

25 March 2024

At 2.00 pm

**Corporate, Finance, Properties and
Tenders Committee**

Agenda

- 1. Confirmation of Minutes**
- 2. Statement of Ethical Obligations and Disclosures of Interest**
- 3. Adoption - Councillor Meetings with Registered Lobbyists and Property Developers Policy**
- 4. Tender - Reject and Negotiate - T-2023-1144 - Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square**

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1. Register to speak by calling Secretariat on 9265 9702 or emailing secretariat@cityofsydney.nsw.gov.au before 10.00am on the day of the meeting.
2. Check the recommendation in the Committee report before speaking, as it may address your concerns so that you just need to indicate your support for the recommendation.
3. Note that there is a three minute time limit for each speaker (with a warning bell at two minutes) and prepare your presentation to cover your major points within that time.
4. Avoid repeating what previous speakers have said and focus on issues and information that the Committee may not already know.
5. If there is a large number of people interested in the same item as you, try to nominate three representatives to speak on your behalf and to indicate how many people they are representing.

Committee meetings can continue until very late, particularly when there is a long agenda and a large number of speakers. This impacts on speakers who have to wait until very late, as well as City staff and Councillors who are required to remain focused and alert until very late. At the start of each Committee meeting, the Committee Chair may reorder agenda items so that those items with speakers can be dealt with first.

Committee reports are available at www.cityofsydney.nsw.gov.au

Item 1.

Confirmation of Minutes

Minutes of the following meetings of the Corporate, Finance, Properties and Tenders Committee are submitted for confirmation:

Meeting of 4 March 2024

Item 2.**Statement of Ethical Obligations**

In accordance with section 233A of the Local Government Act 1993, the Lord Mayor and Councillors are bound by the Oath or Affirmation of Office made at the start of the Council term to undertake their civic duties in the best interests of the people of the City of Sydney and the City of Sydney Council and to faithfully and impartially carry out the functions, powers, authorities and discretions vested in them under the Local Government Act 1993 or any other Act, to the best of their ability and judgement.

Disclosures of Interest

Pursuant to the provisions of the Local Government Act 1993, the City of Sydney Code of Meeting Practice and the City of Sydney Code of Conduct, Councillors are required to disclose and manage both pecuniary and non-pecuniary interests in any matter on the agenda for this meeting.

In both cases, the nature of the interest must be disclosed.

This includes receipt of reportable political donations over the previous four years.

Item 3.

Adoption - Councillor Meetings with Registered Lobbyists and Property Developers Policy

File No: X103625

Summary

On 19 February 2024, via a Notice of Motion, Council requested that the Chief Executive Officer develop a procedure by which City of Sydney Councillors be required to publicly disclose their meetings with registered lobbyists and property developers on the City's website in the same fashion as state parliamentarians and report back to Council with a process and timeline for commencing.

The NSW Independent Commission Against Corruption (ICAC) has made a number of recommendations (as a result of investigations into local government) regarding corruption risks associated with the lobbying of councillors. While the Office of Local Government has indicated that they are intending to introduce some guidelines on these issues they have not done so at this stage.

The report recommends that Council adopt the Councillor Meetings with Registered Lobbyists and Property Developers Policy, which requires City of Sydney Councillors to record and submit details of meetings with registered lobbyists and property developers. These records will be published on the City's website.

Recommendation

It is resolved that:

- (A) Council adopt the draft Councillor Meetings with Registered Lobbyists and Property Developers Policy, as shown at Attachment A to the subject report;
- (B) authority be delegated to the Chief Executive Officer to make amendments to the Councillor Meetings with Registered Lobbyists and Property Developers Policy in order to correct any minor drafting errors, update the form from time to time as required and to finalise design and accessible formats for publication; and
- (C) Council note that the Office of Local Government may publish guidelines on these matters and a further report will be brought to Council if required.

Attachments

Attachment A. Councillor Meetings with Registered Lobbyists and Property Developers Policy

Background

1. On 19 February 2024, via a Notice of Motion, Council requested that the Chief Executive Officer develop a procedure by which City of Sydney Councillors be required to publicly disclose their meetings with registered lobbyists and property developers on the City's website in the same fashion as state parliamentarians and report back to Council with a process and timeline for commencing.
2. The Local Government Act 1993 contains the framework for regulating conduct, honesty, disclosures of interest, misconduct, and corruption. Section 439 imposes a statutory duty on a councillor to "act honestly and exercise a reasonable degree of care and diligence in carrying out his or her functions".
3. The Lobbying of Government Officials Act 2011 covers lobbyists, ensuring that lobbyists comply with ethical standards of conduct and other requirements set out in the Lobbyists Code. However, this Act does not apply to local government officials.
4. The NSW Independent Commission Against Corruption (ICAC) has made a number of recommendations (as a result of investigations into local government) regarding corruption risks associated with the lobbying of councillors. Operations Dasha (2021), Eclipse (2021) and Witney (2022) specifically considered and made recommendations regarding corruption risks associated with the lobbying of councillors.
5. The definition of government official states that it does not include local government officials 'except in Parts 5 and 6' which relate to the ban on success fees for lobbying and a cooling-off period for former Ministers and Parliamentary Secretaries.
6. ICAC has made recommendations to amend the Lobbying of Government Officials Act 2011 to ensure all provisions apply to local government. In response to ICAC's recommendations the Office of Local Government has advised that it is developing guidelines to enhance transparency around the lobbying of councillors and a model policy on lobbying (to supplement the provisions in the code of conduct).
7. The OLG website currently states that they will be 'issuing a Model Councillor Lobbying Policy'.
8. On 4 March 2024 the Chief Executive Officer wrote to the Office of Local Government expressing Council's support for the development of the model policy and guidelines and requesting an update on progress. No timeframe has been given at this time for the publication of any guidelines on these matters. Further reports will be brought to Council if required.
9. In accordance with Council's resolution, a Councillor Meetings with Registered Lobbyists and Property Developers Policy, which requires City of Sydney Councillors to publish details of meetings with registered lobbyists and property developers has been developed.

Councillor Meetings with Registered Lobbyists and Property Developers Policy

10. Lobbying is an integral and legitimate activity for the functioning of a democratic system.
11. Lobbying also carries inherent risks of corruption, undue influence, unfair access and biased decision-making that are detrimental to the public interest and effective local governance.

12. It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. This policy aims to ensure community expectations are met in relation to ethical and transparent lobbying of Councillors.
13. Councillors will be required to record all meetings with registered lobbyists and property developers, and the topic of discussions. Councillors will be required to complete a form disclosing all meetings with registered lobbyists and property developers and submit it to the Office of the CEO every three months.
14. It is the responsibility of Councillors to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded.
15. The Office of the CEO will publish the forms on the City's website within three weeks of the end of the relevant reporting period. The forms will remain on the website for 12 months. Where a Councillor does not submit a form for a relevant period this will be recorded on the City's website.

Key Implications

Strategic Alignment - Sustainable Sydney 2030-2050 Continuing the Vision

16. Sustainable Sydney 2030-2050 Continuing the Vision renews the communities' vision for the sustainable development of the city to 2050. It includes 10 strategic directions to guide the future of the city, as well as 10 targets against which to measure progress. This policy is aligned with the following strategic directions and objectives:
 - (a) Direction 1 - Responsible governance and stewardship – the Policy will improve transparency for the community as to the nature of meetings held by Councillors with registered lobbyists and property developers.

Organisational Impact

17. Councillors will need to record meetings with registered lobbyists and property developers on a form and provide it quarterly to the Office of the CEO. The Office of the CEO will publish these forms quarterly on the City's website.
18. Councillors will be trained in the Policy as part of the induction process following each election.

Relevant Legislation

19. Local Government Act 1993.
20. Lobbying of Government Officials Act 2011.
21. Electoral Funding Act 2018.

Critical Dates / Time Frames

22. If endorsed by Council, the policy will come into effect from 1 April 2024. The first quarterly reporting period will be from 1 April 2024 to 30 June 2024.
23. The Policy will be reviewed and put to Council for endorsement following every Council election, in conjunction with the Code of Conduct.

Public Consultation

24. City staff contacted the Office of Local Government to seek advice on the status of the Model Policy and guidelines. No public consultation is required in relation to this policy.

KIRSTEN MORRIN

Director Legal and Governance

Nellette Kettle, Manager Risk and Governance

Attachment A

**Councillor Meetings with Registered
Lobbyists and Property Developers Policy**

Policy - Councillor meetings with registered lobbyists and property developers

Purpose

To outline requirements for the Lord Mayor and Councillors to publish details of meetings with registered lobbyists and property developers.

Scope

This policy applies to the Lord Mayor and Councillors.

Definitions

Term	Meaning
Registered lobbyist	A lobbyist who is required to register with the NSW Electoral Commission under the Lobbying of Government Officials Act 2011, sections 9(1) and 9(2), as follows: <i>9(1) A third-party lobbyist is required to be registered in the Lobbyists Register.</i> <i>9(2) An individual engaged to undertake lobbying for a third-party lobbyist is required to be registered in the Lobbyists Register in respect of the third-party lobbyist.</i>
Lobbyists Register	The Register of Third-Party Lobbyists maintained by the NSW Electoral Commission in accordance with s8(1) of the Lobbying of Government Officials Act 2011
Property developer	An individual or a corporation that carries on a business mainly concerned with the residential or commercial development of land, with the ultimate purpose of the sale or lease of the land for profit as defined in the Electoral Funding Act 2018.

Policy Statement

Lobbying is an integral and legitimate activity for the functioning of a democratic system.

Lobbying also carries inherent risks of corruption, undue influence, unfair access and biased decision-making that are detrimental to the public interest and effective local governance.

It is in the public interest that lobbying is fair and does not undermine public confidence in impartial decision-making. This policy aims to ensure community expectations are met in relation to ethical and transparent lobbying of Councillors.

Records of meetings

This policy will commence on 1 April 2024.

Councillors are required to record all meetings with registered lobbyists and property developers, and the purpose of the meeting, from that date.

Councillors are required to complete the form at **Attachment A** and submit it to the Office of the CEO every three months. Forms are to be submitted to the Office of the CEO within one week of the end of the relevant reporting period.

Councillors are required to submit a 'nil' return if they have not held any relevant meetings.

It is the responsibility of Councillors to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded on the form.

The Office of the CEO will publish the forms on the City's website within three weeks of the end of the relevant reporting period. The forms will remain on the website for 12 months. Where a Councillor does not submit a form for a relevant period this will be noted on the City's website.

Training

Councillors will be trained in this Policy as part of the induction process following each election.

Compliance

A failure to comply with this policy or to provide true and accurate records may constitute a breach of the City's Code of Conduct.

Responsibilities

Office of the CEO will:

- Publish records of meetings with registered lobbyists and property developers on the City's website
- Update the website every three months
- Remove entries after 12 months

The Lord Mayor and Councillors will:

- Complete and sign the form at Attachment A every three months, including where no relevant meetings have been held
- Undertake the necessary due diligence to ensure the form is complete and accurate

- Submit the form to the Office of the CEO within one week of the end of the reporting period.

Consultation

The Lord Mayor and Councillors, Office of the Chief Executive Officer, Risk and Governance and Legal Services have been consulted in the development of this policy.

References

Laws and Standards
• Lobbying of Government Officials Act 2001 (NSW)
• Electoral Funding Act 2018 (NSW)
Policies and Procedures
• Code of Conduct
Other
• Council resolution NOM 14.10 - 19 February 2024
• Premier’s Memorandum M2015-05-Publication of Ministerial Diaries and Release of Overseas Travel Information.

Review period

The Policy will be reviewed and put to Council for endorsement following every Council election, in conjunction with the Code of Conduct.

Approval Status

Council approved this policy on [DD MONTH YYYY].

Approval History

Stage	Date	Comment	TRIM Reference
Original Policy	April 2024	Approved by Council	20XX/XXXXXX
Reviewed			
Commence Review Date			
Approval Due Date			

Ownership and approval

Responsibility	Role
Author	Manager, OCEO
Owner	Manager, OCEO
Endorser	Chief Executive Officer
Approver	City of Sydney Council

ATTACHMENT A - RECORD OF MEETINGS WITH REGISTERED LOBBYISTS AND PROPERTY DEVELOPERS

Councillor Name:

Period:

Councillors must disclose all meetings with registered lobbyists and property developers for the period on this form.

It is the responsibility of the Councillor to undertake the required due diligence to ensure that any meetings held with registered lobbyists and property developers are recorded. In relation to registered lobbyists, this should include a review of the register of lobbyists which can be found at - <https://elections.nsw.gov.au/funding-and-disclosure/public-register-and-lists/register-of-third-party-lobbyists>

If no meetings with registered lobbyists or property developers have been held, please enter “NIL” in the below table and sign and submit the form.

Date	Organisation / Individuals in attendance	Purpose of Meeting

Councillors must inform relevant persons at the time of meeting that their name and purpose of the meeting will be published on the City’s website in accordance with the Councillor meetings with registered lobbyists and property developers policy.

I confirm that I have undertaken the required due diligence to comply with the Councillor meetings with registered lobbyists and property developers policy and that the information I have provided on this form is complete and accurate.

Councillor signature:

Date:

Item 4.

Tender - Reject and Negotiate - T-2023-1144 - Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square

File No: X099721

Tender No: T-2023-1144

Summary

This report provides details of the tenders received for the Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square.

An investigation of the City of Sydney's vertical transport assets (lifts and escalators) was carried out by the City's asset management contractor. The lifts and escalators which are the subject of this report, were found to be approaching the end of their asset lifecycle and require upgrading and/or replacement.

Technical specifications and detailed designs for each lift and escalator were prepared by a vertical transportation design consultant and the specifications documented with standardisation options where possible. The recommended upgrade/replacement intends to significantly extend the life of the lifts and escalators and bring to the standard required by relevant Australian Standards, the National Construction Code 2019, and legislative and local government requirements.

The work required under this tender involves the design and construction of three lifts and four escalators at the nominated sites, including required modifications to the structural elements, electrical, mechanical, fire services and associated building works.

This report recommends that Council decline to accept the tender offers received for the Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square, and enter into negotiations with suitable vendors for the Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square as the tender offers were non-compliant.

Recommendation

It is resolved that:

- (A) Council decline to accept the tender offers for the Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square for the reasons set out in Confidential Attachment A to the subject report;
- (B) Council does not invite fresh tenders, as it is considered that inviting fresh tenders would not attract additional suitable tenderers over and above those that have responded to this tender;
- (C) authority be delegated to the Chief Executive Officer to enter into negotiations with any person with a view to entering into a contract on terms that are appropriate in relation to the subject matter of the tender;
- (D) authority be delegated to the Chief Executive Officer to negotiate, execute and administer the contract with the preferred contractor following completion of the negotiations; and
- (E) Council be informed of the successful contractor via the CEO Update.

Attachments

Attachment A. Tender Evaluation Summary (Confidential)

Background

1. The City invited tenders for the Lift / Escalator Upgrade at Kings Cross Library, Andrew Boy Charlton Pool and Railway Square.
2. An investigation of the City's vertical transport assets (lifts and escalators) was carried out by the City's asset management contractor. The lifts in this stage are part of a larger program of lift upgrades being undertaken in stages.
3. The lifts and escalators were given an asset condition rating of 4 or 5, which indicates the lifts and escalators and their associated equipment are approaching the end of their asset lifecycle.
4. The scope of works for each site includes detailed site inspections, design documentation, replacement of lift components, decommissioning, installation, testing and commissioning, defects liability and maintenance of three lifts and four escalators, their components and associated fittings and fixtures.
5. This stage includes the following sites:
 - (a) Kings Cross Library - 1/50-52 Darlinghurst Road, Potts Point;
 - (b) Andrew Boy Charlton Pool - 1C Mrs Macquaries Road, Sydney NSW 2000; and
 - (c) Railway Square - George Street, Chippendale NSW 2008.
6. All work will be undertaken to current relevant Australian Standards, the National Construction Code 2019 and legislation, inclusive of all associated building, structural, electrical, mechanical, hydraulic and fire services.

Invitation to Tender

7. The tender was advertised on the City's E-tender website from 10 November 2023, closing at 11am on 25 January 2024.

Tender Submissions

8. Two submissions were received from the following organisations:
 - Kako Civil & Construction Pty Ltd (ABN 55 667 776 212)
 - Liftronic Pty Ltd (ABN 99 002 886 213)
9. Letters of decline to tender were also received from TK Elevator Pty Ltd and Schindler Group Pty Ltd.
10. No late submissions were received.

Tender Evaluation

11. All members of the Tender Evaluation Panel have signed Pecuniary Interest Declarations. No pecuniary interests were noted.
12. The relative ranking of tenders as determined from the total weighted score is provided in the Confidential Tender Evaluation Summary – Attachment A.
13. All submissions were assessed in accordance with the approved evaluation criteria being:
 - (a) Lump Sum Price.
 - (b) Current company information and current company commitments and relevant experience in similar projects.
 - (c) Specified personnel and sub-contractors, including key project team members demonstrated managerial capability, qualifications.
 - (d) Proposed program and capacity to achieve the program/deliverables and managing and controlling risks associated with the project.
 - (e) Proposed methodology including staging, pedestrian and traffic management, site management, construction waste management, modern slavery compliance, and material, plant and equipment management.
 - (f) Work Health and Safety.
 - (g) Financial and commercial trading integrity including insurances.

Financial Implications

14. There are sufficient funds allocated for this project within the current year's capital works budget and future years' forward estimates.

Relevant Legislation

15. The tender has been conducted in accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2021.
16. Local Government Act 1993 - Section 10A provides that a council may close to the public so much of its meeting as comprises the discussion of information that would, if disclosed, confer a commercial advantage on a person with whom the council is conducting (or proposes to conduct) business.
17. Attachment A contains confidential commercial information of the tenderers and details of Council's tender evaluation and contingencies which, if disclosed, would:
 - (a) confer a commercial advantage on a person with whom Council is conducting (or proposes to conduct) business; and
 - (b) prejudice the commercial position of the person who supplied it.

18. Discussion of the matter in an open meeting would, on balance, be contrary to the public interest because it would compromise Council's ability to negotiate fairly and commercially to achieve the best outcome for its ratepayers.

Critical Dates / Time Frames

19. The following key dates apply to this project:

(a) Negotiate with suitable suppliers:	April / May 2024
(b) Contract award:	June 2024
(c) Place order for lift and escalator components :	July 2024
(d) Anticipated practical completion:	March 2025

Options

20. An alternative option is available to Council in the form of cancelling the tender and going back out to the market with another open tender. This option is not recommended after considering the following:
- (a) The time impacts on the project to prepare a revised tender package and manage the tender process will result in a four to six-month delay.
 - (b) The cost to prepare a revised tender package and manage the tender process.
 - (c) This was an open tender; re-tendering is unlikely to result in additional conforming tender responses.
21. Cancelling the works under this tender is not recommended as the current asset condition of these lifts and escalators will require the lifts to be removed from service.

Public Consultation

22. Public consultation was not relevant for the scope of works outlined in this tender. Consultation has been undertaken with key internal stakeholders to finalise the scope.
23. Prior to construction, further consultation will be undertaken with the tenants and operators to coordinate access and services shutdowns.

KIM WOODBURY

Chief Operating Officer

Andy Healey, Delivery Manager

Marwan Zraika, Project Manager

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