

Strategic policy

Councillor and Council employee participation on development assessment matters

Corporate Plan reference:	Our Service Excellence Our Outstanding Organisation
Endorsed by Council on:	8 December 2022 (OM22/111)
Executive responsible for policy:	Group Executive, Customer and Planning Services

Policy statement

This policy establishes a framework for the participation by a Councillor and a Council employee on the development assessment matters.

This policy has been developed in the interests of facilitating compliance with Council's obligations under the *Local Government Act 2009*, the *Public Sector Ethics Act 1994* and the *Planning Act 2016* and to support the integrity of the actions of Council employees and Councillors in the development assessment process.

This policy must be read and complied with in accordance with the associated Organisational Guideline for the Roles and responsibilities of a Councillor and a Council employee participating on development assessment matters.

Policy scope

This policy applies to all Councillors and Council employees in their participation roles and responsibilities with respect to development assessment matters, including the pre-lodgement, application assessment, decision and appeal stages of a development application.

This policy is applicable to interactions and engagement by Councillors and Council employees with all proponents and participants in the development assessment process. In terms of engagement with a registered lobbyist, such engagements must be separately notified, recorded and conducted in accordance with the requirements of the *Integrity Act 2009*.

This policy applies to matters that are the subject of a development application that is under assessment by Council, or where the decision on the development application may be subject to an appeal process. The policy generally does not apply to enquiries about future visions, plans or proposal which are not the subject of a current development application.

Principles

In addition to the principles outlined in section 4 of the *Local Government Act 2009*, this guideline is also guided by the following principles:

- Councillors must represent the current and future interests of the residents of the region
- ethical, lawful, objective, reasonable and impartial decision-making

- making informed and evidence-based decisions
- considering the impact the decision will have on the community and/or part of the community
- alignment with Council's long-term direction, vision and regional strategies.

Policy details

Council is committed to serving the public interest and pursuing matters that advantage the Sunshine Coast region and its community, including in the context of development matters.

Many aspects of development proposals seek to advance the economic and community development goals and environment and liveability aspirations which Council seeks to realise through its Corporate Plan, regional strategies and initiatives (including the *Sunshine Coast Regional Economic Development Strategy 2013-2033*, the *Sunshine Coast Community Strategy 2019-2041* and the *Sunshine Coast Environment and Liveability Strategy*) and commensurate with its status as a UNESCO Biosphere Reserve. The way in which Council discharges its obligations in managing, assessing and deciding development applications can generate investor confidence and employment growth, accommodate and respond to public interests and preserve and enhance the region's natural assets.

Councillors and Council employees are frequently contacted by proponents and participants in the development assessment process regarding proposals or specific development applications. While there is no express statutory prohibition on Councillors or Council employees engaging with proponents and participants in the development assessment process, these interactions must always be carried out ethically, lawfully, transparently and in the public interest.

Distinct from developing and implementing regional and Council strategies, the development application and assessment process is a defined statutory process that must be transparent, objective and legally correct.

In respect of all aspects of the development assessment process, Council will always aim to:

- reinforce its commitment to open, transparent, efficient, effective and objective decision-making in accordance with statutory requirements
- provide for appropriate involvement by stakeholders in the decision-making process
- support Councillors in discharging their responsibilities for the strategic direction of Council and the region, representing the interests of the region and their constituents and acting in a way that promotes integrity
- assist Councillors and Council employees to avoid any inference or allegations of dishonesty, bias or undue influence in the performance of their public or professional duties
- keep Councillors regularly informed of development related matters
- minimise the risk of non-compliance with legislation by Councillors and Council employees.

Councillors and Council employees (delegated and non-delegated) may represent the interests of the Sunshine Coast community as a whole in an advocacy role for investment attraction, promoting sustainability, industry development and generating business and investment confidence. Such activities, conducted ethically and lawfully, are appropriate roles for Councillors and Council employees and are not inconsistent with the requirements of this Policy.

Measurements of success

The success of the policy will be measured by:

- Councillors and Council employees complying with the statutory requirements associated with development assessment and
- The number of complaints to the relevant bodies of bias or other conduct complaints relating to development assessment matters being lodged.

Definitions

Close associate – means any of the following in relation to a participant in a development assessment process -

- a) a spouse
- b) a parent, child or sibling
- c) a partner in a partnership
- d) an employer, other than a government entity, regardless of whether the employment is for remuneration or undertaken on a voluntary basis
- e) an entity, other than a government entity, for which the participant in a development assessment process is an executive officer, board member or registered member
- f) an entity in which the participant in a development assessment process or a person mentioned in any of paragraphs (a) to (e) has an interest, other than an interest of less than 5% in an entity that is a listed corporation under the *Corporations Act 2001*.

Council Employee – means the Chief Executive Officer, senior contract employees, contract employees, award employees, casual employees, part-time employees, contractors, contingent workers, agency casual and volunteers.

Councillor – means a person elected to represent the community in Council, including the Mayor and Deputy Mayor.

Delegated authority – means a person or body lawfully delegated powers by the local government under the *Local Government Act 2009*, to make a decision.

Delegated Council employee – means a Council employee position which is authorised to make decisions under the *Planning Act 2016* or other planning legislation by virtue of that authority having been delegated by Council or the Chief Executive Officer.

Non-delegated Council employee – means any Council employee who is not a delegated employee for the purpose of this Policy.

Participants in the development assessment process (or participants) – means a person or entity external to Council associated with a proposed development or formally lodged development application and includes:

- (a) applicants
- (b) representatives of, and consultants and contractors engaged by, an applicant
- (c) lobbyists as defined in the *Integrity Act 2009*
- (d) submitters to a development application
- (e) government agencies referenced as referral for a development application (to the extent that this Policy can be binding on these agencies)
- (f) close associates of any of the persons or entities identified in (a), (b), (c) and (d) above.

Proponent – means a person or entity with a development proposal that has not yet been formally lodged as a development application.

A full list of relevant definitions can be found in the *Planning Act 2016*, relevant Planning Schemes (including Kawana Waters Development Control Plan No. 1) and local laws for the Sunshine Coast Council.

Policy commitment

Council employees and Councillors covered in the scope of this policy consistently demonstrate and uphold the intent, objectives and principles of this policy. Nothing in this policy requires or authorises an employee of Council or Councillor to act in any way that is contrary to law. Any instances of non-compliance will be managed in accordance with any relevant codes of conduct, policies and legislation dealing with conduct and/or disciplinary action.

Related legislation, policies, strategies and documents

All individuals engaged in dealings within the scope of this policy are required to fulfil the ethical and behavioural obligations as defined in legislation and Council's Code of Conduct. In the event of an inconsistency between any provision of this policy and any provision of the following related legislation, policies, strategies and documents, the provisions of the related legislation, policies, strategies and documents shall prevail, unless the Chief Executive Officer or Council expressly waive a provision of this policy by prior agreement. For further assistance please contact the Manager of Corporate Governance.

Code of Conduct for Councillors

SCC Employee Code of Conduct

SCC Planning Schemes, Policies and Documentation

SCC Local Laws

SCC Corporate Plan

Environmental and Liveability Strategy

Sunshine Coast Community Strategy 2019-2041

Sunshine Coast Regional Economic Development Strategy 2013-2033

Local Government Act 2009

Planning Act 2016

Public Sector Ethics Act 1994

Integrity Act 2009

Economic Development Act 2012

Crime and Corruption Act 2001

Information Privacy Act 2009

Version control:

Version	Reason/ Trigger	Change (Y/N)	Endorsed/ Reviewed by	Date
1.0	Create new	N	OM 2008 OM08/358	December 2008
1.1	Review and update with organisational structure, legislative changes and new policy title	Y	OM 2022 OM22/111	December 2022

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