

**WESTERN PARKLAND
CITY AUTHORITY**

Procedures for Meetings and Precommercial Engagement with Third Parties



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1. Purpose of this document

The Authority's remit

The statutory object of the Western Parkland City Authority (**Authority**) is *'to encourage the economic growth and development of the Western Sydney Aerotropolis and the rest of the Western City'*. The Authority's statutory area covers all eight Councils of the Western Parkland City. The Authority also has the role of Coordinator of the Western Sydney City Deal.

Pursuing its object, the Authority seeks to create a Green, Connected and Advanced Western Parkland City. To this end, the Authority has various legislative functions including master planning and development on the Authority's own behalf or on behalf of other persons or bodies.

The Authority's legislation also sets out the function of entering into joint ventures, project delivery agreements and other arrangements with landowners, developers, State and Commonwealth government agencies and local councils in the Western Parkland City.

Meetings with Business Contacts and Lobbyists

The Authority's remit requires it to engage with various stakeholders. This includes Local, State and Federal agencies, but also other stakeholders such as landholders, developers and investors who potentially have commercial interests in the Authority's statutory area.

This document (**Procedures**) defines these third parties as **Business Contacts**. The Authority may receive meeting requests from **Business Contacts** or their **Lobbyists**. Meetings can take various forms, including face-to-face meetings, online meetings, or invitations to visit sites or business premises of a **Business Contact**. These Procedures guide **Authority Members** to conduct such meetings in a fair, open and transparent way.

Precommercial Engagement with third parties

Given the Authority's remit and statutory functions, it may be necessary or desirable to commence or progress a discussion, or to exchange information, with a **Business Contact** who is a landholder or developer, or a range or class of landholders or developers in situation such as the following:

- to explore the potential for the Authority to commence negotiations with a third party for a joint venture or other agreement, under the Authority's legislation; or
- to inform the exercise of the Authority's statutory function in the coordination of public infrastructure or its general master planning work.

Section 3 of these Procedures provides a process to ensure that these types of engagement are also carried out in a fair, open and transparent.

They do not apply to:

- meetings, engagements or commercial negotiations which take place as part of the Authority's investment attraction program under section 13 (1) (d) of the *Western Parkland City Authority Act 2018*, which will take place according to specific probity and governance arrangements;
- Processes of engagement with landholders, industry or markets etc. which are subject to a specific process with its own probity controls, for example, processes for Expressions of Interest, Registration of Interest, or Market Soundings.

The Procedures also guide the Authority to determine whether to move to a formal negotiation pursuing a commercial agreement or otherwise.

This is referred to as the **Precommercial Engagement** procedure.

Who should use the Procedures

The Procedures are for the use of **Authority Members**. This is defined expansively to include permanent, temporary, casual and contract staff of the Authority, Board or Board Committee members, those seconded or otherwise assigned to the Authority from within the Government sector, as well as volunteers.

Purpose of the Procedures

The purpose of these Procedures is to guide **Authority Members** in exercising their discretion so that the activities set out above:

- are consistent with principles of probity and the Authority's Code of Ethics and Conduct, and within the statutory remit of the Authority;
- are fair, open and transparent, without any undue influence, or the perception of undue influence, by external parties;
- promote confidence in the integrity of public administration; and
- where relevant, are consistent with the objectives of the *Lobbying of Government Officials Act 2011 (Lobbying Act)* and Premier's Memorandum M2019-02, *NSW Lobbyists Code of Conduct*.

What meetings are not covered by these Procedures?

Based on the definition of **Business Contact** and **Lobbyists**, these Procedures do not apply to a range of meetings such as those with local, State, Federal or foreign government contacts, invitations to speak or present at events such as industry forums and conferences, and engaging or dealing with consultants.

These Procedures are also not designed for meetings, engagements or commercial negotiations which take place as part of the Authority's investment attraction program under section 13 (1) (d) of the *Western Parkland City Authority Act 2018*, which will take place according to specific probity and governance arrangements, including:

- NSW Direct Dealing Guidelines, (buy.nsw.gov.au)
- ICAC's *Direct Negotiations: Guidelines for Managing Risks*, August 2018; and
- the NSW Government's *Unsolicited Proposals: Guide for Submission and Assessment* – August 2017.

It is a requirement of *Australia's Foreign Relations (State and Territory Arrangements) Act 2020* (Cth.) for negotiations on certain types of arrangements with foreign entities to be approved by the Minister for Foreign Affairs.

Responsibilities

The **Chief Executive Officer** (CEO) is responsible for ensuring the Authority has systems in place to comply with its obligations and duties.

The **Executive Director Governance** or other officer nominated by the CEO is responsible for monitoring records of contact and meetings with Business Contacts and Third Party Lobbyists and informing the Chief Executive Officer of any issues that arise from the review of those records.

The Authority's **senior executives and other managers/supervisors** are responsible for overseeing the effective management of these Procedures, discussing compliance as part of the ongoing management of their teams and monitoring and evaluating the operation of these Procedures in their area of responsibility.

Authority Members are responsible for complying with these Procedures and reporting any instances of non-compliance to their manager/supervisor (or equivalent).

Offences

Sections 22 and 23 of the Act include specific criminal offences for:

- unauthorised disclosure of information obtained in connection with the administration or execution of this Act;
- the misuse of information obtained through association with the Authority; and
- the influencing of proposals in relation to acquisition, development or disposal of land through association with the Authority.

Authority Members must ensure they are properly authorised, either generally or specifically, to disclose information about the Authority, the work of the Authority or confidential information held by the Authority, when speaking to or meeting with **Business Contacts** and **Lobbyists**.

2. Procedures – requests for meetings

If a meeting request arises between a **Business Contact** or **Lobbyist** and the Authority or an **Authority Member**, following the procedures set out in the table below will assist the Authority to ensure that probity is observed in proceeding with the meeting.

Meetings could arise in situations, out of the Authority's control, where certain steps in the table below cannot be followed before the meeting takes place. In these situations, the **Authority Member** should use discretion to record information about the meeting in a file note, in accordance with Item 5 below.

Ref	Action
1.	Send the Meeting Detail Request Form at Annexure A to the Business Contact or Lobbyist .
2.	<p>Consider the completed Meeting Detail Request Form to ensure that the request relates to the Authority's statutory functions and remit, or seek further confirmation of the meeting purpose.</p> <p>The Authority Member is responsible for assessing the request and should seek guidance or approval from their manager/supervisor (or equivalent) about whether the meeting should proceed.</p> <p>If the meeting will proceed, send a meeting invite by email, including the Authority's meeting agenda. The Authority Member must ensure that a copy of the Meeting Detail Request Form and the meeting invite is securely stored.</p>
3.	<p>If the person requesting the meeting is a Third Party Lobbyist or an individual engaged to undertake lobbying for a Third Party Lobbyist, contact the Communications and Engagement team to have the meeting details published on the Authority's Third-party Lobbyist Contact Register.</p> <p>See section 6 below for guidance about identifying Third Party Lobbyists.</p>
4.	Attend the meeting with a minimum of two Authority Members of appropriate seniority, including one Director-level staff member or a Board member. An external probity advisor must be present at any meeting with any Lobbyist .
5.	<p>Take a file note of the meeting using the template at Annexure B and securely store the file note.</p> <p>Email a copy of the meeting file note to the Executive Director Governance or other officer nominated by the CEO.</p>

Items 4 to 5 in the table above also apply to meetings undertaken as part of **Precommercial Engagement**, as set out below.

3. Procedures – Precommercial Engagement

Authority Members should use discretion and consider applying the **Precommercial Engagement** procedure in situations where the Authority seeks to engage with **Business Contacts** which are landholders, developers, or have other land or development interests.

This may include situations such as the following:

- the Authority seeks to explore the potential to commence negotiations for a joint venture or other agreement, under the Authority’s legislation (and any other applicable laws and policies);
- the Authority seeks to obtain information to inform the exercise of the Authority’s statutory function in the coordination of public infrastructure or its general master planning work; and
- any situation where the **Precommercial Engagement** procedure will assist in ensuring that a meeting or a series of meetings with a **Business Contact** meets the ‘Purpose of the Procedures’ set out in section 1 above.

Situations may arise where the **Precommercial Engagement** briefing procedure should be applied to a meeting which has *already* occurred, but which was initially not considered to require the application of the **Precommercial Engagement** procedure.

The **Precommercial Engagement** procedure can be applied to a particular landholder, group of landholders, or class of landholders.

Commencing Precommercial Engagement

Ref	Summary	Action
1.	Preparation of Procedure for Precommercial Engagement brief	The Executive Director who will be responsible for the Precommercial Engagement prepares a brief to the CEO using the Procedure for Precommercial Engagement Brief template at Annexure C .
2.	CEO decision	The CEO will review the brief and decide whether the Precommercial Engagement should proceed.
3.	Conduct of meetings	Meetings should take place in accordance with steps 4 to 5 in the procedures in section 2 above. If the external party is accompanied by a Third Party Lobbyist or an individual engaged to undertake lobbying for a Third Party Lobbyist , contact the Communications and Engagement team to have the meeting details published on the Authority’s Third-party Lobbyist Contact Register .
4.	Deciding whether to progress to commercial negotiations	The Executive Director responsible for the Precommercial Engagement should prepare a ‘ Precommercial Engagement Report’ assessing whether or not to move to a formal negotiation phase in pursuit of a commercial agreement.

	<p>When this report should be prepared should be guided by the information in Precommercial Engagement brief, particularly in relation to key milestones and indicators as to when the Precommercial Engagement should be concluded and the conditions or parameters to guide the Precommercial Engagement.</p> <p>The Precommercial Engagement Report is to be briefed to the CEO for consideration. If formal negotiations are proposed, this should be reported to the Board for authorisation.</p> <p>Any formal negotiation which subsequently takes place will be in accordance with existing Government policies and processes, including a dedicated probity plan and having regard to:</p> <ul style="list-style-type: none"> • NSW Direct Dealing Guidelines, (buy.nsw.gov.au) • ICAC's <i>Direct Negotiations: Guidelines for Managing Risks</i>, August 2018; and • the NSW Government's <i>Unsolicited Proposals: Guide for Submission and Assessment</i> – August 2017. <p>Note: it is a requirement of <i>Australia's Foreign Relations (State and Territory Arrangements) Act 2020</i> (Cth.) for negotiations on certain types of arrangements with foreign entities to be approved by the Minister for Foreign Affairs.</p>
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4. Procedures – miscellaneous telephone contact

If an **Authority Member** receives a telephone call from a **Business Contact** or **Lobbyist** in relation to any matter relating to the Authority, the **Authority Member**:

- may continue the phone call, taking information from the caller and noting the query;
- must exercise discretion in continuing the call, not providing any information to the caller which is not already publicly known;
- should encourage the caller to submit their question by correspondence or to seek a meeting by lodging a Meeting Detail Request Form;
- should take a brief file note or record of the call received and securely store the file note; and
- where the subject matter of the call is sensitive or potentially controversial, inform their manager/supervisor (or equivalent) about the call.

5. Lobbying and Third Party Lobbyists

Authority Members, when assessing whether to send a meeting invite for a meeting, should check whether the person requesting the meeting or that person's employer is a Third-Party Lobbyist. The Lobbyists Register contains this information.

To visit the **Lobbyist Register**, go to: <https://lobbyists.elections.nsw.gov.au>

Background

The Lobbying Act establishes a system that governs contact between NSW Government Officials and lobbyists and is designed to ensure that lobbying is conducted in a transparent and ethical manner.

The *Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014* establishes a Code of Conduct for Lobbyists and additional disclosures required by lobbyists in New South Wales.

Premier's Memorandum *M2019-02, NSW Lobbyists Code of Conduct* provides additional requirements and obligations for NSW Government Officials when engaging with lobbyists.

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 Government policy or proposed Government policy;
- a planning application;
- the exercise by a Government Official of their official functions; or
- in relation to the Authority, a function of the Authority.

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.

Methods of Lobbying

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

- 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.

An individual or body may still be lobbying even if the Authority is not ultimately responsible for assessing a proposal or making a decision.

Third-party Lobbyists

Third-party Lobbyists must be registered on the Lobbyist Register and must comply with the Lobbyist Code of Conduct. This includes individuals involved in operating on behalf of an organisation listed as conducting Third-party lobbying.

The following are not Third-party Lobbyists: members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work.

Prohibited lobbying

There are restrictions on the contact that Authority Members 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 under the Act and the Lobbyists Code of Conduct;
- a Third-party Lobbyist engaging in lobbying on behalf of a client not listed on the Lobbyist Register.
- a lobbyist whose name has been placed on the Lobbyist Watch List.

6. Definitions

Authority Member	means any employee of the Authority, and includes: <ul style="list-style-type: none"> • permanent staff; • temporary staff; • casual staff; • contract staff; • Board members; • Members of a committee of the Board; • other Government sector employees who are on secondment or assigned to the Authority; and • volunteers including those on work experience.
Authority's Third-party Lobbyist Contact Register	means the Authority's register of contacts with third-party lobbyists published on its website wpc.a.sydney
Business Contact	means stakeholders, landholders, developers and investors with potential commercial interests in the Authority's statutory area, who are not Lobbyists .
Government Official	includes: <ul style="list-style-type: none"> • a Minister or Parliamentary Secretary; • a staff member of a Minister or Parliamentary Secretary (including a staff member in an electorate office); • the head of a Public Service agency; • 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; • 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 • a member (however expressed) of, or of the governing body of, a statutory body.
Lobbying	means communicating with an Authority Member for the purposes of representing the interests of others (including their own organisation) in relation to: <ul style="list-style-type: none"> • legislation or proposed legislation; • a Government decision or proposed Government decision; • a Government policy or proposed Government policy; • a planning application; • the exercise by the Government Official of their official functions; or • any matter relating to the exercise of the Authority's statutory functions and remit.
Lobbyist	means a Third-party Lobbyist or an Other Lobbyist .
Lobbyists Code of Conduct	means the code set out at Schedule 1 of the <i>Lobbying of Government Officials (Lobbyists Code of Conduct) Regulation 2014</i> .

Lobbyists Register	means the register established under Part 3 of the Lobbying Act and maintained by the NSW Electoral Commission. At the time of publication, the Lobbyists Register is accessible at https://lobbyists.elections.nsw.gov.au
Other Lobbyist	means any other individual or body that lobbies Government officials but is not a Third-party Lobbyist, including members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work.
Precommercial Engagement	has the meaning given in section 3 of these Procedures.
Procedures	means these <i>Procedures for Meetings and Precommercial Engagement with Third Parties</i> .
Third-party Lobbyist	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, excluding members of a profession (such as lawyers, medical practitioners, qualified accountants) and persons where lobbying is incidental to the provision of professional services to a client in the course of their work.

Annexure A – Meeting Detail Request Form

CONFIDENTIAL – COMMERCIAL IN CONFIDENCE

Meeting Detail Request Form

Collection Notice

The Western Parkland City Authority (**Authority**) requires certain meetings to be progressed by completing and submitting this form. Please assist us by providing as much information as possible. Records of contact with Third-Party Lobbyists or individuals engaged to undertake lobbying for a Third-Party Lobbyist (which may include personal information) will be published on the Authority’s website.

The Authority is committed to protecting the privacy of meeting attendees’ personal information, in accordance with the *Privacy and Personal Information Protection Act 1998* (NSW). Personal information provided on this form is collected for the purpose for which you have provided it. The Authority will keep and circulate within the Authority a record of the meeting, including the personal information of meeting attendees. The Authority may disclose this personal information in response to a requirement of a Government Minister or in other circumstances where such use or disclosure is required by law or is permitted under the *Privacy and Personal Information Protection Act 1998*.

You may choose not to provide your personal information to the Authority. However, this may mean that it is not possible for us to arrange a meeting with you. For information about how your personal information is collected, used and disclosed, or to ask to access or amend your personal information held by the Authority, please contact the Authority at contact@WPCA.sydney

A. Your details	
Organisation/s name	
Organisation type Check <input checked="" type="checkbox"/> the relevant boxes	<input type="checkbox"/> Landholder <input type="checkbox"/> Developer or agent / employee of developer <input type="checkbox"/> Agent / employee of developer or landholder <input type="checkbox"/> Planning Consultant <input type="checkbox"/> Proponent <input type="checkbox"/> Environmental Group <input type="checkbox"/> Community Group <input type="checkbox"/> Lobbyist (as defined in the <i>Lobbying of Government Officials Act 2011</i>). <input type="checkbox"/> Other business contact (please specify) _____
Are any meeting attendees a Lobbyist within the meaning of the <i>Lobbying of Government Officials Act 2011</i>?	<input type="checkbox"/> Yes <input type="checkbox"/> No If yes, you must fill out the <i>Additional Information Requirements for Lobbyists</i> details attached to this form.

Names of attendees (add rows as appropriate)	Name: Title: Organisation: Contact details:
	Name: Title: Organisation: Contact details:
Dates of any previous meetings with WPCA	
Disclosures / conflicts	
B. Details of your land and / or project	
Relevant land parcel (Lot & DP), address and project (if relevant)	
Description of project (if relevant)	
C. Purpose of request for meeting / proposed agenda / matters to be discussed	
I consent to the collection, use and disclosure of personal information contained in this form, as set out in the Collection Notice on the first page of this form.	

Signature of representative:

Name of representative:

Date:

Additional Information Requirements for Lobbyists

The Authority requires all meeting requests from lobbyists¹ to be made by completing and submitting this form. All records of contact with Third-Party Lobbyists and individuals engaged to undertake lobbying for a Third-Party Lobbyist will be published on the Authority's Third-Party Lobbyist Contact Register. Please assist us by providing as much information as possible.

Third-Party and Other Lobbyist/s details (as described in the Third-Party Lobbyist Contact Register)	
Third-Party Lobbyist/s and individuals engaged to undertake lobbying for Third-Party Lobbyists	
Other Lobbyist	
Name of Client/s represented for the purpose of this meeting	
Third-Party Lobbyist Attendee/s (incl. individuals engaged to undertake lobbying for a Third-Party Lobbyist)	
Name	
Title	
Other Lobbyist Attendee/s	
Name	
Title	
Client Attendee/s (if none, please state n/a)	
Name	
Title	
Other Attendee/s (if none, please state n/a)	
Name	
Title	
Reason for attendance	
Disclosure of Interests	
Do the lobbyist/s attending the proposed meeting have a financial or other interest in the matter/s to be discussed? (If YES describe the interest below.)	
Nature of interest: _____	
Lobbying on NSW Government Board or Committee Business	
Is the lobbyist/s listed above a member of a NSW Government Board or Committee? (If YES list the Board/Committee.)	
Name of Board/Committee: _____	

¹ A 'lobbyist' is defined in the *Lobbying of Government Officials Act 2011* to mean:

- (a) a third-party lobbyist, or
- (b) any other individual or body that lobbies Government officials (including an individual engaged to undertake lobbying for a third-party lobbyist).

A 'third-party lobbyist' is defined to mean 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.

Confirmation

Under the Lobbying of Government Officials Act 2011 and the NSW Lobbyists Code of Conduct 2014, the following ethical standards and requirements apply.

All lobbyists must:

1. disclose in advance the nature of the matter to be discussed, when seeking a meeting with a NSW Government official;
2. disclose any financial or other interest they may have in the matter to be discussed before the meeting commences;
3. not engage in any misleading, dishonest, corrupt, or other unlawful conduct in relation to their lobbying; and
4. use all reasonable endeavours to satisfy themselves of the truth and accuracy of all material information that they provide.

In addition, third-party lobbyists, must:

1. not meet or otherwise communicate with NSW Government officials unless registered on the NSW Register of Third-Party Lobbyists and that any individuals that they engage to undertake the lobbying for them are registered on the NSW Register of Third-Party Lobbyists;
2. disclose, prior to any meeting or communication with NSW Government officials:
 - o their status as third-party lobbyists;
 - o the names of any individuals they have engaged to undertake lobbying on their behalf; and
 - o the name/s of their client/s;
3. not lobby on a matter that relates to the functions of a NSW Government board or committee of which they, or the individuals they engage to lobby on their behalf, are a member;
4. not make exaggerated or misleading claims to their clients about the nature or extent of their access to political parties or Government or persons associated with them;
5. keep separate from their lobbying activities any personal activity or involvement on behalf of a political party; and
6. not receive or agree to receive (or agree that other persons are to receive) success fees for lobbying NSW Government officials.

I confirm that this meeting request complies with all of these requirements. (If YES tick the box.)

I consent to the collection, use and disclosure of personal information contained in this form, as set out in the Collection Notice on the first page of the Meeting Detail Request Form.

Signature: _____

Name: _____

Date: _____

Signature of Third-Party Lobbyist, individuals engaged to undertake lobbying for a **Third-Party Lobbyist** or **Other Lobbyist** requesting meeting.

Annexure B – File note template

Sensitive – NSW Government

FILE NOTE – Business Contact or Lobbyist

Note: A copy of this file note is to be:

- securely stored; and
- emailed to the Executive Director Governance or other officer nominated by the CEO

Meeting / Call	
Date	
Time	
External attendees	
External probity advisor (if any)	
Internal attendees	

[Suggested topics to record:

- *Land / project*
- *Matters discussed*
- *Follow-up meetings or actions*
- *Key questions asked*
- *Key responses provided]*

Primary Outcome (Select one)*	
Meeting declined	Additional info to be provided by other parties to the meeting Matter to be referred to or discussed with another party Parties agreed to reconvene No further action
WPCA provided advice on process	
WPCA provided advice on progress of the matter/project	

Signature:

Name:

Date:

Annexure C – Precommercial Engagement template

Information Required	Response
Basic information	
Which Authority Member is leading the proposed Precommercial Engagement on behalf of the Authority?	
Describe the proposed Precommercial Engagement , and reasons for the proposal to commence the Precommercial Engagement .	
Detail any previous informal meetings and conversations that may have prompted the proposed Precommercial Engagement .	
Set out the proposed attendees at meetings and the subject matter or agenda to be discussed.	
Has basic due diligence in relation to the party and any relevant land been conducted to confirm location, ownership or other relevant information?	
Strategic rationale	
How will the proposed Precommercial Engagement be consistent with the Authority's statutory objectives and functions?	
What is the justification for commencing the proposed Precommercial Engagement ?	
Are any external reports relevant to the decision to pursue the proposed Precommercial Engagement ? If so, include a copy of the report.	
Commercial factors	
What are the potential commercial outcomes if the Precommercial Engagement proceeds to a commercial agreement (subject to subsequent assessment processes in line with existing Government policies)?	
Procedural considerations	
What are the key milestones and indicators as to when the Precommercial Engagement should be concluded?	

<p>What other conditions or parameters should be in place to guide this Precommercial Engagement?</p>	
<p>Probity compliance</p>	
<p>Should a probity advisor be engaged and invited to meetings? (note: attendance by a probity advisor is mandatory for any meeting with a <i>Lobbyist</i>)</p>	
<ul style="list-style-type: none"> • The preparer of this brief certifies that they have no conflicts of interest, and have made any necessary declarations. • The preparer of this brief has read and understands the Authority's Code of Ethics and Conduct. 	Signature
	Name
	Date
<p>Decision</p>	
<p>The Chief Executive Officer of the Authority confirms they have reviewed this brief and made further enquiries or requests for further information if required.</p>	Signature
	Date
<p>Will the Precommercial Engagement proceed?</p>	