



POLICY

C012 Councillor Interaction with Developers



1 Purpose

Councillors are often required to make decisions about planning and developments in their municipality and as part of seeking information, may interact with developers on upcoming projects. Council acknowledges that interactions with developers are a necessary and essential part of a healthy democracy and every person, organisation, and interest group have a right to put a case forward to elected officials as part of the land use planning decision-making process.

This policy provides guidance for how Councillors should interact with developers to maintain integrity, transparency, and good governance in their decision-making whilst also promoting development for the social and economic benefit of Hindmarsh Shire.

2 Scope

This policy applies to all Councillors of Hindmarsh Shire Council and to their interactions with developers in relation to land-use planning related matters, including current planning permit applicants and prospective planning permit applicants.

3 Definitions

Council	means Hindmarsh Shire Council
Councillors	means elected Councillors of Hindmarsh Shire Council, including the Mayor
Contact	means any communication or information exchange between a Councillor and a developer, regardless of whether it was expected, planned, solicited or reciprocated and regardless of the means of communication.
Developers	an applicant, or proposed applicant, for a land use planning application or similar. This includes any consultants, advisors, agents, representatives or person closely associated with the developer who is appointed to promote or advocate for the developer's interests or proposal.

4 Policy

4.1 Conflict of Interest

Council should not engage in any form of contact with developers when there is an existing conflict of interest. If an interaction with a developer is handled inappropriately and/or not in accordance with this policy, a Councillor may create a conflict of interest and preclude themselves from future decision-making relating to the relevant development application.

4.2 Contact with Prospective Developers

Councillors should encourage responsible and appropriate development in Council's area. Councillors should not feel inhibited in any communications with potential developers in promoting the benefits of developing in Hindmarsh.

However, in dealings with potential developers, Councillors:

- must make clear to potential developers that they can provide general information on the application process only and cannot give advice about, or commit to, the development's chance of success;
- should suggest the developer seek independent professional advice;
- if applicable, must encourage potential developers to seek preliminary advice on their proposal by utilising the established process within Council's planning department pre-lodgement meetings with Council officers; and
- should not state any opinions or provide any advice regarding the proposal (other than that stated above). The Councillor must be aware that if they do give a personal opinion on the potential development, this may preclude them from being involved in any decisions on the development in the future.

4.3 Councillors Involvement in Decision-making

It is the Council staff responsibility to receive and assess development applications, culminating in a report to Council that provides information and a recommendation on the application. The role of the Council in the decision-making process is to approve or decline the application on the information and recommendation provided by Council staff. To avoid prejudicing the eventual decision, Councillors must not make up their minds about a development application until they have read the officer's reports and heard all sides of the debate. This may include receiving submissions, as a Council, to be read in conjunction with the Council report.

4.4 Commenting Prior to Decision

Any involvement a Councillor has with a development application during its assessment has the potential to damage the integrity of the final determination. It is important that Councillors avoid making public comments that could be seen as supporting or opposing an application.

In addition, Councillors should not be seen to be trying to influence the public by commenting on the application or signing petitions during the public comment period.

If a member of the public, particularly those that have an objection to the development application, approaches a Councillor to discuss the application, they should avoid comment and encourage the person to direct their objection and comment to Council officers to be included, where appropriate, for Council consideration. Written submissions directed to and received by individual Councillors should be provided to the Mayor to be distributed to all Councillors and the Director Infrastructure Services.

4.5 Meeting with Developers

Any request for a meeting between Councillors and developers should occur only to listen to the position of the relevant person or group. To ensure a fair and transparent process, where such meetings occur, Councillors must then also make themselves available to all other parties involved in the matter to hear their views should they similarly request to be heard.

At any meeting with developers, Councillors:

- **should advise the contact that the meeting might be registered in accordance with this Policy, and should proceed only if the contact understands and agrees;**
- must make clear that they are only in attendance to listen to the person or group, that they can provide general information on the application process only and they cannot give advice about the development's chance of success;
- should not state any opinions or provide any advice regarding the proposal (other than that stated above). The Councillor must be aware that if they do give a personal opinion on the potential development, this may preclude them from being involved in any decisions on the development in the future; and
- should state that in relation to Council's possible decision on the application, that the Councillor's principal obligation is to serve the public interest by ensuring that their decision is -
 1. consistent with the planning legislation, Council's planning scheme and policies; and
 2. made after having appropriate regard to any officer's (or Council appointed consultant's) advice; and
 3. not influenced by any other irrelevant or inappropriate consideration.

Councillors should avoid one-on-one meetings with developers who have an application before Council or who may make an application to Council. A one-on-one meeting with a developer runs the risk of a Councillor being perceived as being influenced or biased in their decision-making.

Requests for a meeting should go through official Council channels, such as a generic Council inbox. Councillors should only meet with a developer with a Council officer present. The Councillor should be transparent with other Councillors around the nature of the meeting and provide them with the opportunity to attend should they wish to do so.

Where a Councillor receives a request to meet with a developer who has no current application before Council, they should be mindful during the interaction of any impacts the meeting might have on future applications as per clause [4.1.1](#).

4.6 Meeting with Developers where the Development Application is Subject to Legal Proceedings

In the event that a land use planning application is proceeding to any type of court or tribunal proceeding, no meetings between Councillors and developers should take place unless approved by the Chief Executive Officer or the Director Infrastructure Services, with such meeting being approved on a "without prejudice" basis.

4.7 Gifts and Hospitality

Management of offers of gifts or hospitality from developers should be managed in accordance with Council's Gifts and Hospitality Policy.

4.8 Campaign Donations

Local government election candidates must provide a record of whether they did or didn't receive any donations, gifts or in-kind support for their election campaign. Under the Act, all candidates in Victorian council elections must submit a return within 40 days of election day.

Once Council has received a *successful* candidate’s campaign donations return form, any disclosable gifts from developers will be transferred to Council’s **Register of Interactions** (see clause [4.9](#)). If it is not clear that the donation is from a developer, Council may ask that the Councillor confirm further information as to the nature of the donation so that it might be properly recorded.

4.9 Register of Interactions

Councillors should keep a written record of the matters discussed at any interaction with a developer. A Councillor Declaration of Contact with Developer Form (see Appendix 1) should be completed and forwarded to the Chief Executive Officer for inclusion in the Register of Contact with Developers within 10 business days of the meeting taking place.

The Manager People and Performance (on behalf of the Chief Executive Officer) is responsible for maintaining the Register of Contact with Developers. The Register shall be made publicly available in an electronic format on the Council’s website and updated on a monthly basis.

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 1234 Wombat Crescent and a Director of XYZ Planning Consultants” rather than using the individual’s names. Names of businesses or organisations will be provided where appropriate.

5 Charter of Human Rights and Responsibilities Act 2006 – Compatibility Statement

The Victorian *Charter of Human Rights and Responsibilities Act 2006* has been considered in relation to whether any human right under the Charter is restricted or interfered with in any way by enacting any part of this policy. It is considered that this policy is consistent with the rights outlined in the Charter.

6 References

Related documents	Legislation
Hindmarsh Shire Council Councillor Code of Conduct	<i>Local Government Act 2020</i> <i>Local Government Act 1989</i>
Hindmarsh Shire Council Gifts and Hospitality Policy	<i>Charter of Human Rights and Responsibilities Act 2006</i>
Hindmarsh Shire Council Conflict of Interest Policy	<i>Gender Equality Act 2020</i> <i>Planning and Environment Act 1987</i>

7 Document Control

C012 Councillor Interaction with Developers	Policy Category	COUNCIL
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Responsible Officer	CEO	Review Date	29 May 2027
Version History	Date	Version	Description
	September 2023	1.0	New Policy
	May 2024	1.1	Additional provision regarding compliance with the <i>Privacy and Data Protection Act 2014</i> .

Appendix 1

Councillor Declaration of Contact with Developer Form



	Details
Councillor name	
Descriptor of Developer	
Date, time and place of contact	
Type or method of contact	
Property under discussion	
Nature of issue covered in the contact	
Did you advise the developer of the Contact Register?	
How did you advise them of the Contact Register?	
Other relevant information/comments	

Signed

Date