

ICAC Public Inquiry on Lobbying

Opening Statement by Sam Haddad
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- The Department of Planning which I represent welcomes the opportunity to participate at this Inquiry. We want to ensure, and on an on-going basis, the highest integrity and probity practices in the planning system's processes and outcomes. We look forward to this Inquiry's outcomes to strengthen and maintain those objectives.
- Land use planning and development processes involve outcomes that may result in significant economic value uplift to individuals and organisations. As such, and as distinct from other sectors, there are extensive legislative, policies and organisational/operational practices that provide checks and balances, peer reviews, merit evaluations and third party appeal rights to the courts that regulate the working of the planning system. It is as (if not more) important for the planning system to also **be seen** to perform with a high level of integrity, probity and transparency. Community's confidence in the administration of the planning system is highly influenced by perception issues. This is particularly relevant as regards lobbying and lobbyists, the subject of this Inquiry.
- Under current NSW government policy, and indeed several other jurisdictions, lobbying is recognised as a legitimate role in the planning process and registered lobbyists as legitimate stakeholders, subject to codes of conduct. The management of interfacing between lobbyists and planning officials in NSW has been recently strengthened through the adoption of further codes and obligations to guide contacts and meetings and improve transparency. **The attachment to this statement** addresses questions raised by ICAC as to the Department's code of practice concerning meeting and telephone communications with registered lobbyists as well as developers and others. We will of course be prepared to provide further information if requested.
- The following overview observations are made:
 - a) Lobbying is not just undertaken by so called 'Lobbyists'. For example, by or on behalf of community groups and local councils. I particularly note the increasing role of planning and other professional consultants and groups in making representations beyond the merit technical assessment of proposals. This may be seen as an indirect form of/backdoor approach lobbying which should be managed either by way of codes of conduct of the relevant professional associations, or through another appropriate code of conduct.

- b) As observed by ICAC's discussion paper on this matter, the NSW lobbying practice involves a relatively high proportion of previously employed Ministerial and associated staff. Whilst those personnel are obviously most familiar with the working of government and provide efficiently legitimate lobbying activities, there are heightened perception issues with their involvement, probably to a higher extent than others.
- c) Does lobbying and do lobbyists add substantial value to the merit assessment process or decision making? The short answer is no. Lobbyists may assist proponents to navigate through the process of government and in translating planning requirements – seen as complex. They also may bring into focus the development proposals as to timing or significance. Ultimately and without any doubt merit assessment practices and safeguards guide the decision making. Issues of perception however may influence community confidence in accepting the decisions where lobbyists are involved.
- On the issue of a regulatory/legislative regime to specifically manage lobbying activities, we note that this is a matter of government policy and not appropriate for the Department to advocate a particular position in that regard. The view is that it is essential under any regime to have:
 - comprehensive, tested and continuously updated checks and balances and corruption risk prevention measures as an intrinsic part of the administration of the planning system; and
 - high level of transparency in any contacts between lobbyists/lobbying activities and planning officials.

The elements of any regime would benefit from the following:

- a) a possible review of the coverage of what constitutes lobbying and lobbyists;
- b) securing a high level of transparency in the interfacing between lobbyists and planning officials, for example: all contacts/meetings to be undertaken in the presence of instructing clients; records of contacts be publicly available; minimum standard of what should be recorded; etc.
- c) a third party independent monitoring of implementation and of administering the regime.