

## Managing conflicts of interest of councillors - framework proposal - ADDENDUM

### Personal Interest Returns

A major component of the proposed managing interests framework is the introduction of Personal Interest Returns (PIR) to be submitted by councillors. Currently, both State and Federal Members of Parliament must declare personal interests. Tasmania is the only Australian jurisdiction that currently does not require local government councillors to lodge a PIR that records a councillor's personal interests.

In the interests of accountability and transparency, the framework proposes that PIRs, or summaries providing agreed details of declarations, should be made publicly available. This would follow best practice and be consistent with current arrangements in most other Australian jurisdictions.

Appendix A of the *Managing conflicts of interest of councillors - framework proposal* discussion paper includes an example of a PIR for consideration and feedback, being a copy of the Registration of Members' Interests applied to Members of the Federal House of Representatives.

By way of a second example for consideration, the questions Tasmanian Members of Parliament must answer when completing their annual personal interest returns as required by the *Tasmanian Parliamentary (Disclosure of Interests) Act* are included as Appendix A to this addendum.

These Federal and Tasmanian frameworks are examples of existing frameworks used to manage conflicts of interest. They are included to demonstrate the range of personal interests that could be declared under a new framework for councillors, and the types of exemptions that could be included, all based on current operational frameworks.

As such, they provide a starting point for discussion, and a place from which stakeholders can indicate the types of options they would support or oppose. The Government will develop a proposal based on these frameworks and any other elements raised during consultation and informed by submissions.

### Liabilities and debt

For the avoidance of doubt, the *Managing Interests* discussion paper does not propose that councillors should declare the dollar amount of any debt or liability that they have.

Any requirement to declare a debt or liability would be based on the need to avoid actual or potential conflicts of interest with a councillor's duties. In line with both the Tasmanian and Federal frameworks, only the source of a debt would need to be disclosed so that actual or potential conflicts of interest could be identified.

When considering how to manage this issue, the exemptions for the declaration of liabilities, taken from the Tasmanian Disclosure of Interests Act provide an example that will be considered alongside of feedback raised in submissions. These exemptions include where:

- the debt arises from a loan of money and the Member or a spouse of the Member is liable to pay the debt to an authorised lending institution (for example a commercial bank or credit union).
- the amount of the debt did not exceed \$500 unless the debt was one of two or more debts and the amounts to be paid exceeded, in the aggregate, \$500.

- the debt is payable to a relative.
- the debt arises from the supply of goods or services that were supplied in the ordinary course of any occupation of the Member or their spouse.

### **Other earnings**

Further clarity has been sought on what might be included in a requirement to report 'other earnings'.

Sources of earnings for a councillor could represent a clear pecuniary interest in a matter. As such, sources of earnings of councillors are likely to be important for accountability, transparency and ensuring that conflicts of interest can be avoided. Accordingly, both the State and Federal requirements for the declaration of 'other earnings' tend to have few exemptions to the reporting of other earnings.

Exemptions for the reporting of earnings for Tasmanian MPs and their spouses only include:

- Income received as remuneration under the Parliamentary Salaries, Superannuation and Allowances Act 2012 or
- If it does not exceed \$500 from a single source within the return period.

In line with both the Tasmanian and Federal frameworks, it is not proposed that the specific value of the earning should be disclosed.

### **The 'nature' of interests**

The 'nature' of an interest refers to the type of interest it is and requires a brief description of the interest for it to be identified and classified.

For example, in the framework for Federal MPs, requirements for disclosure:

- Where the 'nature of any other substantial sources of income' must be declared, it means income from employment or business undertakings and from investments, annuity arrangements, pensions or under governmental assistance schemes.
- Where an indication of the nature of a partnership is required it means the level of the person's current involvement in the partnership such as 'financial', 'consultant', etc.
- Where an indication of the nature of the liability is required, it means the type of liability or debt such as mortgages, hire-purchase arrangements, personal loans or overdrafts.

In line with both the Tasmanian and Federal frameworks, it is not proposed that the specific monetary value of an 'interest' be disclosed.

### **Discussion Questions**

To assist with submissions, it is suggested that respondents consider providing feedback on the following questions:

- In line with a principles-based framework, what standards should apply to Tasmanian councillors?
- What elements of the Tasmanian and Federal frameworks should be adopted in a new framework for councillors in Tasmania, and why?
- What elements of the Tasmanian and Federal frameworks should not be adopted in a new framework for councillors in Tasmania, and why?

## **APPENDIX A – Examples of disclosure requirements**

As an example for consideration and feedback, below are questions that Tasmanian Members of Parliament are required to answer when completing their annual returns according to the *Tasmanian Parliamentary (Disclosure of Interests) Act 1996*

### **Sources of income**

Did you, or your spouse, receive any income in the annual reporting period, excluding income received as remuneration under the *Parliamentary Salaries, Superannuation and Allowances Act 2012* (Tas)?

Answers should note the person or entity from which income was received and why the income was received.

### **Real property**

Did you, or your spouse, hold any interest in real property (whether or not in Tasmania) during the annual return period?

Answers should provide the suburb or locality and postcode of each parcel of real property and describe the type of ownership (eg sole legal title, legal title with someone else), and what the interest is (eg sole owner, joint tenant).

### **Interests and positions in corporations**

Did you, or your spouse, hold any interest or any position in any corporation (whether remunerated or not) during the annual return period?

Answers should provide the name and address of the corporation, the nature of the interest eg shareholder, and a description of the position held (if any).

### **Debts**

Were you, or your spouse, liable to pay any debt during the annual return period?

Note the exemptions outlined in the addendum.

For liabilities that are not exempt, answers should include the name and address of each person or entity to whom a debt was liable to be paid.

### **Positions in trade unions and professional or business associations**

Did you, or your spouse, hold any position in any trade union or professional or business association, whether remunerated or not, during the annual return period?

Answers should provide the name of each trade union and association and a description of the position held.