

Title	Developer Interactions Policy
Description	A policy to provide a mechanism for Councillors to record and make public their interactions with property developers
Category	Governance
Type	Policy
Approval authority	Council
Responsible officer	Senior Governance Advisor
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Review cycle	Every four years
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Human Rights compatibility	This policy has been assessed and is compatible with the Victorian Charter of Human Rights and Responsibilities

1. Purpose

- 1.1 This policy provides a mechanism for Councillors to record and make public their *interactions* with *developers*.
- 1.2 This process is a measure to provide transparency and public accountability in relation to Councillor dealings with *developers* and the consideration of officer reports in Council and Planning Decisions Committee meetings.
- 1.3 The process does not seek to limit the access to Councillors by those with property interests in the municipality, nor to limit the ability of Councillors to inform themselves about matters which may be coming to a Council or Planning Decisions Committee meeting for a decision.
- 1.4 This policy provides clarity on which *interactions* should be disclosed, and what details should be made public.

2. Application

- 2.1 In the interests of fostering public confidence in the assessment of planning matters by Council and its Planning Decisions Committee, Councillors are encouraged to disclose *interactions* with *developers*.
- 2.2 The role of the Councillor in the decision-making process is to consider all the information presented by Council officers and information presented by all parties during the debate to make a balanced and informed decision.

3. Definitions

- 3.1 In this policy:

the Act

means the Local Government Act 2020

developer

means a person, business or organisation that a Councillor knows, or reasonably should know, has an interest in a *development* in the City of Yarra. It also extends to a lobbyist, consultant, advocate, advisor, representative, agent or other related party when they are acting on behalf or in the interests of a *developer*.

development	means a property or land development proposal that is underway, planned or contemplated that, in order to proceed, may require a decision to be made by resolution of the Yarra City Council or its Planning Decisions Committee. These decisions may include, but are not limited to, a change to the Yarra Planning Scheme, the issuance of a planning permit, the sale of Council property and the discontinuance of a Council road.
interaction	means any form of contact between a <i>developer</i> and a Councillor, including but not limited to, a meeting (in person or online), telephone call, email, text message, letter or social media exchange.
conflict of interest	means a conflict of interest as defined in section 126(2) of the Act.
Regulations	means the Local Government (Governance and Integrity) Regulations 2020.

4. Interactions with property developers

- 4.1 Council recognises that every person, organisation and interest group has a right to put a case forward to elected officials as part of the decision-making process (see s60(2)(b) of the *Act*).
- 4.2 Further, Council recognises that Councillors have an obligation to become informed about matters which are subject to Council decisions (see Schedule 1.2(b) of the *Regulations*).
- 4.3 In fulfilling their obligation to make informed decisions, Councillors may *interact* with *developers* in relation to matters likely to come before them for a decision.
- 4.4 Council also recognises the significant risks involved in the exercising of its powers in relation to property development matters, given the potentially significant impact such decisions can have on property values. This, in the absence of robust and transparent integrity measures, can create a perception of improper conduct on the part of decision-makers.
- 4.5 In order to maintain community confidence in Council's *interactions* with *developers*:
 - 4.5.1 Councillors will declare *conflicts of interest* in accordance with the *Act* and Council's Governance Rules. *Conflicts of interest* declared by Councillors are included in a register and published on Council's website.
 - 4.5.2 Councillors will, by reporting under this policy, disclose *interactions* with *developers*. *Interactions* with *developers* disclosed by Councillors are included in the personal interests return summary and published on Council's website.

5. Disclosure

Interactions requiring disclosure

- 5.1 Councillors are required to disclose all *interactions* with *developers* other than those set out at section 5.2 of this policy.

Interactions where disclosure is not required

- 5.2 Councillors are not required to disclose:
 - 5.2.1 Incidental contact with a *developer*, meaning brief contact between a Councillor and *developer* that either does not reference a *development* or where any such reference is immediately curtailed. Examples of incidental contact include, but are not limited to:
 - (a) a chance encounter in the street where pleasantries are exchanged.

- (b) the receipt by a Councillor of an email invitation to inspect a site, and an email reply declining the offer.
 - (c) an unsolicited post on a Councillor's facebook page with a comment by the Councillor directing the commenter to contact the planning office.
 - (d) the attendance by both a Councillor and a *developer* at a large community event where the *developer* asks the Councillor a question about a *development*, and the Councillor immediately states that they do not wish to discuss the matter and ends the topic of conversation.
- 5.2.2 Social contact with a *developer*, meaning contact between a Councillor and *developer* in a social setting that either does not reference a *development* or where any such reference is immediately curtailed. Examples of social contact include, but are not limited to:
- (a) a Councillor and *developer* whose children play for the same sporting team, and they regularly see each other at training sessions.
 - (b) a Councillor and *developer* who are in a romantic relationship and have taken care not to discuss work matters at home.
- 5.2.3 Formal contact with a *developer* at a Council meeting or meeting of the Planning Decisions Committee, such as where a *developer* addressed the meeting in relation to a matter listed on the agenda.
- 5.2.4 Contact with a *developer* in relation to matter with which the Councillor has a *conflict of interest* which has previously been disclosed in a personal interests return. Examples of exempt contact include, but are not limited to:
- (a) ongoing contact with a business colleague who is conducting property development activity in the municipality;
 - (b) a Councillor who has a family member who is an architect with many projects in the municipality.
 - (c) where a Councillor themselves is a developer
- 5.3 Where a Councillor finds themselves having repeated incidental or social contact with a *developer*, they are advised to consider whether it warrants disclosure in the personal interests return in accordance with regulation 9(l) of the *Regulations*.

Manner of disclosure

- 5.4 Councillors are able to submit contemporaneous reports of *interactions* with *developers* to the Governance Branch for recording.
- 5.5 In March and September each year, Councillors will receive a pre-filled declaration form which lists all *developer interactions* reported to the Governance Branch (or a blank form if none have been reported).
- 5.6 Councillors will confirm that the record of *developer interactions* is true and correct, and submit it to the Governance Branch at the same time as submitting the biannual interests return required under section 134 of the *Act*.

6. Public Register

- 6.1 The Chief Executive Officer is required to prepare and make public a summary of personal interests returns under section 135 of the *Act*.
- 6.2 For Councillors, this summary is expanded to include a summary of *developer interactions*, in addition to those items required by regulation 10(1) of the *Regulations*.

- 6.3 Data provided in the public summary includes:
- 6.3.1 the date of each *interaction*;
 - 6.3.2 the parties present or involved in each *interaction*;
 - 6.3.3 the address of any property or properties each *interaction* relates to;
 - 6.3.4 the nature of each *interaction*;
 - 6.3.5 any comments provided by a Councillor for inclusion in relation to an *interaction*; and
 - 6.3.6 any declaration that a Councillor has not had any *interactions*.
- 6.4 In order to comply with the Privacy and Data Protection Act 2014, the names of the parties to an *interaction* (other than Councillors) will not be released, and will instead be substituted with a descriptor to enable the reader to understand the relationship of the third party to Council. For example, the parties may be described as “the landowner of 123 Main Street and a Director of ABC Planning Consultants” rather than using the individual’s names. Names of businesses or organisations will be provided.
- 6.5 Where a Councillor does not make a declaration in accordance with this policy in relation to their *developer interactions*, the summary for that Councillor shall instead record that the Councillor has failed to make a declaration for the relevant period.

7. Related Documents

- City of Yarra Governance Rules
- Local Government Act 2020
- Local Government (Governance and Integrity) Regulations 2020.