

Councillor Interaction with Lobbyists, Developers and Submitters Policy

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1. Introduction

The public expects that any engagement with lobbyists, developers, and planning matter submitters (whether they be an objector or supporter) and landowners relating to statutory and strategic planning matters and or land sales and land transactions be conducted with impartiality, ethical standards, and transparency.

Lobbying is a legitimate and crucial aspect of the democratic process. Lobbyists play a valuable role in facilitating the expression of individuals' and organisations' viewpoints on matters of public concern to the government, aiming to contribute to better outcomes for both individuals and the broader community.

Council in its role as the Responsible Authority for deciding planning permit applications or as Planning Authority for proposed amendments to the Banyule Planning Scheme, are required to make significant decisions that influence the built form and land-use patterns of the municipality. Councillors are expected to possess a comprehensive understanding of the processes, statutory obligations, and the various roles they must fulfill in this realm.

2. Purpose

Councillors are often required to make decisions about planning and developments within the City of Banyule and as part of seeking information, may interact with developers on upcoming projects.

Councillors from time to time also make decisions on the sale or acquisition of land.

This policy is relevant and applies to Councillors in their interactions with lobbyists, developers, planning matter submitters, land owners and other people with a direct interest in land sales and transactions, a planning scheme amendment, development plan, planning permit application, or any other planning decision under the *Planning and Environment Act 1987*, where Council is the Responsible Authority or the Planning Authority.

This policy serves to maintain, support and further strengthen the integrity of Banyule City Council and Councillors when engaging with developers, planning matter submitters and lobbyists, ensuring that interactions are conducted in an open, transparent and accountable manner.

3. Context

3.1 Organisational Context

The role of Council's administration is to evaluate planning proposals and offer an unbiased, expert assessment and recommendation to the Council.

When considering planning applications at Council meetings, Councillors consider all submissions received, along with the recommendations of Council officers before deciding whether to approve or refuse each application. Likewise, when considering proposed amendments to Banyule's planning scheme, Councillors are tasked with the consideration of all submissions and officer recommendations before determining whether to adopt or abandon these amendments.

To prevent any preconceived judgements that could affect the ultimate decision, Councillors must refrain from forming any final opinions on development applications and planning scheme amendments, until they have thoroughly reviewed the officer's reports and listened to all perspectives in debate.

3.2 Background

In August 2018, the Independent Broad-based Anti-corruption Commission (IBAC) launched Operation Sandon to investigate allegations of corrupt conduct involving City of Casey Councillors and property developers. It also examined the adequacy of Victoria's current systems and controls for safeguarding the integrity of the state's planning processes.

Operation Sandon's findings extended beyond Casey, affecting planning and discretionary matters across various government levels. The investigation underscored shortcomings in regulating political donations and lobbying, creating opportunities for improper influence. Addressing these integrity risks is of utmost importance.

Notwithstanding any matters outlined in this policy, Councillors are free to express a preliminary stance on matters but should be willing to reassess their position when presented with new evidence or arguments. This is referred to as maintaining an 'open mind.' A councillor demonstrating an open mind will:

- genuinely listen to all arguments
- assess the merits of issues as a whole, irrespective of personal preferences
- consider all options and perspectives presented
- evaluate the merits and objections related to a matter.

Councillors should avoid any pre-conceived bias on planning decisions by not expressing a final opinion on a matter before participating in the decision-making process. Alternatively, Councillors who have demonstrated a pre-conceived bias by expressing a final opinion on a planning matter should not participate in the final decision-making process.

4. Definitions

Term	Definition
Banyule Planning Scheme	A statutory document that sets out rules and regulations, determined by the Victorian Government, to guide how land can be used, developed, and protected within the Banyule municipality, including zoning, overlays, and heritage protection.
Developer	<p>An individual, government agency or any other entity seeking to develop or use land for benefit through an application for a planning approval, planning scheme amendment or a comparable process, whether they are in the process of applying or considering applying.</p> <p>This encompasses consultants, advisors, agents, representatives, or individuals closely linked with the developer, who are designated to endorse or promote the developer's interests or proposal.</p> <p>The definition of Developers for the purpose of this policy is typically:</p> <ul style="list-style-type: none">• A business or individual who is seeking to gain Council approval for the use and/or development of land.

Term	Definition
Interacting/Interaction	<p>Any material interaction, engagement or meeting, irrespective of whether it was expected, planned, solicited or reciprocated and includes all methods of communication whether verbal, electronic or otherwise, but excludes instances where:</p> <ul style="list-style-type: none"> • a Councillor has not responded to unsolicited communication (including phone messages or emails). • interactions that do not relate directly to a specific planning matter. • where any reference to a planning matter has been sufficiently restricted so as not to invoke provisions of this policy – Councillor discretion is to be used.
Land sales and other land transactions	For the purpose of this policy land sales and transactions relate to any sale, transfer, lease, donation of or other land transactions/dealings that affect the rights and obligations associated with a piece of land.
Lobbyist	<p>An individual or organisation that seeks to influence legislation, regulation, government decisions, actions, or policies on behalf of a client or employer. This influence can be exerted through direct communication with policymakers, advocacy efforts, research dissemination, or strategic networking. Lobbyists operate across various levels of government—local, state, and federal—and may represent businesses, nonprofit organisations, professional associations, or other interest groups.</p> <p>A Lobbyist may act on behalf of a third-party client, such as a developer or industry representative, advocating for policies or regulatory changes that align with their client's interests.</p> <p>Employees or contractors conducting lobbying activities for external entities within Banyule City Council also fall under this definition.</p> <p>Lobbying practices can include formal submissions, meetings with officials, and public campaigns aimed at shaping government actions to benefit specific objectives.</p>
Meetings	Interactions that can be face to face, online, via a telephone call to specifically consider a planning application or planning scheme amendment.
Planning Application	Any application that requires assessment pursuant to the <i>Planning and Environment Act 1987</i> , the provisions of the Banyule Planning Scheme or a planning permit.
Planning Permit	A legal document that gives permission for a use or development on a particular piece of land in accordance with Part 4 of the <i>Planning and Environment Act 1987</i> , including any conditions placed upon the permit.
Planning Scheme Amendment	An amendment to the planning scheme under Part 3 of the <i>Planning and Environment Act 1987</i> .
Senior Officer	A Council officer appropriately qualified in planning requirements to attend meetings and represent Council. This may be a Team Leader, Coordinator, Manager or if required the Director of City Development.

Term	Definition
Planning Matter Submitter	Refers to any individual or entity that provides input, feedback, or objections regarding a planning application, planning scheme amendment, development of planning policy or land sales and transactions. Such as but not limited to: <ul style="list-style-type: none"> • Local residents • community groups • business owners • government agencies or statutory bodies • professional consultants such as architects or urban planners
Undue Influence	Improper pressure or manipulation exerted by a person, entity or their representative to influence a decision of another person in an attempt to compromise their fair and objective assessment.

5. Objectives

The objectives of this Policy are to ensure the transparent and responsible exercise of duties by elected representatives by:

- Ensuring that interactions between Councillors and lobbyists, developers, landowners and planning matter submitters, are conducted in an open, transparent and accountable manner;
- Providing guidance to Councillors on appropriate interactions with lobbyists, developers, and planning matter submitters through clearly defining expectations regarding Councillor behaviour, decision-making, and actions.
- Ensuring that the Council acts as both a Planning Authority and Responsible Authority in full compliance with both legal and ethical standards.
- Mitigating risks associated with the determination of planning applications and planning scheme amendments such as real and perceived conflicts of interest, and unethical or corrupt conduct.
- Mitigating risks associated with the sale of land and other land transactions.
- Provides reporting mechanisms that are available to the community, including maintaining registers required by the various Act or regulations and in accordance with Banyule's Public Transparency Policy.

6. Policy details

6.1 Interaction between Councillors, lobbyists and developers regarding planning or planning scheme amendments

One-on-one interactions with lobbyists and developers can potentially lead to accusations of bias against a Councillor/s involved.

- 6.1.1 At all times, Councillors are expected to abstain from knowingly participating in or engaging with lobbyist efforts aimed at influencing Councillor decision-making on planning matters.

- 6.1.2 Any individual interaction or one-on-one meetings between Councillors and lobbyists and/or developers should generally be avoided, particularly where a pending or current planning application or planning scheme amendment is before Council.
- 6.1.3 Where Councillors interact with lobbyists and/or developers, Councillors must adhere to the following:
 - 6.1.3.1 Councillors must disclose any conflicts of interest, whether general or material, in accordance with Part 6, Division 2 of the *Local Government Act 2020* and the Banyule City Council Governance Rules.
 - 6.1.3.2 Councillors will explicitly state that they cannot provide definitive advice concerning a matter or proposal. Instead, they can offer general information about Council procedures, processes, and policies.
 - 6.1.3.3 Councillors must refrain from providing any technical planning advice and avoid any pre-conceived bias on planning decisions by not expressing a final opinion on a planning matter until they have thoroughly reviewed the Council officer's reports and listened to all perspectives in debate.
 - 6.1.3.4 Councillors must emphasise that any opinions expressed by the Councillor are their personal views and do not represent the Council's potential stance on the prospective application or planning scheme amendment.
 - 6.1.3.5 Councillors must not solicit or accept any gift, in accordance with the Banyule City Councils Councillor Gift Policy.
 - 6.1.3.6 Councillors must not attend any meeting, including on-line meetings with lobbyists and developers without a senior Council officer present.
 - 6.1.3.7 Where interacting with lobbyists and/or developers in relation to planning applications or planning scheme amendments, Councillors may:
 - 6.1.3.7.1 Be open to discussing the benefits of developing within the Banyule Council and promoting appropriate development.
 - 6.1.3.7.2 Highlight Council's policies and strategic positions and freely discuss publicly available information about a particular matter or proposal.
 - 6.1.3.7.3 Encourage lobbyists and developers to obtain independent professional advice (where applicable).
 - 6.1.3.7.4 Advise applicants to consider contacting Council officers for advice and to arrange a pre-application meeting with Council officers.
 - 6.1.3.7.5 Suggest that developers engage in discussions with neighbours of the proposed site of the development about their potential application, as early resolution of concerns can save time.
 - 6.1.3.8 Councillors must register interactions with developers or lobbyists to address any perceived or real concerns regarding inappropriate or corrupt behaviour, conflicts of interest, or where a developer or lobbyist has attempted to unduly influence a Councillor's position on a planning matter.

6.2 Interaction between Councillors and Planning Matter Submitters

- 6.2.1 It is common for individuals making submissions, including objections to planning permit applications or planning scheme amendments, to actively engage with Councillors to advocate their positions or express concerns about planning applications on a frequent basis.
- 6.2.2 When interacting with planning matter submitters, Councillors should exercise caution in providing advice and limit their interaction to listening to the concerns and offering general information about Council procedures, processes, and policies.

- 6.2.3 Where a councillor perceives that a planning matter submitter has attempted to unduly influence their stance on a planning matter, the councillor must register this interaction.

6.3 Attending meetings and documenting interactions

- 6.3.1 Councillors engaging in meetings with planning lobbyists or developers should only do so when they are adequately briefed about the nature of the matter or a specific planning application.
- 6.3.2 Any meeting requests from lobbyists or developers will be managed through official Council channels, being the Mayor and Councillors office or via existing statutory and strategic planning processes.
- 6.3.3 Councillors are prohibited from meeting with lobbyists or developers in the absence of a Senior Council officer. Councillors must be accompanied by a Senior Council Officer at any such meetings. The presence of a Senior Council officer helps to ensure good governance, probity and record keeping of meeting attendees and discussion items.
- 6.3.4 Councillors are encouraged to include a Senior Council officer in meetings with planning matter submitters, particularly where the planning matter is complex or there is high community concern. Where an officer is not present, the Councillor is encouraged to record and submit the interaction.
- 6.3.5 Councillors will maintain a written record, relating to any material interactions with lobbyists and /or developers where they seek to directly engage on a planning matter before Council (or likely to come before Council), which must include:
- a) Names and titles of all attendees (and organisations they represent)
 - b) The date and time of the interaction
 - c) The format of the interaction (e.g., telephone call, email, or written correspondence)
 - d) A summary of the discussions that took place including matters covered / key points discussed
 - e) A summary of the Councillor's response to the interaction / matters discussed.
- 6.3.6 These written records must be submitted to the Manager Governance and Integrity within five (5) business days of the interactions taking place. A copy will be placed in the corresponding subject file within the Council's document management system.
- 6.3.7 Councillors are exempt from recording interactions during consultation meetings arranged by officers as part of the planning application process. However, any material interaction (directly related to a planning matter) that may occur independently at that consultation meeting with a lobbyist, developer, or planning matter submitter must be documented and submitted by the Councillor.
- 6.3.8 A Record of Councillor meeting record (where required) will be completed independently of this process by the appropriate officer and submitted in accordance with Chapter 7, Rule 81 of the Governance Rules. A Record of Councillor Meeting record does not negate the need for a Councillor to maintain and submit a written record of any separate interactions with lobbyists, developers and planning matter submitters.
- 6.3.9 Council will maintain and publish online via its website, a register of interactions and meetings of Councillors with lobbyists, developers and planning matter submitters, noting that access to the public register will uphold the requirements of the *Privacy and Data Protection Act 2014*.
- 6.3.10 The register of interactions will be updated monthly, with updates deferred to the next month with recorded interactions if no entries are made.

6.4 Matters relating to enforcement, public hearings or mediations

- 6.4.1 Councillors will not seek to influence the outcome of any enforcement or compliance issues on day-to-day operational matters. Any approaches made to a Councillor on day-to-day operational matters, from a lobbyist, developer or planning matter submitter must be referred to Council officers for response, to avoid any actual or perceived influence on a compliance process.

- 6.4.2 Councillors may receive requests to attend hearings before Planning Panels Victoria, VCAT compulsory conferences, mediations or hearings, or a Magistrates Court hearing in support of a planning matter submitter or developer on a matter that has been determined by Council (including under delegation by Council officers). Councillors should only attend such hearings as an observer and take no position on the matter other than in support of the formal position of Council, as the Responsible Authority or Planning Authority and act in accordance with the Model Councillor Code of Conduct.

6.5 Councillor Conduct - Land Dealings

Councillors must not discuss or communicate, whether formally or informally, any actual or potential land sales, acquisitions, or related land transactions with any party other than designated Council officers authorised to manage such matters. This restriction applies unless the matter forms part of an advertised public planning process, in which case Councillors must act in accordance with the provisions, and interaction and disclosure requirements of this policy.

7. Roles and Responsibilities

Party/parties	Roles and Responsibilities	Timelines
Councillors	Ensures compliance with this policy in reference to interactions with lobbyists, developers and planning matter submitters.	Ongoing
Chief Executive Officer	Provides guidance for circumstances that are not provided for under the Policy.	As required
Director City Development	Provides guidance for circumstances that are not provided for under the Policy. Ensures compliance with this policy in reference to interactions with lobbyists, developers and submitters and recording of same.	As required Ongoing
Manager Governance and Integrity	Administers and reviews this, Policy. Policy review will be undertaken in consultation with Manager City Planning, Safety & Amenity. The Governance team (on behalf of the Chief Executive Officer) is tasked with maintaining the Register of Interactions with lobbyists, developers, and submitters. This register will be accessible to the public in an electronic format via Council's website and updated monthly.	Ongoing
Manager City Planning, Safety & Amenity	Reviews this policy in consultation with Manager Governance & Integrity. Ensures compliance with this policy in reference to interactions with lobbyists, developers and submitters and recording of same.	Ongoing
Coordinator Governance and Integrity	Administers this Policy. Oversees the monitoring of the Register of Councillor Interactions with Lobbyists, Developers and Submitters. Ensures the register is updated on a monthly basis on Council's website.	Ongoing
Statutory Planning	Ensure any meeting requests are managed in consultation with the Mayor and Councillors office. Where such meetings include 2 or more councillors officers must submit a record of Councillor meeting to the Governance and Integrity team in accordance with Chapter 7 Rule 81 of the Governance Rules after the meeting has occurred. This is in addition to and independent of the Councillor requirement to submit an interaction. Arrange for Council reporting when required and ensure legislative requirements are met.	Ongoing
Mayor and Councillors office	Manage meeting requests from lobbyists, developers and/or submitters in consultation with the Statutory Planning team.	Ongoing

8. Monitoring, Evaluating and Review

The Policy will be reviewed every four (4) years and/or when updates or enhancements are required.

The Governance & Integrity team will oversee the monitoring of the Register of Councillor Interactions with Lobbyists, Developers and Submitters.

The Register of Councillor Interactions with Lobbyists, Developers and Submitters will be made available on the Council's website, as stipulated by this policy.

9. Administrative Updates

From time to time, circumstances may change leading to the need for minor administrative changes to this policy.

Where an update does not materially alter this policy, such a change may be made administratively. Examples of minor administrative changes include changes to names of council departments or positions, or a minor amendment to legislation that does not have material impact.

Where any change or update may materially change the intent of this policy, it must be considered by Council.

10. Associated documents

- CD 18845 Model Councillor Code of Conduct
- CD 18495 Councillor Gift Policy
- CD 17788 Governance Rules and Election Period Policy
- CD 16674 Councillor and Staff Interaction Protocols
- CD 14452 Fraud and Corruption Control Policy
- CD 15487 Public Interest Disclosure Procedure
- Register of gifts, benefits, and hospitality
- Conflicts of interest register
- Summary of Personal Interest Returns
- Council meeting minutes – including disclosures of conflicts of interest and records of meetings organised or hosted by Council
- Summary of Election Campaign Donation Returns
- Register of Interactions with Lobbyists, Developers and Submitters

11. References and Legislative Context

This policy supplements the requirements and processes applied to Councillors as required by:

- *Local Government Act 2020*
- *Planning & Environment Act 1987*
- *Subdivision Act 1988*

- *The Victorian Charter of Human Rights and Responsibilities Act 2006*
- *Privacy and Data Protection Act 2014*
- *Victorian Civil and Administrative Tribunal (VCAT) Act 1998*
- IBAC Operation Sardon – Summary Recommendations
- Local Government Inspectorate Guidelines, August 2022, Interactions with developers must be appropriate | Local Government Inspectorate (lgi.vic.gov.au)
- Local Government Inspectorate, Summer 2023 - Local government integrity matters Councillors must have an open mind | lgi.vic.gov.au