

8 February 2024

Attention: Managing Interests Framework  
Mike Mogridge  
Acting Executive Director  
Office of Local Government  
Department of Premier and Cabinet

Sent via email: [lgconsultation@dpac.tas.gov.au](mailto:lgconsultation@dpac.tas.gov.au)

Dear Mike,

**Draft - Managing conflicts of interest of councillors' framework**

Thank you for the opportunity to provide a submission on the Draft Managing conflicts of interest of councillors' framework. 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* 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.

Please contact Bec Stevenson at [bec.stevenson@lgat.tas.gov.au](mailto:bec.stevenson@lgat.tas.gov.au) or 6146 3748, if you have any questions or would like further information.

Yours sincerely,



Dion Lester  
**Chief Executive Officer**

## **LGAT Submission: *Draft - Managing conflicts of interest of councillors framework***

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### **Introduction**

Tasmanian local government welcomes the Draft *Managing conflicts of interest of councillors framework* (the framework) and acknowledges the work of the working group, including our council members.

The proposed framework, when implemented, will support public confidence and trust in local government decision-making and ensure that councillors' decisions and actions are guided by ethical principles.

We sought feedback from our members on the draft framework to inform a sector response. As part of this engagement, we have seen a high level of interest from councils, with many councils providing their own submissions.

### **Guiding Principles contribute to good governance**

The guiding principles serve as fundamentals to guide decision-making, behaviour and actions. There is support for the introduction of the proposed six guiding principles outlined in the framework to support councillors in managing their personal interests in the course of their duties. The proposed principles are also consistent with the Good Governance Guide.

The consistent application of these guiding principles will introduce consistent identification and management of conflicts of interest, whilst also contributing to good governance in local government.

### **Conflicts of Interest**

There is sector support for all conflicts of interest to be regulated through the *Local Government Act 1993* (the Act) and be classified as either actual, perceived, or potential conflicts.

Currently in Tasmania, pecuniary conflicts of interest are regulated through the Act and non-pecuniary interests are regulated through the Code of Conduct. This creates opportunity for misalignment. The proposed change will introduce consistent handling of conflicts of interest.

Councils noted the draft framework outlines a process to be taken following the disclosure of an actual conflict of interest. This process outlines that:

- Councillors must exclude themselves from meetings, workshops and agenda briefings during discussion on the matter.
- Councillors with an actual conflict of interest will have restricted or no access to information on those matters.

- A council may overturn a councillor's decision to participate, with the mayor empowered to exercise an interim decision to overturn a councillor's decision to participate until the matter is brought to the next council meeting for a decision.

Further consideration and guidance are required in relation to the implementation of these from a practical view:

- A conflict of interest may not be recognised until materials are received or as topics are raised in workshops or at meetings.
- The proposed framework and any amendment to the Act will need to consider how a particular councillor can be restricted from accessing certain documents, noting that agendas and minutes are public documents published on council websites.
- Increased clarity on whose responsibility it is to restrict access to materials related to a matter where a councillor has a conflict. Feedback received suggested that in cases where a councillor has declared an actual conflict of interest there should be an onus on the councillor not to access information or materials from shared sites and sanctions provided if this is breached.
- The ability for a council to overturn a councillor's decision to participate in discussion requires clear policy to guide the decision-making process.

The sector would welcome case studies and support guides to the identification and management of actual, perceived and potential conflicts of interest.

### **Exemptions to conflicts of interest**

There is broad support for the exemptions outlined in the draft framework based on the Victorian legislation. Historically, councillors err on the side of caution when declaring any conflicts of interest during their appointment due to the lack of clarity. The example exemptions outlined provide clarity as to when a councillor does not have an interest.

### **Personal Interest Returns**

The proposed framework introduces new arrangements for submitting and managing Personal Interest Returns (PIRs). Councillors will be required to submit an initial PIR shortly after being elected to council followed by annual returns throughout their term.

The introduction of PIRs is broadly supported. However, the publication of information contained within PIRs require careful consideration and guidance. The examples given in the discussion paper are broadly supported with specific feedback received on the following items:

- The extent of all disclosures must be relevant to the role, responsibilities and limits of decision making of councillors.

- The role and obligations of the principal officer should be clearly defined – particularly in the instance of an undisclosed conflict of interest.
- Regular training and education must be provided on managing both conflicts of interest and proactive management plans.
- Clear legislative provisions are required detailing information exempt from publication such as monetary values or amount of any income, shares, other beneficial interests and debts, street addresses of property etc.
- Disclosure of the purpose of property ownership should be categorised for consistency without disclosing private personal information.
- Consideration should be given to the inclusion of financial thresholds for declarations relating to paid employment, consultancy, shares and liabilities, as is seen in Victoria.
- Interests relating to memberships of incorporated or unincorporated associations should relate to directorship, membership of the governing body or a leadership position.

The categories and thresholds provided within the Victorian legislation provide a useful basis for these issues to be further considered.

### Implementation

The implementation of the framework will need to be carefully completed. Councillors often have diverse personal and professional backgrounds that are separated from their community and council involvement. These backgrounds and community relationships and the local decision-making are quite different from federal or even state members of Parliament. It was noted in council feedback that local government candidates explicitly consider the public role and impact on their community relationships when nominating for council. Clear guidance should be provided on the level of information and detail to be released publicly.