



DEVELOPER CONTACT WITH STAFF

Policy No: 033

Responsible Directorate	Office of the CEO
Responsible Section	Governance
Responsible Officer	Chief Executive Officer

OBJECTIVE:

The purpose of this policy is to provide guidelines to all staff for the management of contact with Developers, and define their duties, responsibilities and recording of such meetings.

SCOPE:

This policy applies to all 'prescribed contact' between the Town of Cambridge staff and Developers, as defined in this Policy.

POLICY STATEMENT:

1.1 Subject to Clause 1.2 below, staff shall:-

- (a) Keep a record of every instance of 'prescribed contact' with a Developer by noting the:-
 - (i) Developer's name;
 - (ii) Date and time of contact;
 - (iii) Type of contact (i.e. in person, telephone call, letter, email etc.);
 - (iv) Property or properties within the Town of Cambridge to which the contact related; and
 - (v) Nature of the issue covered in the contact.
- (b) Declare any 'prescribed contact' with a Developer, on a Register.

1.2 This policy does not require the Town of Cambridge staff to declare contact defined as 'exempt contact'.

2. Where a proponent seeks to develop in a manner that is inconsistent with the Local Planning Strategy the Town of Cambridge Planning staff are only able to provide the following written information through a request for written planning advice:

- (a) Zoning of a property;
- (b) Approved land uses;
- (c) Policies that are applicable to a particular development or zone;
- (d) Minimum and average lot sizes for a particular lot/zone.

Proponents should be advised that it is not appropriate for the Town's planning staff as public officers undertaking the preparation of reports for the consideration of council as part of a quasi-judicial function under legislation to have in-person meetings with proponents or telephone contact. All contact must be in writing. Any briefings of council should also occur in a public forum.

Examples of information the Town is unable to provide through the written planning advice process include:

- (a) Specific advice on proposed variations for a development that has not been formally lodged with the Town and if a particular variation would be supported by the Town.
- (b) If an aspect of a proposal complies with the R-Code or Policy requirements.

These matters can only be dealt with via the development application process.

- 3. The Town of Cambridge will charge a fixed fee amount for written planning advice, as adopted in the Annual Budget.
- 4. Developers are advised that:
 - (a) All contact is subject to the *State Records Act 2000* and *Freedom of Information Act 1992* obligations and therefore any material provided will not be confidential.
 - (b) The Town's staff can only provide publicly available information.
 - (c) The Developer should seek their own planning advice.
 - (d) The Town's staff are not able to make any binding decision or commitment, regardless of whether the decision is made by the Council or under delegated power.
- 5. All discussions and contact with the Department of Planning, Lands and Heritage relating to developments that are inconsistent with the Local Planning Strategy should be minuted and reported to Council.
- 6. Any pre-lodgement briefings of council in relation to proposed developments that are inconsistent with the Local Planning Strategy shall occur in a public forum so that the community is aware of any proposal to amend the Local Planning Strategy.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995*, *Planning and Development Act 2005* and associated legislation.

“contact” means any contact with the Town's staff including email, telephone, SMS text, in-person discussion or an organised meeting.

“Developer” means any applicant or their representative who does not intend to reside or use the development and instead intends to sell the development for profit.

“exempt contact” means any contact relating to a Planning or Development proposal with a value less than **\$2 million**.

“prescribed contact” means any contact relating to a Planning or Development proposal which seeks to develop in a manner inconsistent with the Local Planning Strategy and/or the proposed or actual development with a value equal to or greater than **\$2 million**, excluding minor planning applications (eg. change of use and internal fit-outs and single residential development applications).

Document Control

Office Use Only:

Previous Policy No	Policy No. 1.2.16
Statutory Legislation and Compliance	<i>Local Government Act 1995</i> ; <i>Planning and Development 2005</i> <i>Freedom of Information Act 1992</i>

	<i>State Records Act 2000</i>
Related Documents/Legislation	
Date of Adoption by Council	Council Meeting – 25 July 2017
Date Reviewed/Amended	28 July 2020 23 November 2021 (NoM 12.1) 23 August 2022 (NoM 11.2)
Next Review Date	April 2024



ELECTED MEMBER RELATIONSHIP WITH DEVELOPERS POLICY

COUNCIL POLICY NO: 039

Responsible Directorate	Office of the CEO
Responsible Section	Office of the CEO
Responsible Officer	Chief Executive Officer

OBJECTIVE:

The purpose of this policy is to provide guidelines to Elected Members for the management of their meetings with Developers, and define their duties, responsibilities and recording of such meetings.

SCOPE:

This policy applies to all Elected Members and Directorates of the Town of Cambridge.

POLICY STATEMENT

Applicants, objectors and members of the community must have trust in Elected Members' ability to make decisions free of influence or the perception of influence, particularly in respect of town planning and development decisions.

Contact with Developers is a normal and necessary function of the role of an Elected Member. However, the nature and frequency of that contact can sometimes lead to allegations or perceptions of bias, influence or even corruption being made towards Elected Members. Implementing transparent decision-making processes will reduce opportunities for such allegations or perceptions to be raised. In part this includes setting standards for how Elected Members interact with Developers.

The Town of Cambridge aims to provide the highest standards of transparency and openness in town planning and development decision-making, by requiring all Elected Members to declare any Prescribed Contact they have with a Developer and for any such declaration to be recorded in the minutes of the Committee and/or Council meeting where a Planning or Development Proposal is being considered that involves the Developer.

DEFINITIONS:

Definitions are taken as those detailed in the *Local Government Act 1995* and associated legislation.

"Contact" means any communication or conversation between an Elected Member and Developer, regardless of whether it is foreseen, planned, solicited or reciprocated, and includes but is not limited to the following methods of communication – telephone, electronic mail (e-mail), short message service (SMS), multimedia messaging service (MMS), web-based networking platform, written mail, face to face and the like.

"Developer" means an individual, body corporate or company engaged in a business that:-

- (i) involves the making of relevant planning applications in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit; and

- (ii) 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.

(Derived with minor modifications from: *Election Funding, Expenditure and Disclosures Act 1981 (NSW), s.96GB*)

"Exempt Contact" means any contact which:-

- (i) is in the form of a public statement made at a Council Forum, Council Briefing or Council Meeting; or
- (ii) does not involve the Elected Member engaging in any discussion or communication with the Developer on the Planning or Development Proposal.

"Planning or Development Proposal" means and includes:-

- (i) a proposed Local Planning Policy, Local Development Plan, Activity Centre Plan, Structure Plan or any amendment to these planning documents under the Town's operative Local Planning Scheme;
- (ii) a proposed amendment to the Town's operative Local Planning Scheme; and
- (iii) an application under the Town's operative Local Planning Scheme or the Metropolitan Region Scheme for approval of the use or development of land and which is currently before, or at the time of contact, known to require determination by Council or the Joint Development Assessment Panel.

"Prescribed Contact" means any contact relating to a Planning or Development proposal, excluding any Exempt Contact.

1. POLICY PROVISIONS:

1.1 Subject to clause 3 below, Elected Members shall:-

- (a) keep a record of every instance of Prescribed Contact with a Developer by noting the:-
 - (i) Developer's name;
 - (ii) Date and time of contact;
 - (iii) Type of contact (i.e. in person meeting, telephone call, letter, email etc.);
 - (iv) Property or properties within the Town of Cambridge to which the contact related;
 - (v) Nature of the issue covered in the contact; and
 - (vi) Council Member response.
- (b) declare any Prescribed Contact including the Developer's name, date and type of contact for every instance they have had Prescribed Contact with a Developer at the time a Planning or Development Proposal is being considered by a Committee and/or Council meeting.
- (c) any such declaration made in (b) is to be recorded in the minutes of Committee and/or Council meeting where a Planning or Development Proposal is being considered that involves the Developer.

1.2 Compliance with this Policy alone does not obviate the need for Elected Members to comply with all other relevant provisions of the Code of Conduct.

- 1.3 This Policy does not require Elected Members to declare contact defined as Exempt Contact. Notwithstanding, all written communication to and from Elected Members relating to Council business is deemed to be a corporate record and must be provided to the Chief Executive Officer for record keeping purposes and inclusion in the Town's relevant files, which may be accessible under the *Local Government Act 1995* and *Freedom of Information Act 1992*.

2 PROTOCOLS FOR ELECTED MEMBER RELATIONSHIP WITH DEVELOPERS

Elected Members Meeting with Applicants Individually

1. If an Elected Member believes there is a need to meet with a Developer individually, to avoid the public perception of bias that can arise, the member should not agree to meet at a venue where it can be perceived that hospitality is being provided.
2. It is advisable that Elected Members only meet with a Developer after the administration report relating to a Planning or Development Proposal has been prepared and released.
3. Elected Members must not, when lobbied, commit their vote on the Planning or Development Proposal. Elected Members may offer support or otherwise.
4. **Elected Members Meeting with Applicants in the Company of Other Elected Members**

Information gained by the Elected Members at meetings involving more than one Elected Member should be made available to the professional staff and other members as soon as practicable.

5. Elected Members Attending Meetings between Employees and Applicants

Elected Members may wish to attend meetings between professional staff and Developers. Approval of Elected Members attending meetings between Employees and Developers needs to be at the discretion of the CEO as the CEO is best placed to determine whether their attendance compromises his or her legislative role of providing advice and information to Council.

6. Elected Members should refuse an invitation they receive from Developers to attend meetings between professional staff and the Developer.
7. **Being Offered a Gift or Benefit**

To maintain a high degree of integrity, Elected Members should not accept any personal gifts from a Developer with a Planning or Development Proposal which is currently before, or at the time of contact, known to require determination by Council or the Joint Development Assessment Panel.

Document Control

Office Use Only:

Previous Policy No	Policy No. 1.1.11
Statutory Legislation and Compliance	<i>Local Government Act 1995</i> <i>Freedom of Information Act 1992</i> <i>Local Government (Rules of Conduct) Regulations 2007</i>
Related Documents/Legislation	Town of Cambridge Governance Manual Code of Conduct
Date of Adoption by Council	27 September 2017
Date Reviewed/Amended	28 July 2020
Next Review Date	April 2024

COUNCIL MEMBER CONTACT WITH DEVELOPERS

POLICY STATEMENT

Applicants, objectors and members of the community must have trust in Council Members' ability to make decisions free of influence or the perception of influence, particularly in respect of town planning and development decisions.

Contact with developers is a normal and necessary function of the role of a Council Member. However, the nature and frequency of that contact can sometimes lead to allegations or perceptions of bias, influence or even corruption being made towards Council Members. Implementing transparent decision-making processes will reduce opportunities for such allegations or perceptions to be raised. In part this includes setting standards for how Council Members interact with developers.

The City of Vincent aims to provide the highest standards of transparency and openness in town planning and development decision-making, by requiring all Council Members to record any Prescribed Contact they have with developers and also by requiring the Chief Executive Officer of the City to create and maintain a register of that contact.

APPLICATION

This Policy applies to all "Prescribed Contact" between Council Members and developers, as defined below.

This Policy provides guidance on the recording of Prescribed Contact between Council Members and developers, to assist in compliance with the City's Code of Conduct (2013), particularly clauses 2.8 (Development Decisions) and 2.9.3 (Transparency).

Importantly, compliance with this Policy alone does not obviate the need for Council Members to comply with all other relevant provisions of the Code of Conduct, nor will compliance with this Policy automatically constitute compliance with clauses 2.8 and 2.9.3 of the Code of Conduct in their entirety.

DEFINITIONS

Contact: Means any communication or conversation between a Council Member and Developer, regardless of whether it is foreseen, planned, solicited or reciprocated, and includes but is not limited to the following methods of communication – telephone, electronic mail (e-mail), short message service (SMS), multimedia messaging service (MMS), facsimile, web-based networking platform, written mail, face to face and the like.

Developer: Means an individual, body corporate or company engaged in a business that:

- (a) regularly involves the making of relevant planning applications in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit; and
- (b) 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, except when they are representing someone who is not regularly involved in the making of relevant planning applications or the development of land.

(Adapted from: *Election Funding, Expenditure and Disclosures Act 1981 (NSW)*, s. 96GB)

Exempt Contact: Means any contact which:

- (i) is in the form of a public statement made at a Council Forum, Council Briefing or Council Meeting; or
- (ii) does not involve the Council Member engaging in any discussion or communication with the developer on the planning or development proposal.

Planning or Development Proposal: Means and includes:

- (i) a proposed Local Planning Policy or amendment to a Local Planning Policy under the City's operative Town Planning Scheme;
- (ii) a proposed amendment to the City's operative Town Planning Scheme;
- (iii) an application under the City's operative Town Planning Scheme or the Metropolitan Region Scheme for approval of the use or development of land and which is currently before or at the time of contact known to require determination by Council or the Joint Development Assessment Panel.

Prescribed Contact: Means any contact relating to a planning or development proposal for which the developer is a proponent, excluding any exempt contact;

POLICY PROVISIONS

1. Subject to clause 2 below, Council Members shall:
 - (a) In writing, record every instance of Prescribed Contact with a developer by noting the:
 - Developer's name
 - Date and time of contact
 - Type of contact
 - Property or properties within the City of Vincent to which the contact related
 - Nature of the issue covered in the contact
 - Council Member response
 - (b) Subject to sub-clause (c) below, not more than 10 days after contact with the Developer, provide to the City's Chief Executive Officer the details referred to in sub-clause (a) above.
 - (c) Where the Prescribed Contact occurs with a Council Member while he/she is on Approved Leave of Absence, then that Council Member shall provide the information referred to in sub-clause (a) above to the City's Chief Executive Officer within 10 days of the last day of their Approved Leave of Absence.
 - (d) Where Prescribed Contact occurs in the form of a group email or other correspondence to all Council Members, then the Office of the Mayor shall provide a copy of the same to the Chief Executive Officer for the purpose of compliance with clauses 2 and 3 below.
2. This Policy does not require Council Members to record contact defined as Exempt Contact. Notwithstanding, all written communication to and from Council Members relating to Council business is deemed to be a corporate record and must be provided to the Chief Executive Officer for record keeping purposes and inclusion in the City's relevant files, which may be accessible under the *Local Government Act 1995* and *Freedom of Information Act 1992*.
3. The Chief Executive Officer shall create and thereafter maintain a register of all Council Member contact with Developers, incorporating the details referred to in sub-clauses 1(a) and (d) above. Such register shall be made publicly available in an electronic format on the City's website.
4. The Chief Executive Officer shall ensure the public register referred to in 3 above is updated on a fortnightly basis.

Date Adopted:	2 June 2015
Date Amended:	18 October 2016
Date of Next Review:	18 October 2019

Strategic Direction

Leadership

Policy P700 Developers and Lobbyists

Responsible Business Unit/s	Governance
Responsible Officer	Manager Governance
Affected Business Unit/s	All

Policy Objectives

This policy provides guidance to Elected Members on disclosing their association with developers and lobbyists to ensure the highest levels of openness and transparency are maintained ensuring integrity in the Council's decision-making. This policy also requires the CEO to develop and maintain a register of the declarations which is to be publicly available.

Policy Scope

This policy applies to all Elected Members.

Policy Statement

The community must have trust in Elected Members' ability to make decisions free of influence, or the perception of influence or in relation to matters requiring a Council decision.

Definitions

'Contact' means any communication, conversation or an offer or acceptance of a gift or assistance between an Elected Member or Elected Member candidate, and a **DEVELOPER** or **LOBBYIST** regardless of whether it is foreseen, planned, solicited or reciprocated, and includes but is not limited to the following: telephone, email, SMS, multimedia messaging service (MMS), facsimile, web-based networking platforms, written mail, face to face, offers of financial support etc.

'Developer' means an individual, body, trust or company (or a person with a financial interest in a body, trust or company) engaged in a business that involves the making of a relevant **PLANNING OR DEVELOPMENT PROPOSAL** in connection with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit.

'Lobbyist' includes any consultant, advisor, agent, representative or person closely associated with a **DEVELOPER** and who promotes or advocates for a **DEVELOPER's** interest or proposal.

'Exempt contact' means any **CONTACT** which:

- (a) Is made at a Council Forum, Council Briefing or Council Meeting; or
- (b) Does not involve the Elected Member engaging in any discussion or communication with the **DEVELOPER** on a **PLANNING OR DEVELOPMENT PROPOSAL**.

‘Planning or Development Proposal’ means and includes:

- (a) A proposed Local Planning Policy or amendment to a Local Planning Policy under the City’s Town Planning Scheme;
- (b) A proposed amendment to the City’s Town Planning Scheme;
- (c) An application under the City’s Town Planning Scheme or the Metropolitan Region Scheme for approval of the use or development of land and which is currently before or at the time of contact known to require determination by Council or, Joint Development Assessment Panel, or any other approving body.

‘Prescribed contact’ means any contact between an Elected Member and a **DEVELOPER** or **LOBBYIST** relating to a **PLANNING OR DEVELOPMENT PROPOSAL** for which a **DEVELOPER** or **LOBBYIST** is a proponent, excluding any **EXEMPT CONTACT**.

Policy Provisions

1. Subject to clause 2 below, Elected Members shall:
 - a. In writing, record every instance of **PRESCRIBED CONTACT** by noting the: —
 - **DEVELOPER** or **LOBBYIST** name
 - Date and time of **CONTACT**
 - Type of **CONTACT**
 - Nature of any offer made
 - Property or properties within the City which relates to that **CONTACT**
 - Nature of the issue covered in the **CONTACT**
 - Elected Members response.
 - b. Subject to sub-clause (c) below, not more than 10 days after **CONTACT** with the **DEVELOPER** or **LOBBYIST**, provide to the City’s Chief Executive Officer the details referred to in sub-clause (a) above.
 - c. Where the **PRESCRIBED CONTACT** occurs with an Elected Member while they are on Approved Leave of Absence, then that Elected Member shall provide the information referred to in sub-clause (a) above to the City’s Chief Executive Officer within 10 days of the last day of their Approved Leave of Absence.
 - d. Where **PRESCRIBED CONTACT** occurs in the form of a group email or other correspondence to all Elected Members, a copy is to be provided to the Chief Executive Officer for the purpose of compliance with clauses 2 and 3 below.
2. This Policy does not require Elected Members to record **CONTACT** defined as **EXEMPT CONTACT**.
3. The Chief Executive Officer shall create and thereafter maintain a register of all Elected Member **CONTACT** with **DEVELOPERS** and **LOBBYISTS**, incorporating the details referred to in sub-clauses 1(a) and (d) above. Such register shall be made publicly available in an electronic format on the City’s website.
4. The Chief Executive Officer shall ensure the public register referred to in 3 above, is updated on a quarterly basis.

Protocols for Elected Member Relationships with Developers and Lobbyists

Elected Members Meeting with Developers and Lobbyists Individually

1. If an Elected Member believes there is a need to meet with a **DEVELOPER** or **LOBBYIST** individually, to avoid the public perception of bias that can arise, the Member should not agree to meet at a venue where it can be perceived that hospitality is being provided.
2. It is advisable the Elected Members only meet with a **DEVELOPER** or **LOBBYIST** after the administration report relating to a **PLANNING OR DEVELOPMENT PROPOSAL** has been prepared and released.
3. Elected Members must not, when lobbied, commit their vote on a **PLANNING OR DEVELOPMENT PROPOSAL**.

Elected Members Attending Meetings between Employees and Developers and Lobbyists

Elected Members may wish to attend meetings between professional staff and **DEVELOPERS** or **LOBBYISTS**. Approval of Elected Members attending meetings between employees and **DEVELOPERS** or **LOBBYISTS** needs to be at the discretion of the Chief Executive Officer as they are best placed to determine whether their attendance compromises his or her legislative role of providing advice and information to Council.

Elected Members should refuse an invitation they receive from **DEVELOPERS** and **LOBBYISTS** to attend meetings between employees and the **DEVELOPER** or **LOBBYIST**.

Being Offered a Gift or Benefit

To maintain a high degree of integrity, Elected Members should not accept any personal gifts from a **DEVELOPER** or **LOBBYIST**.

Legislation/ Local Law Requirements

Local Government Act 1995

Local Government (Administration) Regulations 1996

Other Relevant Policies/ Key Documents

Councillor Code of Conduct

Policy P698 Attendance at Events Policy