



Council Meeting

17 August 2022

8.24 Guidelines and Model Policy on the Lobbying of Councillors

Report by: Chief Executive Officer, Karina Ewer

Strategic Outcome: 2. Good government

Strategic Objective: 2.1 Berrigan Shire 2027 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting

Recommendation: That Councillors provide feedback to the CEO regarding the introduction of Guidelines and a model policy on the lobbying of Councillors.

Purpose

The purpose of this report is to update Council as to the outcomes of Operations Dasha, Eclipse and Witney and the recommendations made by ICAC regarding the lobbying of councillors.

Responses to the OLG Circular ("**Appendix 8.24-A**") are required by 5 September 2022.

Summary

The information provided below is directly quoted from the ICAC Report, July 2022, called *Investigation into the Conduct of the Local Member of Drummoyne* (the Report) – aka Operation Witney

ICAC found the State Member for Drummoyne, Anthony (John) Sidoti MP, “engaged in serious corrupt conduct by, between approximately late 2013 and February 2017, engaging in a protracted course of conduct, involving the use of his position as a member of Parliament and the local member for Drummoyne, to try to improperly influence City of Canada Bay Council (CCBC) Liberal Councillors, Helen McCaffrey, Mirjana Cestar and Tanveer Ahmed, to adopt and advance certain positions in relation to the Five Dock town centre that would benefit his family’s property interests.”

“Despite [Mr Sidoti’s] representations that he was acting at all times in the interests of his constituents, in particular, the business community and landowners in the Waterview Street block, the outcomes that he wanted those councillors to delivery were entirely directed to his private interest in increasing the development potential of this family’s growing number of properties in and around the Five Dock town centre. Those outcomes were also consistent with what had been determined by CCBC (informed by the recommendations of CCBC staff and the independent expert planning consultants engaged by CCBC following extensive community consultation) to be in the public interest.”

Part 2 of Chapter 11 of the Report specifically deals with the lobbying of Councillors. The following are relevant extracts from the Report.

Generally, the lobbying of councillors is a normal and acceptable feature of the relationship between citizens and their elected representatives. Nonetheless, it is in the public interest that lobbying is fair and transparent, and does not undermine public confidence in impartial decision-making. The conduct exposed in the investigation demonstrated that there is a need to enhance transparency and promote honesty with respect to the lobbying of councillors, particularly when it involved proponents with planning matters before a council.

While councils should not adopt practices that preclude receipt of relevant planning matters for consideration, procedures should be put in place to discourage or prohibit manipulative lobbying practices. Procedures should also be put in place to ensure information received from interested parties is dealt with in a fair, impartial and transparent manner.

The Commission also notes that the Department is currently undertaking an independent review of the framework governing the behaviour of councillors. An outcomes of the review ought to be an increase in deterrence for councillor misconduct including breaches of the model code [of conduct].

Recommendations made from the Report directly related to Local Government

Recommendation 9

That the NSW Department of Planning and Environment ensures any guidelines issued pursuant to s23A of the *Local Government Act 1993* regarding the lobbying of councillors include advice about:

- the nature and frequency of meetings between councillors and interested parties, including the need to ensure transparency around these interactions
- how and where to report concerns about lobbying practices
- the receipt of submissions outside of formal processes, including the transmission of material to specific councillors in a way that excludes other councillors and staff
- councillors' attendance at staff meeting with parties interested in an outcome
- councillor representations to staff arising from lobbying interactions
- the lobbying of councillors by interested parties with whom they have a pre-existing relationship.

Recommendation 10

That the NSW Department of Planning and Environment updates the Model Code of Conduct for Local Councils in NSW to refer to any councillor lobbying guidelines and to reflect the substantive advice contained in the guidelines.



Recommendation 13

That the NSW Department of Planning and Environment amends the Model Code of Conduct for Local Councils in NSW to generally prohibit councillors' involvement in matters where they have a pecuniary or significant non-pecuniary conflict of interest, beyond exercising the general rights afforded to a member of the public. An exception should be made in circumstances where a councillor reallocates or delegates their duties, refers interested parties to the appropriate way of making a representation or makes a complaint due to becoming aware of improper conduct.

Recommendation 14

That the Department of Planning and Environment amends the Model Code of Conduct for Local Councils in NSW to include provisions about the appropriate role of council workshops. In particular, it should be made clear that workshops cannot be used to transact council business.

Background

Background information relating to the Operations is outlined in the OLG Circular Attached.

Relevance to Community Strategic Plan and Other Strategies /Masterplans / Studies

Nil

Issues and Implications

The development of these Guidelines and Policy will affect the ways in which information regarding pre-planning meetings, where a Councillor attends, are recorded. There is also the potential that, although this Council does not tend to do so, matters relating to planning, will be removed from workshops.

Workshops overall have been called into questions as some Councils have been found (over these three operations in particular, though there are others) that some Councils are making decisions in workshops before they are presented at Ordinary meetings. Some jurisdictions have already moved to having workshops open to the public in an effort to avoid such things occurring.

Policy

Code of Conduct

Financial Implications

Nil



Legal / Statutory

Nil

Community Engagement / Communication

Nil

Human Resources / Industrial Relations (If applicable)

N/A

Risks

In this case no risks have been assessed as Council is being asked to respond to the matters outlined in the OLG Circular only.

Conclusions

Some Councils have obviously done the wrong thing. Planning is a highly vulnerable requirement of Council and understanding of Council's role in the decision-making process can be difficult. I could source training for Council if Councillors feel they do not fully understand what is a very complex area of Council responsibility.



Council Meeting

17 August 2022

8.25 CEO Annual Leave Request

Report by: Chief Executive Officer, Karina Ewer

Strategic Outcome: 2. Good government

Strategic Objective: 2.1 Berrigan Shire 2027 objectives and strategic actions facilitate the effective governance by Council of Council operations and reporting

Recommendation: That Council approve the CEO's leave from 23 to 27 September 2022 inclusive.

Report:

The purpose of this report is to seek Council's approval for a few days leave for me to attend my niece's wedding in Townsville. I will keep my mobile phone on me and check my emails intermittently. Given the short period of time, I do not believe there is a need to have anyone act into the position of CEO.