Local Government Association Tasmania

Our Ref: BM |LO'L

13 October 2026

Mr Craig Tipping
Director
Economic Policy Branch
Department of Treasury and Finance
Via email: economic.reform@treasury.tas.gov.au

Dear Mr Tipping

Review of the *Economic Regulator Act 2009* and Competitive Neutrality Policy

Thank you for the opportunity to provide a submission on the Review of the *Economic Regulator Act 2009* and Competitive Neutrality Policy – Discussion Paper.

This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government in collaboration with our members; all 29 councils.

LGAT is incorporated under the *Local Government Act 1993* (LG Act) and is the representative body and advocate for local government in Tasmania. Where a council has made a direct submission to this process, any omission of specific comments made by that council in this submission should not be viewed as lack of support by the LGAT for that specific issue.

Our submission highlights three important points:

- Local government already has sufficient oversight, and additional review by the Economic Regulator is not warranted.
- Competitive neutrality guidance and assessment must recognise why and where councils provide services.
- Councils need clear, simple and fair guidance and processes.

Please contact Ben Morris, Policy Director if you have any questions or would like further information, at ben.morris@lgat.tas.gov.au or 6146 3743.

Yours sincerely,

Dion Lester
Chief Executive Officer

LGAT Submission: Review of the Economic Regulator Act 2009 and Competitive Neutrality Policy

General comments

Local government welcomes the consideration of its activities to ensure they are fit for purpose and do not hinder the commercial market. These considerations must be balanced against the role of councils under the LG Act, in particular to provide "infrastructure and services, that to be effective, require local approaches". We support the achievement of the National Competition Principles while recognising the important role that councils play in Tasmania and ensuring unnecessary administrative and compliance overhead.

Specific Comments

Economic Regulator

Tasmanian local government interacts with the Office of the Tasmanian Economic Regulator (TER) both directly and indirectly. Directly, for example through the water and sewerage price determinations, and indirectly through its reviews of other monopoly providers.

We support broadening the TER's objectives and 'matters for consideration' to include the long-term interests of consumers, as seen in South Australia, Western Australia and the Australian Capital Territory. This is an important check on economic efficiency, which is often the focus of economic regulators. However, we do not support a broadening of the powers of the TER to include the pricing and efficiency of local government. There is already sufficient oversight, which includes:

- The Minister for Local Government can:
    - direct a Local Government Board to review a broad range of matters, including administrative operations and decision-making
    - appoint a Board of Inquiry to investigate a council's functioning and performance
    - appoint temporary advisors to assist in addressing any emerging governance or operational issues, including financial management practices.

- The Director of Local Government regulates councils' day-to-day functions and can issue Performance Improvement Directions.
- The Tasmanian Audit Office undertakes regular, specific reviews of councils' functions.
- Ombudsman Tasmania investigates complaints about councils' administration and service delivery.
- All councils must also have an independent audit panel to review the council's financial management performance and its policies and systems for long-term financial sustainability.

For these reasons, LGAT strongly rejects any proposal for the TER to assume an oversight role in relation to local government. Councils are already subject to a comprehensive framework of democratic, statutory, audit and ministerial accountability. Adding another oversight mechanism would duplicate existing safeguards, increase costs and administrative burden, and risk imposing an economic-regulation lens on decisions that properly balance financial, social and community outcomes. Any identified gaps should be addressed through the existing local government framework—not by extending the TER's remit into local government.

Monopoly provider investigations

We note that this review falls outside the scope of TasWater's price regulation and that the TER has indicated it intends to conduct its own review of this function. It is essential that this review be independent of the TER. An independent review would provide a more comprehensive assessment of the framework and remove the conflicts inherent in a regulator conducting its own review.

We do not have a position on other monopoly price investigations.

Broader price regulation

As noted above, we do not support broadening TER's powers to regularly review local government rates and prices, as oversight is already sufficient.

Competitive neutrality

Councils recognise the importance of the National Competition Principles and the need to ensure their activities do not stifle competition where there is an existing or potential market. Councils provide services at the periphery, or outside their typical role, because of market failure or because the market is unlikely to provide the service. Reasons may include population decline, ageing populations, low socio-economic capacity, and weak private investment, which make commercial services unviable. These factors are particularly pronounced in small and regional communities.

Additional guidance is needed to support councils' decision-making, which should include, but not be limited to:

- how the broad and legislated role of councils should be considered, including matters that are not economic or financial
- standard, simplified ways of calculating 'full cost' and market failure.

Definition of 'significant business activities'

'Business activities'

Councils invest in non-traditional services for the same reason that ability factors generally prevent local government services from posing a significant threat to private businesses. Further guidance is needed to support council decision-making, as additional services are often provided where there is a market failure. The definitions from Queensland and South Australia are useful because they reference a "commercial or profit-making focus". The definition of business activity for local government should also reference councils' legislative role under the LG Act.

Further clarification is also needed to ensure that market and competition assessments are made on an 'apples-to-apples' basis. One council highlighted that it operates a large open-air pool for family leisure, club swimming, exercise, and school events in a lower socio-economic area. These services have a long history. Commercial providers typically do not offer such services at this scale, as they usually focus on low-capital, small-capacity, high-profit facilities like hydrotherapy pools, and are unlikely to step in to fill this gap if the service were discontinued.

Practical guidance is also needed on calculating relevant costs for the activity in the local government context, given that councils operate for community benefit, not for commercial outcomes.

'Significant'

We support further guidance on what constitutes "significant". This should include non-binding financial thresholds as an assessment factor, with each complaint treated on its merits.

The State Government policy guidance on camping is useful. It warrants further consideration given increased demand from higher-capacity Spirit of Tasmania ships, with some areas having insufficient capacity. A simple method for councils to apply in high-demand areas during the peak period would help. For example, councils could apply an average price across the market area, rather than undertaking a bottom-up cost and public benefits assessment. This would provide additional capacity, avoid competition issues and reduce unnecessary compliance costs and resources.

Complaints mechanism

We note the requirements under the National Competition Policy for a complaints mechanism.

The complaints and review process must embed procedural fairness. Investigations must follow clear processes and procedures set out at the outset, so all parties have equal knowledge. This must include making clear, for each specific investigation, the claims made by the complainant, the process for requesting and providing evidence, and the opportunities for the respondent to comment.

Given the intent to broaden who may make complaints, it is important to provide an initial assessment to filter vexatious or low public benefit complaints. This initial evaluation should balance investigation costs with available resources. The focus should be on achieving high-quality outcomes relative to the effort invested.

Public interest exemption

We strongly support updating the public interest assessment to reflect the realities of local government's operating context. The assessment needs to give significant weight to community service and social infrastructure objectives, in line with councils' objectives under the LG Act and functions such as regional development, public health, and place-making. It should also be able to accommodate situations such as where:

- Camping grounds in areas where private operators are leaving the market.
- Community facilities where private investment is unlikely because profitability is low.
- Situations where the market cannot realistically expand to meet community needs in the short or medium term.

A more comprehensive public interest assessment should be conducted before initiating a full competitive neutrality review to confirm a genuine public interest. If a service is heavily subsidised, provides an essential public good, and poses little risk of market distortion, a detailed examination might not be necessary. Applying this public interest filter can prevent costly investigations that offer minimal practical benefit.