

Operation Eclipse: Lobbying, Access and Influence in NSW

Submission by Randwick City Council

Thank you for the opportunity to provide feedback on the ICAC Interim Paper into Lobbying, Access and Influence in NSW. It is important to note up front that Randwick Council's submission relates to the local government sector only and that Randwick Council is supportive of any measure that improves transparency and accountability and consequently public trust in local government.

The Local Government Act 1993 (LG Act) and in particular Chapter 14 of the LG Act, already contains an extensive framework for regulating conduct, honesty, disclosure of interests, misconduct, corruption and for the making and investigating of complaints. Contained within this framework are provisions related to the Model Code of Conduct for Local Councils in NSW, which is prescribed under the Local Government (General) Regulation 2005.

The Model Code of Conduct contains further provisions for:

- General conduct
- Submitting returns of interest
- Conflicts of interest (including pecuniary conflicts)
- Gifts and benefits
- Interactions between mayor and councillors and council staff
- Use of council information and resources
- Making complaints under the code of conduct

Further, the Electoral Funding Act 2018 (EF Act) contains detailed provisions dealing with reporting requirements for local government electoral donations and expenditure. While the NSW Government is similarly captured by the EF Act, its Code of Conduct for Members is not as restrictive or onerous as the Model Code of Conduct for Local Councils in NSW.

Accordingly it is Randwick Council's view that the LOGO Act should not be extended to local government. Rather, we are of the view that any changes for local government should consider and build upon existing relevant provisions in the *Local Government Act 1993* and the *Model Code of Conduct for Local Councils in NSW*. In particular the Commission could consider recommending that the Model Code of Conduct include a section on lobbying to facilitate staff, councillors and council delegates becoming fully aware of the circumstances that could render conduct associated with lobbying activity as corrupt conduct within the meaning of the ICAC Act and what actions they are required to take regarding disclosing any such dealings with lobbyists.

Any lobbying done in private will run a risk of reputational damage and allegations leading to a lack of trust/confidence through the possibility of a perceived breach of any relevant gifts/benefits policy (there may not be any actual gift or benefit for the public official/staff member being lobbied however a lack of transparency leads to a perceived risk). Accordingly this suggested section on lobbying in the model code of conduct could highlight the need to declare conflicts of interest in this area as well as the requirement to keep full and accurate written records of meetings with lobbyists. This section could also highlight the need to comply with Council's access to information procedures to prevent lobbyist obtaining access to information from a public official of member of staff which can be used to benefit them.

Randwick Council is of the view that it is inappropriate to have a single regulatory regime across the board for all forms of lobbying. A one size fits all regime would undoubtedly impose an unnecessary administrative burden on local government, a sector with limited finances and resources. If major legislative change is considered necessary, it should be limited to those areas where there is already a recognised or unacceptable risk of corruption or undue influence. Randwick Council is of the view that the introduction of our local planning panel has been very successful in mitigating the previous risks associated with development applications.

In addition, local government representatives are primarily part-time, usually with other employment, while state government representatives are full-time. If the LOGO Act were to be amended to include local government officials in the definition of "Government official", it will impose an additional administrative burden on to our part time councillors, with the support for this additional burden being provided to by Council. However, councils are not resourced to comply with increasing legislative obligations. Councils in NSW already operate in a constrained financial environment as a result of rate-pegging, cost shifting onto local government and state and federal funding arrangements that are no longer fit for purpose. If additional regulatory cost increases were to be imposed on councils (and thus ratepayers), councils may be forced to cut services for the community.

Randwick Council is also of the view that the LOGO Act should not be expanded to cover other classes of lobbyist, such as town planning consultants, architects or lawyers who make representations to local councils on behalf of individual clients. Town planning consultants, architects and lawyers who make representations to local councils on behalf of individual clients have a legitimate, direct, professional role to play in the development application process. Inclusion of these professionals within the scope of the LOGO Act will fail to draw a distinction between the professional services they provide and the professional lobbying activities which appear to be the target of the LOGO Act.

Randwick Council is happy to clarify any of the points raised in this submission. Please contact Council's Manager Administrative Services, Mr David Kelly at [REDACTED] randwick.nsw.gov.au or on [REDACTED]