to be reviewed at intervals of no more than three years.



Declaration of Contact with A Lobbyist Form

IMPORTANT NOTES:

1. This form is to be completed by a Councillor or Staff Member who was required to meet with a Lobbyist, Developer or Submitter regarding Council related business.
2. Please complete and sign this form within **14 business days** of attending this meeting.

Name & Title of Principal Councillor/Employee: _____

Department/Program: _____

Date of Contact: _____

List of Public Officials Present: _____

Name of Registered Lobbyist, Developer or Submitter: _____

Client of Lobbyist, Developer or Submitter: _____

Method of Contact:
(i.e. Phone call, email, meeting) _____

Certification of Recipient of Contact:

I certify that my contact with the Lobbyist, Developer or Submitter was in accordance with Mackay Regional Council's "Councillor Contact with Lobbyist, Developer and Submitters Policy":

- I wish to disclose a conflict of interest/preceived conflict of interest.
- I wish to disclose a relationship with the Lobbyist, Developer and Submitter and/or former government representative.
- I have no relationship with the Lobbyist, Developer and Submitter and/or former government representative.

Date: Employee/Councillor's Name: Employee/Councillor's Signature:

Certification by Director or Chief Executive Officer (if form is completed by an employee):

I certify that my/my officer's contact with the Lobbyist, Developer or Submitter was in accordance with Mackay Regional Council's "Councillor Contact with Lobbyist, Developer and Submitters Policy":

- I wish to disclose a conflict of interest/preceived conflict of interest.
- I wish to disclose a relationship with the Lobbyist, Developer and Submitter and/or former government representative.

Date: CEO/Director's Name: CEO/Director's Signature:

Privacy Statement
Mackay Regional Council is collecting your personal information in order to process your declaration.
This information will only be disclosed to any other third party with your written authorisation or as we are required to by law.

- Information has been included on the Register of Contact with Lobbyists Form registered in ECM