



Our Ref: DOC/24/420
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Attention: Managing interests framework
Office of Local Government
Department of Premier and Cabinet
GPO Box 123
HOBART TAS 7001

EMAIL ONLY: lgconsultation@dpac.tas.gov.au

Dear Minister Street

SUBMISSION IN RELATION TO MANAGING INTERESTS FRAMEWORK

Thank you for the opportunity to comment on the Managing conflicts of interest of councillors - framework proposal / discussion paper. Dorset Council are supportive of a new framework as there is a need to improve of the current conflicts of interest framework. The work conducted to date is a step in the right direction to improving on the current conflicts framework and the work to date by the working group is acknowledged.

Dorset Council is pleased to provide the following feedback which is centred on page 7 and 8 of 24 which proposes changes to managing conflicts of interests of councillors.

Proposed change and Council response	Page
Proposed change: 1. This framework introduces six guiding principles: 1) integrity 2) impartiality 3) transparency 4) accountability 5) proactivity and responsiveness 6) consistency. Council response: Council support the guiding principles.	9
Proposed change: 2. Currently in Tasmania, pecuniary (financial) conflicts of interest are regulated through the Local Government Act 1993 (the Act). Non-pecuniary interests are regulated through the Code of Conduct. Under this proposed framework, all conflicts of interest will be regulated through the Act and will be classified either as actual, perceived or potential conflicts of	11

<p>interest. For this reason, the Code of Conduct Panel would no longer assess alleged conflicts of interest and all types of conflicts of interest may be either pecuniary or non-pecuniary.</p> <p>Council response: Council support the proposed change.</p>	
<p>Proposed change: 3. Councillors will be required to disclose both the fact that they have a conflict of interest and the nature of the conflict of interest before a council meeting, workshop, agenda briefing or other forum where the matter would be discussed.</p> <p>Council response: Council support the proposed change.</p>	14
<p>Proposed change: 4. After disclosing an actual conflict of interest, councillors must exclude themselves from meetings, workshops, agenda briefings or other forums during discussion on the matter. Councillors with an actual conflict of interest will have restricted or no access to deliberative material and information on those matters.</p> <p>Council response: Council support the premise that councillors exclude themselves from meetings, workshops, agenda briefings or other forums during discussion on the matter after the disclosure of an actual conflict of interest.</p> <p>The restriction of, or no access to deliberative material and information is problematic from various angles, including:</p> <ul style="list-style-type: none"> i.) For a councillor to be able to assess a conflict of interest they may need to view the materials initially. ii.) How will material be managed that has already been provided to elected members prior to any formal knowledge of a conflict of interest? For example this could arise when new business is listed on a workshop agenda. iii.) How will material be managed where it is publically available? For example Council meetings, or other public forums, documentation is readily accessible by the public. iv.) The working group may wish to review how best the new framework can stop collusion, or undue influence from conflicted councillors onto the remaining elected constituents? 	14
<p>Proposed change: 5. After disclosing a perceived or potential conflict of interest, councillors must exercise their own reasonable judgment as to whether or not to participate. In certain circumstances, it may be appropriate for the Council to overturn a councillor's decision to participate.</p> <p>Council response: Council supports the proposed change in principle, however the term "reasonable judgement" is subjective and should be clearly defined within the framework. The ability for a Council to overturn a councillor's decision to participate will require clear policy. This</p>	14

element of the framework could open up the Council to challenge from the impacted councillor and also lead to eroded working relationships amongst the councillors.	
<p>Proposed change:</p> <p>6. The management of perceived and potential conflicts of interest needs to be flexible to reflect the variety and broad scale of conflicts that could be included. Changes to the Act will be considered to empower the Minister to introduce guidance around how assessments and judgements are made and the types of management options that are available, especially if a perceived or potential conflict of interest is disclosed.</p> <p>Council response:</p> <p>Council support the proposed change.</p>	14
<p>Proposed change:</p> <p>7. This proposed framework introduces new arrangements for submitting and managing personal interest returns. Councillors will be required to submit an initial personal interest return shortly after being elected to council. Councillors will also be required to submit an annual Personal Interest Return on a fixed date, through their term.</p> <p>Council response:</p> <p>Council support the proposed change, with the proviso that any personal information, or commercial-in-confidence information is appropriately redacted. The working group may wish to determine whether there is expectation council officers monitor the Personal Interest Returns and foresee these actual, perceived or potential conflicts? This may lead to certain conflicts “falling through the cracks”.</p>	15
<p>Proposed change:</p> <p>8. Where a personal interest return discloses an interest that will foreseeably give rise to a conflict in the council, councillors will be required to develop a Proactive Management Plan including pre-arranged actions and strategies to manage the foreseeable conflict.</p> <p>Council response:</p> <p>Council support the proposed change, however suggest appropriate training and pro-forma plans are provided to councillors via the Local Government Office to ensure consistency across the sector.</p>	15
<p>Proposed change:</p> <p>9. In the interests of accountability and transparency, this framework proposes that Personal Interest Returns and Proactive Management Plans (or summaries providing agreed details) should be publicly available.</p> <p>Council response:</p> <p>Council support the proposed change. There must be clear guidance provided by the Local Government Office to ensure consistency in disclosures across the sector.</p>	16
<p>Proposed change:</p> <p>10. Updated penalties under this framework may include fines, dismissal from office, and prison terms.</p> <p>Council response:</p> <p>Council support the proposed change.</p>	17



The proposed changes are a step in the right direction. In addition to the above council responses, a further two responses are made:

- Education will be the key to sector success of the new framework. Education in relation to appropriately managing conflicts should be mandatory for councillors and senior council officers. Both should have training within a year of being elected, or starting with council, as relevant. Thought should also be given by the working group as to the appropriate timing of refresher courses into the topic. These may be every two or three years, depending on the bulk of the library of case studies and precedents as the new framework goes live and is utilised by the sector.
- In the past the terms, “reasonable judgement” or “reasonable person” have proven problematic and must be clearly defined within the framework.

If you have any queries regarding this submission, please contact me via phone: 03 6352 6500 or email: gm@dorset.tas.gov.au in the first instance.

Yours sincerely

John Marik
General Manager