

**12.7 ADVERTISING OF AMENDED POLICY - COUNCILL MEMBER CONTACT WITH DEVELOPERS**

**Attachments:** 1. **Council Member Contact with Developers Policy (Marked Up)**

**RECOMMENDATION:**

**That Council APPROVES the proposed amendments to the Council Member Contact with Developers Policy, at Attachment 1, for the purpose of community consultation.**

**PURPOSE OF REPORT:**

For Council to approve, for the purpose of community consultation, the proposed amendments to the Council Member Contact with Developers Policy as detailed at **Attachment 1**.

**BACKGROUND:**

At its 2 June 2015 meeting, Council adopted the Policy No. 4.2.15 – Council Member Contact with Developers (the policy).

The policy was developed to supplement and guide Council Members' compliance with clauses 2.8 and 2.9.3 of the City's 2013 Code of Conduct, which set out the City's commitment to transparency and its conduct in the determination of development decisions.

In January 2021, Administration undertook a review of the policy and addressed the elements set out in clause 1.3 of the Policy Development and Review Policy as part of a Council Workshop Information Sheet on 25 May 2021 (Item 7.3).

At the May 2021 Council Workshop Council Members requested clarification in relation to disclosure requirements of developer contact prior to the lodgement of an application.

In September 2021 Administration reviewed the City's Governance Framework and proposed an amendment to the Contact with Developers section to include guidance on declaring contact with developers prior to the lodgement of a development application. It was noted that any contact prior to the lodgement of a Development Application, which includes during the Design Review Panel assessment, should be disclosed at the point that the application is presented to Council.

At its November 2021 Council Meeting, Council approved the updated Framework.

The requirement of provisions outlined in clause 1.3 of the Policy Development and Review Policy were re-presented to Council Members through the monthly Policy Paper in January 2022. Council Member requested inclusion in a Council Workshop to discuss further. No additional changes were proposed.

At the Council Briefing 10 May 2022 clarification was requested in relation to recording contact with developers prior to the lodgement of a development application.

Minor amendments to clause 1e have been included (in green) at **Attachment 1**.

These amendments provide clarification and guidance to Council Members of their record keeping obligations.

**DETAILS:**

The findings of Administration's review of the Council Member Contact with Developers Policy are as follows:

1. Consideration of policy objective

Administration has prepared a policy objective for Council's consideration.

2. Consideration of new policy provision

Administration has prepared a new provision to provide guidance on the disclosure requirements of developer contact prior to lodgement of an application. The new provision will provide clarity and

ensure the continued standardisation for the recording of contact between Council Members and developers.

**CONSULTATION/ADVERTISING:**

In accordance with the City's Community and Stakeholder Engagement Policy, community consultation of all new and significantly amended policies must be provided for a period exceeding 21 days in the following ways:

- notice published on the City's website;
- notice posted to the City's social media;
- notice published in the local newspapers;
- notice exhibited on the notice board at the City's Administration and Library and Local History Centre; and
- letters distributed to relevant local businesses and community groups.

Public notice of this proposed new policy will be provided from mid-April 2022.

**LEGAL/POLICY:**

There is no legislative or regulatory requirement for this policy however the objective facilitates the City's aim to provide the highest standards of transparency and openness in town planning and development decision making.

Section 2.7(2)(b) of the *Local Government Act 1995* provides Council with the power to determine policies.

The City's Policy Development and Review Policy sets out the process for the development and review of the City's policy documents.

**RISK MANAGEMENT IMPLICATIONS**

Low: It is low risk for Council to undertake community consultation of the proposed amendments to the policy.

**STRATEGIC IMPLICATIONS:**

This is in keeping with the City's *Strategic Community Plan 2018-2028*:

Innovative and Accountable

*We are open and accountable to an engaged community.*

*Our community is aware of what we are doing and how we are meeting our goals.*

**SUSTAINABILITY IMPLICATIONS:**

This does not contribute to any environmental sustainability outcomes.

**PUBLIC HEALTH IMPLICATIONS:**

This does not contribute to any public health outcomes in the *City's Public Health Plan 2020-2025*.

**FINANCIAL/BUDGET IMPLICATIONS:**

Nil.

# Council Member Contact With Developers



<b>Legislation / local law requirements</b>	<i>Local Government (Model Code of Conduct) Regulations 2021.</i>
<b>Relevant delegations</b>	Nil.
<b>Related policies, procedures and supporting documentation</b>	Code of Conduct for Council Members, Committee Member and Candidates (Nominated Members Code) Contact with Developers Register Register of Interests Disclosed at Council Meetings Governance Framework

## PRELIMINARY

### INTRODUCTION

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

### PURPOSE

To provide guidance on the recording of "Prescribed Contact" between Council Members and developers.

### OBJECTIVE

To:

- facilitate integrity and transparency in the determination of the City's development applications; and
- guide Council and Administration on the recording of prescribed contact between Council Members and developers.

### SCOPE

This Policy applies to all "Prescribed Contact" between Council Members and developers.

# Council Member Contact With Developers



## 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:

- a. is in the form of a public statement made at a Council Forum, Council Briefing or Council Meeting; or
- b. 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:

- a. a proposed Local Planning Policy or amendment to a Local Planning Policy under the City's operative Town Planning Scheme;
- b. a proposed amendment to the City's operative Town Planning Scheme; and
- c. 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.

# Council Member Contact With Developers



## 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 the 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 clause 2 and 3 below.
  - e. Where contact occurs prior to the lodgement of a development application, including during the Design Review Panel assessment, the Council Member shall record all contact privately and disclose the contact as an interest at the point that the application is presented to Council. At this point such disclosures are to be recorded in the Register of Interests Disclosed at Council Meetings and added to the register of Council Member contact with the Developers.
- 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 the record keeping purpose of 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 the Developers, incorporating the details referred to in sub-clauses 1a 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.

# Council Member Contact With Developers



DRAFT

OFFICE USE ONLY	
Responsible Officer	Please use title only
Initial Council Adoption	DD/MM/YYYY
Previous Title	Applicable if the policy has been renamed
Reviewed / Amended	DD/MM/YYYY
Next Review Date	MM/YYYY