

Councillor Conduct Tribunal decision

30 May 2019

Key issue: Conflict of interest: meaning of ‘no greater interest in the matter than that of other persons in the local government area’

The Councillor Conduct Tribunal has decided that two councillors did not have a conflict of interest in circumstances where they were satisfied that the councillors had “no greater interest in the matter than that of other persons in the local government area”.

However, the Tribunal suggested that in any similar future situation the councillors should consider disclosing a personal interest in that matter at a council meeting. Disclosing an interest at a meeting would enable the interest to be recorded making the councillor’s interest transparent and would also potentially avoid complaints of alleged misconduct, which can be stressful to a councillor and costly to the council.

Councillor 1:

It was alleged that a councillor failed to declare a conflict of interest as the owner of a business in a small town while approving streetscaping improvements to be implemented as part of the Our Towns Program in a council meeting.

The Our Towns Program included landscaping and other beautification works adjacent to the councillor’s business.

The Councillor Conduct Tribunal considered the overall purpose of the Our Towns program and the benefits of the plan to the town. It was noted that the benefits were of a general nature improving or maintaining the environmental ambiance of the town centre.

The CCT held it could be seen that the councillor did have an interest in the improved town centre environment, but it was satisfied that the program benefitted the community as a whole and did not give any individual property or business owner an advantage over another.

The complaint was not sustained.

Councillor 2:

It was alleged that a councillor failed to declare a conflict of interest when voting on matters related to the same development application over four council meetings.

The development application involved a material change of use of a rural acreage property, described as “low impact industry and outdoor sales”. The property the subject of the application was in the vicinity of a property owned by the councillor in a nearby residential development.

The Tribunal noted that although it might be deemed the councillor had a personal interest in the outcome of the development application in considering all of the facts of this matter, such an interest was minor. The tribunal also considered that in the circumstances the councillor had no greater interest in the matter than that of other persons in the local government area.

The Tribunal considered that whilst the properties, at their closest points are approximately 200 metres apart, they were significantly separated in a number of ways including that;

- they were on opposite sides of a highway
- they were accessed by separate roads
- there was limited visibility of the subject property from the councillor's property and
- the councillor's property was considered to be outside the affected area according to the Planning Scheme.

The tribunal noted that the interest may have been deemed greater if both properties had been on the same side of the highway or if the Councillor's property fronted onto the highway where truck transport access issues connected with the property that subject of the development application may be a concern.

The tribunal appeared to reject the view expressed by the complainant that approval of the development application could have influenced the value of the councillor's property, which was then on the market.

The complaint was not sustained.

Councillor Conduct Tribunal decisions can be found [here](#).