

ORDINARY COUNCIL MEETING LATE SUPPLEMENTARY AGENDA 24 AUGUST 2022 7.00PM

TO BE HELD IN THE COUNCIL CHAMBERS 23-25 CHELMSFORD PLACE LEETON NSW 2705

Authorised for release: Jackie Kruger General Manager

LEETON SHIRE COUNCIL

LATE SUPPLEMENTARY AGENDA ORDINARY COUNCIL MEETING 24 August, 2022 7.00PM

- 6. MAYORAL MINUTES (If any)
- 7. NOTICES OF MOTION (If any)
- 8. OFFICERS' REPORTS (As listed)
- 10. CLOSED COUNCIL CONFIDENTIAL ITEMS

MAYORAL REPORTS

ITEM 1	MAYORAL MINUTE - SUBMISSION TO OLG ON THE LOBBYING OF
	COUNCILLORS

RELATED FILE NUMBER	EF21/50
RECORD NUMBER	22/378

SUMMARY/PURPOSE

Council has been invited to give feedback on the development of guidelines and a model policy on the lobbying of councillors.

Following a spate of investigations - mainly associated with development applications - ICAC is recommending that:

- Transparency around lobbying of councillors be enhanced
- Provisions of the Lobbying of Government Officials Act 2011 be amended to include local government.

The OLG plans to develop guidelines and a model policy to supplement the adopted code of conduct. They are seeking Council views on ICAC's suggestions; what issues, behaviours and risks need to be addressed; and how Councils already ensure transparency. Submissions close on 5 September 2022.

While fully supportive of integrity and transparency, as Mayor I believe these are already captured in our Code of Conduct. Further, as a Council, we strive to ensure all Councillors have access to all information prior to making decisions. All Councillors are already invited to site meetings when we do have DAs come to Council for a decision. I consider these elements can possibly be reviewed and strengthened in the existing Code of Conduct and, at most, an additional section on lobbying could be added including the submission of any meeting records.

To have separate policies on lobbying of Councillors and to be regulated by the LOGO Act are steps too far and would add an unnecessary compliance burden (all of which requires additional resourcing for no commensurate value return).

Where lobbying goes awry in Councils, the relevant Regulators should deal with those councils directly instead of tarring us all with the same brush.

RECOMMENDATION

I recommend that the General Manager be asked to make a submission to OLG based on the sentiments expressed in this Mayoral Minute, summarised as:

- 1. Strengthening the current model Code of Conduct as being more than adequate for improving transparency related to the lobbying of Councillors, and
- 2. Strongly resisting local government's inclusion in the LOGO Act.

ATTACHMENTS

1. OLG Council Circular 22-22 - The development of guidelines and a model policy on the lobbying of councillors

Office of Local Govern

Circular to Councils

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Circular No 22-22 / 8 August 2022 / A731312
N/A
Councillors / General Managers / All council staff
Council Governance / (02) 4428 4100 / olg@olg.nsw.gov.au
Response to OLG

The development of guidelines and a model policy on the lobbying of councillors.

What's new or changing

- In recent investigations, (Operation Dasha, Operation Eclipse and Operation Witney), the Independent Commission Against Corruption (ICAC) has considered the corruption risks associated with the lobbying of councillors and made corruption prevention recommendations.
- Among other things, ICAC has recommended:
 - that the Office of Local Government (OLG), in consultation with the local government sector, develop guidelines to enhance transparency around the lobbying of councillors (ICAC has also made recommendations about the content of the guidelines), and
 - that the *Lobbying of Government Officials* Act 2011 (the LOGO Act) is amended to ensure all provisions apply to local government.
- In response to ICAC's recommendations, OLG is proposing to develop guidelines to enhance transparency around the lobbying of councillors. The guidelines will be issued under s 23A of the *Local Government Act 1993*.
- OLG is also developing a model policy on lobbying to support councils to implement the guidelines. If adopted by councils, the policy will operate to supplement the provisions of their adopted codes of conduct.

What this will mean for your council

- OLG is undertaking consultation with councils to seek their views on what should be included in the proposed guidelines and to identify existing best practice in the local government sector in managing corruption risks associated with the lobbying of councillors.
- OLG is also seeking the views of councils on whether the LOGO Act should apply to local government.
- To assist with the development of the guidelines and model policy, OLG is seeking the following from councils:
 - councils' views and suggestions on ICAC's recommendations on the content of the proposed guidelines (set out in the attachment to this circular)
 - suggestions on what issues, behaviours and risks need to be addressed in the guidelines and model policy
 - information about what measures councils currently take to enhance transparency and promote honesty around the lobbying of councillors, and
 copies of or links to councils' existing lobbying policies.
- Submissions may be made by email to <u>olg@olg.nsw.gov.au</u>.
- Submissions should be labelled '*Lobbying Guidelines*' and marked to the attention of OLG's Council Governance Team.

Office of Local Government 5 O'Keefe Avenue NOWRA NSW 2541 Locked Bag 3015 NOWRA NSW 2541 T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209 E olg@olg.nsw.gov.au www.olg.nsw.gov.au ABN 44 913 630 046 • Submissions should be made by COB Monday 5 September 2022.

Where to go for further information

- Information about ICAC's corruption prevention recommendations in relation to the lobbying of councillors is provided in the attachment to this circular.
- ICAC's report on Operation Dasha is available <u>here</u>.
- ICAC's report on Operation Eclipse is available <u>here</u>.
- ICAC's report on Operation Witney is available <u>here</u>.
- Information on the operation of the LOGO Act is available here.
- Contact OLG's Council Governance Team by telephone on 02 4428 4100 or by email at <u>olg@olg.nsw.gov.au</u>

Michelle Wood A/Deputy Secretary, Crown Lands and Local Government

Office of Local Government 5 O'Keefe Avenue NOWRA NSW 2541 Locked Bag 3015 NOWRA NSW 2541 T 02 4428 4100 F 02 4428 4199 TTY 02 4428 4209 E olg@olg.nsw.gov.au www.olg.nsw.gov.au ABN 44 913 630 046

3 ATTACHMENT

ICAC recommendations in relation to section 23A guidelines on the lobbying of councillors

Operation Dasha

Recommendation 8

That the Department of Planning and Environment (DPE), following a reasonable period of consultation, issues guidelines under section 23A of the *Local Government Act 1993* (LGA) to introduce measures to enhance transparency around the lobbying of councillors. The guidelines should require that:

- councils provide meeting facilities to councillors (where practical) so that they may meet in a formal setting with parties who have an interest in a development matter
- councils make available a member of council staff to be present at such a
 meeting and to prepare an official file note of that meeting to be kept on the
 council's files (any additional notes made by the member of council staff and/or
 the councillor should also be kept as part of the council's records)
- all councillors be invited when a council conducts formal onsite meetings for controversial re-zonings and developments, and
- council officers disclose in writing to the general manager any attempts by councillors to influence them over the contents or recommendations contained in any report to council and/or relating to planning and development in the local government area.

Operation Witney

Recommendation 9

That DPE ensures any guidelines issued pursuant to section 23A of the LGA regarding the lobbying of councillors (see Operation Dasha recommendation 8 above) 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 meetings with parties interested in an outcome
- councillor representations to staff arising from lobbying interactions, and
- the lobbying of councillors by interested parties with whom they have a preexisting relationship.

Recommendation 10

That DPE 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.

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ICAC recommendations and findings on the extension of the *Lobbying of Government Officials Act 2011* (the LOGO Act) to local government

Operation Dasha

Recommendation 7

That the NSW Government amends the LOGO Act to ensure all provisions apply to local government.

Operation Eclipse

<u>Key finding 5</u>

The local government sector faces considerable risk of undue influence and should be regulated by the LOGO Act.

Investigations conducted by ICAC and interstate anti-corruption commissions indicate that local councils are often the target of improper lobbying. However, local government officials are not "government officials" as defined by, and for the purposes of, the LOGO Act. The *Model Code of Conduct for Local Councils in NSW* does not explicitly refer to lobbying; however, it does contain general obligations in relation to ethical and honest conduct, as well as more detailed material covering:

- improper and undue influence
- inappropriate interactions
- use and security of confidential information
- recordkeeping.

Extending the provisions of the LOGO Act to local government would, among other matters, allow the lobbying regulator to provide guidance about the appropriate policies and procedures that would best suit the circumstances of local councils, particularly regarding matters about planning, land use, the environment and community amenities.