



**Policy Owner:** Director Corporate Services

**Category:** 5. Our Civic Leadership

## 1. STATEMENT OF INTENT

- 1.1 It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making.
- 1.2 The actions of Council Officials when lobbied must reduce the likelihood of perceptions of corrupt or inappropriate conduct and comply with appropriate probity principles.

## 2. ELIGIBILITY

- 2.1 This policy applies to all Council Officials of North Sydney Council.

## 3. DEFINITIONS

- 3.1 Council Officials - includes Councillors, members of staff of Council, administrators, citizen members of Council's Reference/Working Groups and other special interest groups, conduct reviewers and delegates of Council.
- 3.2 Inappropriate or unlawful conduct - on the part of someone lobbying a Council Official usually involves an attempt to obtain preferential consideration or treatment based on factors other than the merits of a matter.
- 3.3 Lobbying - is defined as representations made to a Council Official either by an individual or group with a direct interest in a matter; or by an advocate acting on behalf of others.
- 3.4 Lobbyist - is any person, body corporate, unincorporated association, partnership or firm whose business includes being contracted or engaged to represent the interests of a third part, but does not include:
  - a) applicants or owners for a development application;
  - b) elected precinct representatives;
  - c) charitable, religious and non-profit organisations;
  - d) individuals making representations to inform the Council of their views on matters of public interest;
  - e) peak industry bodies and professional organisations who represent the interests of their members;
  - f) trade unions; or

- g) professionals, such as accountants, architects, lawyers, surveyors and town planners, where contact with Council on behalf of a client may be an incidental but necessary part of their usual work in order to provide their technical or professional services to their client.
- 3.5 Lobbyist Register - is a system of registering lobbyists as defined in this Policy for the purposes of transparency.

#### 4. PROVISIONS

- 4.1 Lobbyist Register - All lobbyists, as defined by this Policy, are required to complete the Lobbyist Registration Form for each matter on which they intend to lobby Council. The register will be published on Council's website.
- 4.2 Improper Conduct - Attempts at inappropriate or unlawful conduct on the part of someone lobbying a Councillor or employee may constitute corrupt conduct. Any attempts made to you or of which you become aware, that you believe to fall within the *Independent Commission Against Corruption (ICAC) Act 1988* definition of corrupt conduct must be reported in accordance with the internal reporting policy for corrupt conduct, maladministration and waste.

Councillors and employees must avoid conduct during the lobbying process that would be considered inappropriate. Examples of inappropriate conduct include:

- a) accepting undisclosed payments or benefits whilst making a decision that affects the gift giver's interests;
- b) accepting a political donation in return for the favourable exercise of discretion during decision-making. Ideally, councillors should keep the lobbying and fundraising activities in which they are involved quite separate to avoid even the perception that a political donation could influence their decision-making;
- c) granting or facilitating access to a particular individual or group while unreasonably denying similar access requested by another party;
- d) fettering discretion by giving undertakings in any form, to an interested party prior to considering all the information relevant to a decision;
- e) Councillors are under a particular obligation to give real and open consideration to all mandated matters when dealing with statutory powers such as those contained within the *Environmental Planning and Assessment Act 1979* and the *Local Government Act 1993*;
- f) acting in a manner that exceeds the role of a Councillor or employee as a result of being lobbied;
- g) disclosing confidential information or information not in the public domain whilst being lobbied;
- h) being influenced by factors that are irrelevant to the merits of the matter under consideration.

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Councillors and employees who are lobbied over council matters by close friends, associates or relatives should also consider whether the nature of their relationship with the proponent and the impact of the matter on the proponent's interests give rise to a pecuniary or non-pecuniary interest. In such cases the matter should be managed in accordance with the provisions of the *Local Government Act 1993* and Council's *Code of Conduct - Councillors and Staff*.

- 4.3 Transparency - Councillors and employees should exercise judgement when deciding whether to be involved in private meetings with people seeking to influence a council decision. Suspicions of inappropriate lobbying can occur when lobbying is not open to public scrutiny. Regardless of whether such suspicions are justified, they still have the potential to undermine public confidence in council decision-making and adversely affect a person's reputation.

Transparency is a useful means of governing accountability and perceptions of fairness in lobbying processes. There are a number of ways Councillors and employees can help ensure transparency whilst being lobbied.

These include:

- a) ensuring that lobbyists are registered on Council's Lobbyist Register and publishing the details on Council's website;
- b) documenting meetings and significant telephone conversations with lobbyists, development proponents, supporters and objectors and providing a copy to the General Manager prior to any subsequent Council meeting where the matter may be reported;
- c) documenting meetings and significant telephone conversations with lobbyists, proponents, supporters and objectors to other matters being considered by Council and providing a copy to the General Manager prior to any subsequent Council meeting where the matter may be reported;
- d) generally conducting meetings in official locations such as council premises;
- e) having other people present during meetings;
- f) asking people who have requested a meeting to put their arguments in writing;
- g) inviting applicants, supporters or objectors and lobbyists who have approached them for a meeting to discuss a significant development to write to council seeking a meeting with all councillors and relevant staff.
- h) not discussing or negotiating on an individual basis, any possible compensatory conditions or other development related matters. All such issues must be referred to the appropriate director or General Manager for proper consideration and assessment;
- i) providing copies of information presented during lobbying meetings to council officers for consideration and assessment, distributing to other Councillors and filing as part of Council's records prior to any subsequent Council meeting where the matter may be reported;

- j) providing copies to the appropriate Director or General Manager, of e-mails and correspondence to and from parties to a development application or other significant matter, prior to any subsequent Council meeting where the matter may be reported;
- k) employees documenting and notifying their manager about lobbying to them that is not part of Council's formal processes;
- l) Councillors making a declaration at a council meeting about lobbying to them that is not part of Council's formal processes.

4.4 Tendering - The lobbying by tenderers about the outcome of a tender process is an exception to the principle that lobbying is permissible. In other words, lobbying by tenderers is normally not permissible. The conditions which govern tender processes are based on a request for tender (RFT). RFTs usually contain statements prohibiting proponents from approaching councillors and council officers not nominated as contact people during a tender process.

## **5. RESPONSIBILITY/ACCOUNTABILITY**

- 5.1 All Councillors, staff and contractors are responsible for complying with the provisions of this Policy.
- 5.2 All Councillors, staff and contractors are responsible for reporting any inappropriate lobbying or efforts to unduly influence the decision-making process to the General Manager.
- 5.3 All lobbyists, as defined by this policy, are responsible for registering with the Council and complying with the Registration Procedures and Protocols and Council's *Code of Conduct - Contractors, their staff and Business Associates*.
- 5.4 The General Manager is responsible for taking action as per the Code of Conduct for Councillors and Staff where breaches of the policy are reported.
- 5.5 The General Manager is responsible for reporting any suspected unlawful conduct to the ICAC.

## **6. RELATED POLICIES/DOCUMENTS/LEGISLATION**

The Policy should be read in conjunction with the following Council policies and documents:

- Access to Council Information Policy
- Code of Conduct - Councillors and Staff
- Code of Conduct - Contractors, their staff and Business Associates
- Code of Meeting Principles and Practices
- Community Engagement Policy
- Councillor Access to Information and Interaction with Staff Policy

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- Open Government Policy

The Policy should be read in conjunction with the following documents/legislation:

- Environmental Planning and Assessment Act 1979
- Independent Commission Against Corruption Act 1988
- Lobbying Local Government Councillors - A guide for councillors, constituents and other interested parties, August 2006 (ICAC)
- Local Government Act 1993

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