

DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES REPORT

14th November 2006

DSDS3 PECUNIARY INTEREST EXEMPTIONS - STANDARD LEP FILE: 629 RBP

SUMMARY:

Reporting that councillors may be required to seek a pecuniary interest exemption in order to facilitate Council's consideration of the proposed standard LEP currently being prepared for the Shire.



Council recently received a Circular from the Department of Local Government advising of the possible need for councillors to seek an exemption under Section 458 of the Local Government Act 1993 in order to facilitate Council's consideration of the proposed standard LEP currently being prepared for the Shire. [\(Appendix D\)](#)

Pecuniary Interests

Section 448(g) of the Act provides that councillors are required to declare a pecuniary interest where they have a proprietary interest when considering the making, amending, or repealing of an environmental planning instrument that affects a change in permissible uses of:-

- Land in which a person, company or body referred to in Section 443(1)(b) or (c) has an interest, or
- Land adjoining, adjacent or in close proximity to that land. [\(Appendix E\)](#)

The new standard LEP being prepared relates to the whole of the Shire and is likely to include changes that affect permissible uses on most, if not all land, including land in which councillors may have a proprietary interest.

In developing the LEP, Council will be required to decide on various options available to control different types of development. As a result, it is likely that some councillors may be faced with a pecuniary interest that would preclude them from being involved in the process.

The DLG recognises the potential difficulties this could pose for councils in forming the necessary quorum.

Section 458 provides that the Minister may allow exemptions for councillors with a pecuniary interest to participate and vote if the number of affected councillors would prevent consideration of the LEP. [\(Appendix E\)](#)

Should a councillor consider that they are likely to have a pecuniary interest in considering the LEP, it will be necessary to advise the General Manager in order to determine whether a quorum can be formed when considering the LEP.

If it is necessary to apply for an exemption, affected councillors will need to sign an application including the information detailed in the Department's letter. [\(Appendix E\)](#)

REPORT IMPLICATIONS:

- *Environmental*

Nil

- *Social*

Nil

- *Economic (Financial)*

Nil

- *Policy or Statutory*

Section of 448(g) of the Local Government Act requires that a councillor's interest must be disclosed when considering an environmental planning instrument that effects a change in permissible land uses.

Section 458 allows the Minister to approve councillors who have a pecuniary interest to participate and vote on such an item when the number of councillors prevented from voting would be so great a proportion of the whole as to impede the transaction of business.

An application for an exemption is required in order to ensure that councillors comply with the requirements of the Act relating to pecuniary interests to allow preparation of a new LEP for the Shire.

RECOMMENDATION:

That the information be noted.

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R B Pitt
DIRECTOR SUSTAINABLE DEVELOPMENT SERVICES