

# CONTACT WITH A LOBBYIST, DEVELOPER & SUBMITTER POLICY

## SCOPE

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All Councillors and relevant employees who have or may potentially have contact with a lobbyist, registered or unregistered, or a developer or a submitter who have made or may make a development application.

## LEGISLATION

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*Local Government Act 2009*  
*Integrity Act 2009*  
*Planning Act 2016*

## OBJECTIVE

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To provide ethical guidance for Councillors and relevant employees when dealing with lobbyists, potential developers or developers who have made a development application.

To maintain free and open access to Councillors, and Council itself, which is vital to efficient and effective local government.

Contact with Councillors and employees is undertaken by many people in the community in relation to a broad range of matters. Lobbyists, developers and submitters seek access to Councillors and relevant employees to discuss potential and existing development applications and other projects. The public has a clear expectation that such contact is carried out ethically and transparently.

To ensure that 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 that Act (the Responsibilities of Councillors).

To provide a policy, as to how Councillors and relevant employees should interact with lobbyists and the development industry, which will assist in better decision making.

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<sup>1</sup>).

## DEFINITIONS

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Developer	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.
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Developer Application	An application for development that requires assessment against the provisions of Council's Planning Scheme and or the Sustainable Planning Act 2009.
Development Approval	A development application that has been approved by Council.
Lobbyist	The same meaning as defined in the <i>Integrity Act 2009</i> <sup>2</sup>
Relevant Employee	An employee of Council who because of their duties may come in contact with a lobbyist, developer or submitter.
Submitter	The same meaning as defined in the <i>Sustainable Planning Act 2009</i> <sup>3</sup>

## POLICY

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### 1. Meeting or exchanging other communication with potential Developers & 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 lobbyists and potential developers (for a potential development), in promoting the benefits of developing in Council's local government area.

However, even 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 developer's or lobbyists 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-lodgement 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.

#### Potential submitters

In relation to potential submitters to a development application, councillors should not feel inhibited about discussing with potential submitters what is publicly know 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.

### **Record of communication**

In all exchanges of communication<sup>4</sup> with the potential developer, lobbyist (for potential development) or potential submitter, councillors should keep and maintain a written record of the same. This written record should detail, as a minimum,

- i. the date and time of the exchange,
- ii. the format of the exchange (i.e. face to face meeting, telephone call, exchange of emails or exchange of correspondence),
- iii. a summary of the matters raised with the councillor, and
- iv. a summary of the councillor's response.

## **2. Meeting of Councillors with Developers, Lobbyists and Submitters (After a Development Application has been Lodged with Council)**

### **Meetings**

After a development application has been lodged, any requests for meetings between councillors and developers, lobbyists or submitters should only occur by arrangement through the office of Council's CEO (or delegate) and only in circumstances where a Council officer (with adequate knowledge of the development application) is also present.

Councillors must make clear:-

- 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; 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.

## **Record of Meeting**

Councillors must keep a **written record** summarizing the matters discussed at any such meeting. This written record should detail, as a minimum,

- i. the date and time of the meeting, and
- ii. a summary of the councillor's response.

### **3. Other Communications**

After a development application has been lodged, if a councillor engages in telephone discussions, email or other correspondence exchange with a developer, lobbyist or submitter (where they are seeking the councillor's support or opposition (as the case may be) to a development application), any such response from 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; 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.

Councillors must keep a **written record** of any such communications. This written record should detail, as a minimum, the date and time of the exchange, the format of the exchange (i.e. telephone call, exchange of emails or exchange of correspondence), a summary of the matters raised with the councillor and a summary of the councillor's response.

### **4. Relevant Employees**

Relevant Employees may encourage responsible and appropriate development in Council's area and should not feel inhibited, in any communications, with lobbyists and potential developers (for a potential development), in promoting the benefits of developing in Council's local government area.

However, relevant employees, in any meeting with developers, must make it clear to potential developers and lobbyists that:

- they can provide general information on the application process but cannot give definitive advice about the developer's or lobbyists chance of success;
- any opinions expressed by the employee do not in any way represent the Council's possible attitude to the development application; and
- Any decision on the application will be consistent with the planning legislation, Council's planning scheme and policies.

## PROCEDURE

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Procedures as approved and issued by the Chief Executive Officer, and subject to further revision, amendment and issue under the authority of the Chief Executive Officer.

## CERTIFICATION

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**CHIEF EXECUTIVE OFFICER**  
**BANANA SHIRE COUNCIL**



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**DATE**

### Acknowledgements

Note: This policy based on code prepared by King and Company, Solicitors – August 2010 and endorsed by LGAQ Executive 30 August 2010 which was based, in part, on:-

1. The “Queensland Contact with Lobbyists Code”, as it appeared on the website of the Department of the Premier and Cabinet on 12 October 2009; and
2. The (former) Caboolture Shire Council policy entitled “Contact between Councillors and Developers”, policy no. 840/06 dated 5 September 2006.

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<sup>1</sup> See Section 71 of the *Integrity Act 2009*

<sup>2</sup> See Section 41 of the *Integrity Act 2009*

<sup>3</sup> See Schedule 3 Dictionary of the *Sustainable Planning Act 2009*