



19 April 2023

Nic Street

Minister for Local Government

GPO Box 123

Hobart TAS 7001

Dear Minister Street,

I would like to take this opportunity on behalf of LG Professionals Tasmania (LG Pro) to thank you for the opportunity to provide a submission on the recent Discussion Papers entitled "Merit-based recruitment in councils" and "Addressing councillor misconduct". Set out below is LG Pro's submissions in relation to both papers.

Merit-based recruitment in councils

LG Pro generally supports the re-insertion of a merit-based recruitment principle into the Local Government Act 1993. LG Pro firmly believe that merit-based recruitment should and does occur in the majority of recruitment in Councils and, where not already in place, will improve any council recruitment processes.

The merit-based principle would support access to employment opportunities in Councils by the Tasmanian community by ensuring that any direct appointments are made on merit and in general will open up Council recruitment processes to the wider community.

LG Pro does not agree with making any decision regarding legislative changes based solely on the 2023 Integrity Commission CEO report (Investigations Smithies: Systematic Issues) - which did not engage with councils on recruitment policies and processes. In fact, the report made generalisations and assumptions based on systematic issues found at one council. Section 6.1 of the report states that:

"While some councils may have unpublished policies, it is likely that most Tasmanian councils, like the one investigated in this case, do not have any recruitment policies or procedures in place".

Very little consideration was given to the fact that recruitment and anti-discrimination/harassment policies are operational in nature and as such may not be a public-facing policy that is available on Council websites. None of the other 28 councils were approached for feedback regarding their recruitment practices. An assumption that no merit-based recruitment existed due to no visible

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policy is exactly that - an assumption. The discussion paper appears to take the assumption of the integrity support on face value with no concession given to the possibility that they might be mistaken. We would recommend that the Government undertake further consultation with Councils on Recruitment Policies before making any legislative change to the Local Government Act 1993.

Notwithstanding the above, LG Pro firmly supports the principle of merit-based recruitment.

Councils that do not have appropriate policies and procedures in place may be able to be assisted in by training provided by Human Resource and Work Place Health and Safety specialists. Further, LG Pro currently conducts a quarterly Human Resources Special Interest Group that provides professional development and a professional network for Councils Human Resources officers, should the appropriate experience not be available within any Council. The development of a best practice model for recruitment will only benefit local government in Tasmania.

In relation to the appointment, assessment and performance management reviews of General Managers, LG Pro supports:

1. The process of appointment of the General Manager must be:
 - a. Open and competitive
 - b. Based on an assessment against a detailed role description, including selection criteria
 - c. Informed by the recommendations of a selection panel, comprising a majority of councillors and supported by persons appropriately qualified in contemporary human resources practices and the recruitment of senior management personnel; and
 - d. Documented comprehensively, including the evaluation of candidates against the criteria in the role description.

2. Conflicts of interest of any participant must be documented and appropriate mitigation of strategies agreed by the panel and documented. Where a councillor, member of a selection panel, or consultant cannot reasonably mitigate a conflict of interest with a candidate due to the nature of that conflict, their participation in the general manager recruitment process must be discontinued.

LG Pro does *not* support that all - indeed that *any* - reports from the selection panel and decisions of council are to be included in the open minutes of a council meeting with the exception of the confirmation of the identity of the successful applicant or the confirmation of the re-appointment of an ongoing general manager.

Following the recent introduction of the Managing Psychosocial Hazards at Work Code of Practice – specifically created to provide practical guidance on achieving the standards of health, safety and welfare required under the *Work Health and Safety Act 2012* and *Work Health and Safety Regulations 2022* (on 4th January 2023) – it is the position of LG Pro that subjecting any general manager (including any applicant to the role) to having their employment assessment reports and performance management review being made a matter of public record would breach any council's work, health and safety obligations and actively foster an unsafe work environment and create a psychosocial hazard for a general manager.

No other employee at any level of government is subjected to the reports of their performance management being made a matter of public record and there is no reason for this to be required in Tasmanian Local Government.

LG Pro does acknowledge and supports the discussion and recording of the outcome of the general manager's recruitment and performance assessment in *closed* council sessions and considers this to be good governance practice.

Addressing councillor misconduct

LG Pro acknowledges contents of this discussion paper and the models presented.

LG Pro agrees that Tasmania has fewer mechanisms for the suspension or removal of a councillor from office compared to all other jurisdictions and appreciates the consideration that the Minister is giving to this issue.

LG Pro submits that the second option provided in the paper is supported to the extent of empowering the Director of Local Government to seek dismissal or extended suspension of a councillor under the Model Code of Conduct by application to the Tasmanian Civil and Administrative Tribunal ("TASCAT"). LG Pro consider that the advantages of TASCAT being:

- Generally non-political in nature.
- Its operation as an extension to prospective and existing regulatory frameworks; and
- Its inaccessibility to vexatious complainants.

LG Pro believes this is a more robust mechanism for addressing councillor misconduct. It believes further that this option can only help support public confidence and trust in local government, by providing a clear and appropriate pathway for management of misconduct by councillors.

Where there is an allegation of serious misconduct by a Councillor, LG Pro considers that empowering the Minister for Local Government to immediately suspend the councillor or councillors involved from undertaking the functions of a councillor until such time as any application has been resolved is appropriate.

Thank you for the opportunity to comment on the proposed legislative changes, LG Pro remains willing and able to provide any further feedback to proposed legislative changes in relation to merit-based recruitment and councillor misconduct.

Kind regards,



Kristen Desmond

President

LG Professionals Tasmania