



# **ENGAGING WITH LOBBYISTS AND BUSINESS CONTACTS**

November 2017

**POLICY**

Status	Approved
Date of approval	November 2017
Policy Stewardr	Secretary
Policy Owner	Executive Director, Governance and Performance
Document location	PEcan
Next review date	November 2019
Related Documents	<i>Engaging with Lobbyists and Business Contacts Procedures</i> November 2017 Lobbyist Meeting Request Form Disclosure of Contacts with Registered Lobbyists Form
Superseded document	<i>Engaging with Lobbyists and Business Contacts Policy</i> March 2016

## 1. Introduction

This *Engaging with Lobbyists and Business Contacts* policy (**Lobbyists Policy**) outlines the standards and behaviour expected of staff in the Department of Planning & Environment (**Department**) when interacting with lobbyists and business contacts.

While it is preferable that the NSW Government agencies that form part of the Planning & Environment cluster will also comply with this Lobbyists Policy, cluster agencies are free to implement and follow their own Lobbyists Policy if so desired by their agency head.

The Lobbyists Policy applies to all permanent, temporary and casual staff, volunteers and other Government sector employees who are on secondment or assigned to the Department.

All contractors and consultants to the Department must comply with the Lobbyists Policy when working at or visiting Department workplaces.

For the purposes of the Lobbyists Policy, “employees” refers to all people to whom the Lobbyists Policy applies.

In addition to complying with the Lobbyists Policy, employees must also comply with the Department’s *Code of Ethics and Conduct*, the Public Service Commission’s *Code of Ethics and Conduct for NSW Government Sector Employees* and the Department’s *Gifts, Benefits and Hospitality* policy and procedure.

## 2. Purpose

The purpose of the Lobbyists Policy is to:

- Provide a framework for managing employees’ interactions with lobbyists and business contacts in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties; and
- Assist employees to ensure that their interactions with lobbyists and business contacts comply with the requirements of the *Lobbying of Government Officials Act 2011* (the **Act**) and Premier’s Memorandum *M2014-13 NSW Lobbyists Code of Conduct* and the Department’s *Code of Ethics and Conduct*.

## 3. Principles

The Department must promote confidence in the integrity of public administration and always act in the public interest, not in individuals’ private interest. Decisions of the Department must be made in an open and transparent manner, without any undue influence, or the perception of undue influence, by external parties.

Employees are accountable for complying with ethical standards and statutory and Government policy requirements when interacting with lobbyists.

The Department also requires employees to meet the same ethical standards when interacting with business contacts.

## 4. Responsibilities

In all dealings with lobbyists and business contacts, employees must:

- Behave in a lawful, professional and reasonable manner and always act in the best interests of the Department;
- Make impartial decisions that demonstrate the values of the Department and the Public Service Commission's *Code of Ethics and Conduct for NSW Government Sector Employees* and promote confidence in the integrity of public administration;
- Comply with this policy and the Department's *Procedures for Engaging with Lobbyists and Business Contacts*, including:
  - Follow protocols that cover the scheduling of, and attendance at, meetings, as well as telephone, email or other written and electronic communications;
  - Keep an accurate record of any contact with a third-party and other lobbyist that may influence or be perceived to influence policy, planning approvals, or procurement decisions; and
  - Keep an accurate record with any meeting with a lobbyist, whether or not lobbying has occurred in relation to that meeting.

## 5. Lobbying

### (a) Forms of lobbying

Lobbying is communicating with a Government official for the purpose of representing the interests of others in relation to:

- Legislation or proposed legislation;
- A Government decision or proposed Government decision;
- A planning application; or
- The exercise by a Government official of their official functions.

Lobbying **does not** include any communications by a Member of Parliament or a Government official who is acting in the ordinary course of their duties.

**(b) Methods of lobbying**

Lobbying extends to any communication – in person, in writing, by telephone, email or by other electronic means:

- Whether or not it occurs in the course of carrying on the business of lobbying a Government official, an approach is still lobbying even if it occurs in an incidental way to other business activity or it is not performed by a third-party lobbyist;
- By a person who works for an organisation for the purpose of representing the interests of the organisation or its members; or
- For the purposes of representing community interests.

**(c) Third-party lobbyists**

A third-party lobbyist (previously known as a 'registered lobbyist') is an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying Government on behalf of a third-party.

Third-party lobbyists must be registered on the Government's Register of Third-Party Lobbyists (the Lobbyist Register) and must comply with the Lobbyist Code.

**(d) Other lobbyists**

Individuals and organisations such as industry or community organisations that are not third-party lobbyists are still captured under the *Lobbying of Government Officials Act 2011* if they lobby Government officials.

**(e) Business contacts**

A business contact is an individual person, organisation or Government agency that communicates with the Department about a specific application, funding decision, policy or regulatory issue, who is not a third-party lobbyist or other lobbyist.

**6. Prohibited lobbying**

There are restrictions on the contact that employees can have with lobbyists. Government officials must not permit lobbying by:

- A third-party lobbyist who is not registered on the Lobbyist Register;
- An individual engaged to undertake lobbying for a third-party lobbyist who is not themselves registered;
- Any lobbyist who has failed to make the disclosures required of them under the Act and the Lobbyists Code (see the Department's *Engaging with Lobbyists and Business Contacts Procedure* for further information);
- A lobbyist whose name has been placed on the Lobbyist Watch List, unless:

- At least two Government officials (other than a Minister, a Parliamentary Secretary or a member of their staff) are present during any communication with the lobbyist; and
- One of those Government officials takes notes of the communications with the lobbyist, and provides a copy of those notes to the Secretary.

## 7. Procedure

The Department's *Procedure for Engaging with Lobbyists and Business Contacts* contains detailed guidance and protocols for interacting with lobbyists and business contacts.

Employees are responsible for understanding the requirements of, and complying with the *Procedure for Engaging with Lobbyists and Business Contacts*.

Employees may also obtain further information from their manager.

## 8. Breaches of the *Lobbyists Policy*

Behaviour that is contrary to this policy and the Procedure will be dealt with in a manner that is proportionate to the seriousness of the matter. This may require a discussion with an employee to clarify the responsibilities of the employee. More serious breaches may result in disciplinary action.

The *Government Sector Employment Act 2013* and the *Government Sector Employment Rules* (and, in particular, Part 8) establish procedures for dealing with allegations of misconduct, and actions that may be taken. Those actions may range from a caution to termination of employment.

Employees are encouraged to report any instances of a breach of the Lobbyists Policy to their supervisor or manager. Employees may be entitled to certain protections, if approved, when providing such reports, or reports of improper inducements and related corrupt conduct by public officials or others, under the terms of the Department *Public Interest Disclosure* policy.

## 9. Employee Responsibilities

All employees must comply with the Lobbyists Policy and the *Procedure for Engaging with Lobbyists and Business Contacts*.

The Secretary, senior executive managers, executive directors and directors must:

- Oversee the effective management of the Lobbyists Policy and the *Procedure for Engaging with Lobbyists and Business Contacts*;
- Comply with all mandatory decision-making, reporting and publishing requirements contained in the *Procedure for Engaging with Lobbyists and Business Contacts*;

- Discuss compliance as part of the ongoing management of their teams; and
- Monitor and evaluate the operation of the Lobbyists Policy and the *Procedure for Engaging with Lobbyists and Business Contacts* in their area of responsibility.

## **10. Enforcement**

The NSW Electoral Commission maintains the Register of Third-Party Lobbyists and the Lobbyists Watch List, and enforces the Lobbyists Code.

To improve compliance, the Electoral Commission may enter into arrangements with lobbyists to ensure that they follow the Lobbyists Code.

If a lobbyist breaches the Lobbyists Code, the Electoral Commission may list the lobbyist on the Lobbyists Watch List and impose further restrictions on contact with Government officials.

## **11. Monitoring the *Lobbyists Policy***

The Secretary, senior executive managers and managers are responsible for the effective management of the Lobbyists Policy. The effectiveness of the Lobbyists Policy will be reviewed at least every two years.

## APPENDIX 1

**DEFINED TERMS**  
**in the Lobbyists Policy**

<b>Business contact</b>	means an individual, organisation or Government agency that communicates with the Department about a specific planning proposal and/or development matter, but who is not a third-party or other lobbyist.
<b>Development matter</b>	means any matter or proposal relating to the development and use of land or to environmental planning and assessment.
<b>Government official</b>	means: <ul style="list-style-type: none"> <li>• A Minister of Parliamentary Secretary;</li> <li>• A staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office);</li> <li>• The head of a Public Service agency;</li> <li>• A person employed in the Public Service of New South Wales, the Transport Service of New South Wales, or any other service of the Crown;</li> <li>• An individual who is engaged under a contract to provide services to or on behalf of the Public Service of New South Wales, the Transport Service of New South Wales or any other service of the Crown; or</li> <li>• A member (however expressed) of, or of the governing body of, a statutory body.</li> </ul>
<b>Lobbying</b>	means communicating with a Government official for the purposes of representing the interests of others in relation to: <ul style="list-style-type: none"> <li>• Legislation or proposed legislation;</li> <li>• A Government decision or proposed Government decision;</li> <li>• A planning application; or</li> <li>• The exercise by a Government official of their official functions.</li> </ul>
<b>Lobbyists Code</b>	means the <i>Lobbyists Code of Conduct</i>
<b>Lobbyists Register</b>	means the <i>Register of Third-Party Lobbyists</i> , which is kept and maintained by the NSW Electoral Commission.
<b>Lobbyists Watch List</b>	means the list maintained by the NSW Electoral Commission that contains the names and other identifying details of any third-party or other lobbyist placed there by the Commission as a result of contraventions of the Lobbyist Code of Conduct or the Act.
<b>Other lobbyist</b>	means any individual or body that lobbies a Government official other than a third-party lobbyist; this includes individuals engaged to undertake lobbying for a third-party lobbyist.
<b>Third-party lobbyist</b>	means an individual or body carrying on the business (generally for money or other valuable consideration) of lobbying Government officials on behalf of another individual or body (previously known as a registered lobbyist).