

REVIEW OF THE OPERATION OF THE LOBBYING PROVISIONS OF THE INTEGRITY ACT 2009 – SUBMISSION BY TABLELANDS REGIONAL COUNCIL

This submission requests that the review of the operation of the lobbying provisions of the Integrity Act 2009 provides some clarification in relation to the applicability of section 41(6) (*incidental lobbying activities*) to the services provided by professional planning consultants.

Section 41(6) states that an entity carries out *incidental lobbying activities* if the entity undertakes, or carries on a business primarily intended to allow individuals to undertake, a technical or professional occupation in which lobbying activities are occasional only and incidental to the provision of professional or technical services. Examples given are an architect or architectural practice, an engineer or engineering practice, a lawyer or legal practice and an accountant or accountancy practice.

It is considered that a professional town planner providing planning services to a client should also fit within the definition of incidental lobbying activities, however, Councillors of the Tablelands Regional Council who attended a seminar conducted by the Integrity Commissioner indicated that the Integrity Commissioner had expressed the view that professional planning consultants may well be considered to be undertaking lobbying activities on behalf of their clients.

While a planning consultant may use their knowledge of the relevant planning legislation and their experience in handling planning matters to question decisions taken by a Council on a development application and to request the waiving or amendment of conditions of approval set by a Council to achieve a better outcome with reduced costs for their client, is this any different to a lawyer using his knowledge of the law and the legal system to gain a similar advantage for a client? In both cases, the client is paying for professional expertise to assist him in negotiating complex planning or legal matters that he lacks sufficient knowledge or understanding of to be able to undertake by himself.

A professional planning consultant is in the business of providing professional expertise and support to a client for the purpose of gaining approval of the client's development proposal and is hired by the client specifically for that purpose. The role of a professional planner is well known and advertised and Councils expect that a planner will represent a client's interests including promoting the benefits of the client's proposed development. However, if this is considered to be lobbying, then it is almost certainly incidental to the planner's main role of providing expert planning advice. This is a completely different situation to a developer hiring an ex government Minister or senior government official specifically for the purpose of lobbying former colleagues who may still be in government to gain approval of a major development proposal.

If planning consultants are also considered to be lobbyists, this would mean that practically every planning consultant throughout the state would need to apply for registration. It would also mean that if a consultant was not registered, he would not be

able to act on behalf of his client because of the provisions of section 71 of the Integrity Act (Lobbying by unregistered entity prohibited).

While it is hoped that this is not what is intended, there is some uncertainty as to how professional planners should be treated in terms of the Integrity Act and there is a need for some definitive advice or guidelines on this matter.

It is therefore requested that this matter be addressed in the review of the Integrity Act.