

## Department of Premier and Cabinet

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Dear Mr *Michael* Easton

### PROPOSED MODEL FOR REFORMING LOBBYING OVERSIGHT IN TASMANIA

Thank you for your letter of 13 June 2023, seeking written feedback on the *Framework report - model for reform of lobbying oversight in Tasmania*. Thank you also for agreeing to an extension of time for me to provide my response to you. I also acknowledge the assistance of the Integrity Commission in discussing the proposed model at officer level with officers from the Department of Premier and Cabinet which helped shape my response to you.

It is important the Integrity Commission develops a model for lobbying oversight which includes efficient, cost-effective measures which address the real risks to ethical and transparent decision-making by public officials. Since the previous draft framework report, the Integrity Commission has made progress towards achieving a balance between transparency and accountability in decision-making and the associated administrative requirements.

In relation to the revised recommendations, I offer the following comments:

#### Model reform recommendations that are supported

There are no additional concerns about the Commission's recommendations in relation to:

- **Definition of a 'registered lobbyist'** – now includes in-house lobbyists.
- **Additional obligations for lobbyists** – for example to act in good faith, inform public official of any conflict of interest, not divulge confidential information.
- **Minimum standards for public officials in relation to interacting with lobbyists** – for example, information that would produce unfair advantage must not be divulged, preferential treatment and/or access to particular individuals or groups must not be given.
- **Gift giving between lobbyists and public officials is banned** – with the proviso that the existing Gifts, Benefits and Hospitality Policy provides sufficient guidance for State Servants or could be amended to specifically mention lobbyists.
- **The acceptance of success fees paid from clients to lobbyists is banned** – does not apply to the State Service.

- The cooling-off provision remains at 12 months but applies to all public officials and relates specifically to the portfolio area in which they previously worked – now applies to the broader definition of ‘public official’.
- ‘Dual hatting’ – public officials are restricted to being party to lobbying activities by lobbyists who previously advised them on electoral campaigns for a period of 12 months after being elected – does not apply to the State Service.

## Suggested amendments to model reform recommendations

### Definition of ‘lobbying activities’

Addition of the words ‘advocate for’ broadens the definition of what constitutes lobbying activities which may have the unintended consequence of capturing individuals writing to public officials with their views on particular issues, for example the proposed AFL stadium and Mount Wellington Cable Car, concerns about ambulance ramping, logging in old growth forests, or the potential effects of the salmon industry on Tasmania’s marine environment, and the subsequent need to disclose this correspondence on the lobbying Contact disclosure log. A review of definitions of lobbying activities in other Australian jurisdictions only refers to influencing not advocating. It is suggested that the Commission considers removing the words ‘advocate for’ from the definition.

### Exemptions from the definition of ‘lobbying activities’

In any given year, public officials receive thousands of pieces of correspondence from individual members of the public on a broad range of issues. As the definition of lobbying activities is currently expressed, it is unclear if this correspondence will be captured as a lobbying activity. If this type of communication does fall within the definition of lobbying activities, there may be an unintended consequence of being an administrative burden for public officials in documenting large volumes of communications in the Contact disclosure log. It is suggested that for the avoidance of doubt, the definition of ‘lobbying activities’ could be further strengthened by excluding one-off communications between general members of the public and public officials expressing their views on a particular issue.

### Definition of a ‘lobbyist’

The proposed definition is still substantially different from the current definition in that no categories of persons or organisations are excluded. Victoria, Western Australia and the Commonwealth have the same exemptions as Tasmania’s current definition, and New South Wales has similar exemptions. I understand that the Commission’s intention is to oversight professional lobbying by third-party and in-house lobbyists rather than that of general members of the public expressing their views to public officials. The concern is that this broader definition as currently expressed will have unintended consequences of public officials being required to document this class of communications on the Contact disclosure log.

### Entity information required for the Register

There are no specific issues with the proposed expanded entity information required for the Lobbyist Register, with the exception of the requirement to disclose political donations. Disclosure of political donations should be managed under the new electoral disclosure and funding legislation, rather than having separate and possibly different disclosure parameters in the lobbyist register. That is, lobbyists should not need to report political donations twice.

## Contact disclosure log

This is a major change as under the existing Lobbying Code of Conduct there is no requirement to disclose contact with third-party lobbyists. The combination of the broader definitions of 'lobbyist', 'lobbying activities' and 'public official' means that the reporting requirements for public officials on the Contact disclosure log will be significant and potentially administratively burdensome. It is suggested that amendments to the definitions outlined above could assist with ensuring compliance with the reporting and disclosure requirements.

Thank you for providing me with the opportunity to comment on the *Framework report - Model for reform of lobbying oversight in Tasmania*. I look forward to seeing the final version of the model.

Kind regards



Jenny Gale  
**Secretary**

10 August 2023