Local Government Association Tasmania

Our Ref: BM | DJL

30 October 2026

Kristy Bourne
Secretary
Department of Justice
Via email: haveyoursay@justice.tas.gov.au

Dear Ms Bourne

**Draft Workplace Protection Orders Bill 2026**

Thank you for the opportunity to provide a submission on the draft Workplace Protection Orders Bill 2026 (the Bill). This submission has been prepared by the Local Government Association of Tasmania (LGAT) on behalf of Tasmanian local government on behalf of Tasmania's 29 councils, informed by direct feedback.

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 us for that specific issue.

We support the Bill's intent and the establishment of an additional mechanism to protect workers and other people connected with workplaces from workplace-related violence, harassment, intimidation and threats. The Bill is particularly relevant to local government both with council employees undertaking public-facing roles and councillors engaging their communities.

We recommend improvements in the following areas:

- expressly include councillors and other elected representatives
- better align the scheme with the *Work Health and Safety Act 2012*
- clarify application of the legislation
- make the process practical and accessible
- provide application guidance for local government.

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 draft Workplace Protection Orders Bill 2026

Councils operate in a distinctive public-facing environment, with employees and councillors working across offices, public spaces, community events and other locations. They cannot always disengage from individuals who pose safety risks, as community members have statutory rights to access council services. The Workplace Protection Order (WPO) scheme must therefore be flexible enough to protect employees and councillors while allowing councils to meet their statutory and service obligations.

The areas detailed below are those identified by councils as needing further clarification, detail, or supporting information for application in the local government context.

### Alignment with *Work Health and Safety Act 2012*

The relationship and alignment between the workplace protection scheme and the existing framework under the *Work Health and Safety Act 2012* (WHS Act) should be as clear as possible.

Clause 5 of the Bill provides that a place is a workplace if a person carries out a business or undertaking there within the meaning of the WHS Act, or if a person goes or is likely to go there as part of their work. We read this definition to broadly cover any place a council employee may be as part of their work.

However, the Bill defines "employee" to include people employed or engaged to work at a workplace, trainees or apprentices, and volunteers. This differs from the WHS Act. Council feedback has raised questions about how this definition applies to contractors, subcontractors, labour-hire personnel, and others working for or with councils.

Greater alignment would reduce employers' uncertainty about who the scheme protects and how a WPO fits within their broader statutory workplace safety obligations.

The consultation material states that the scheme will complement, rather than replace, existing health and safety requirements and workplace policies. For example, a workplace protection order could apply to an employee in the workplace alongside other controls and duties under the WHS Act.

**Recommendation 1**
Review the definitions of “employee”, “workplace-related person” and related terms to ensure they directly align with the WHS Act and that the “workplace” covers any location where a council employee or other relevant person (sub-contractors, etc) may be.

**Recommendation 2**
Make it explicit in the legislation that WPOs complement existing WHS duties and controls.

### Explicit inclusion of councillors

The Bill expressly defines an employee and identifies owners, operators, employers, employees, customers and patrons as examples of "workplace-related persons", but does not expressly identify elected representatives. This is different to the WHS Act where councillors are covered as “other persons in the workplace”.

The Department has advised that clause 5(1)(b) is intended to capture councillors because a workplace includes any place a person goes or is likely to go as part of their work, with "work" given its ordinary meaning.

However, this could be open to challenge and as such creates unnecessary uncertainty. Councillors and their councils must have full confidence that the workplace protection scheme covers them. This is particularly important because a councillor's 'workplace' and therefore exposure to risk extends beyond the council chamber into the community.

**Recommendation 3**
Amend the definition of "workplace-related person" to expressly include councillors undertaking functions connected with their role.

## Clarify application arrangements

We recognise the value of the multiple application pathways in Clause 7. Councils have flagged the need for clarification on applications where:

- the application is made independently of the organisation that controls the workplace, for example, where there is an industrial dispute
- a councillor or council General Manager/Chief Executive Officer (GM/CEO) requires protection, and who has standing to act.

Regarding the first point, we note that the Bill requires the Court to consider whether an order is sought to circumvent or discredit legitimate complaints, disclosures, industrial activities, peaceful protests, or other lawful activities. We support this safeguard and consider it should be complemented by clear procedural arrangements for communication with the relevant Person Conducting a Business or Undertaking (PCBU).

**Recommendation 4**
Where an application is made by a health and safety representative, a union, or another party independently of the PCBU, provide for appropriate notification and consultation with the PCBU. An exception is where doing so would undermine safety or the purpose of the application.

**Recommendation 5**

Clarify who may authorise and conduct a WPO application on behalf of a council, including where the person requiring protection is a councillor, the council's GM/CEO, or another workplace-related person.

## Make the process practical and accessible

Councils told us that the legislation's effectiveness depends as much on the application process as on the legislative powers themselves. They noted that court processes can be daunting for council staff who are not legally trained, even when councils have access to internal legal support.

We welcome the Bill's provision allowing the Court to make an interim WPO when an application has been filed and an interim order is necessary to ensure the safety of a workplace-related person or to prevent substantial property damage. However, councils would benefit from practical guidance on accessing urgent protection. These requirements should not create barriers that

discourage employers from using the scheme when workers or elected representatives face a serious risk.

**Recommendation 6**
Design the application process to be simple, timely and accessible to employers without routinely requiring specialist legal assistance.

### Implementation guidance

Several councils identified the need for practical implementation guidance to support the application of WPOs. Councils operate in a complex and unique environment comprising internal and public-facing staff, councillors, contractors and the community. It is important that tailored implementation guidance be developed in consultation with local government and the Office of Local Government.

The guidance should address:

- the relationship between WPOs and existing WHS obligations (where not clarified in legislation), including the GM/CEO's role with councillors
- circumstances in which an application may be appropriate
- urgent and interim orders
- evidence requirements
- internal authorisation and application arrangements
- interaction with existing unreasonable customer conduct policies
- how WPOs can consider continued provision and access to council services
- public meetings, events and mobile workplaces
- local government application case studies.

**Recommendation 7**
Develop practical application guidance for local government in collaboration with councils and the Office of Local Government.