



Minister for Local Government,  
Minister for Racing and  
Minister for Multicultural Affairs

Our ref: MC20/2379

Your ref: A552500

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8 May 2020

Mr Neil Laurie  
The Clerk of the Parliament  
Queensland Parliamentary Service  
[TableOffice@parliament.qld.gov.au](mailto:TableOffice@parliament.qld.gov.au)

Dear Mr Laurie

Thank you for your letter of 23 April 2020 regarding petition number 3232-19, received by the Queensland Legislative Assembly on 22 April 2020 about the structure and commercial interests of the Local Government Association of Queensland Ltd (LGAQ).

The Queensland Government is delivering a rolling reform agenda in the Local Government sector. New reforms since 2018 strengthen the transparency, accountability and integrity measures that apply to the system of Local Government in Queensland and follow the release of the Belcarra report. Many of the reforms have focussed on Councillor conduct, including:

- introducing a uniform Code of Conduct for Councillors in Queensland
- model meeting procedures for meeting behaviour
- a new Councillor complaints management regime
- creation of the Office of the Independent Assessor (OIA)
- the prohibition of developer donations.

Further reforms are proposed in the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019, which was introduced into the Legislative Assembly in November 2019, including:

- changes to Councillor register of interest requirements
- new and clarified Councillor conflict of interest requirements.

In relation to the specific issues raised by the petitioners about the LGAQ, I can advise that the LGAQ is incorporated under the *Corporations Act 2001* (Cwlth) (the Corporations Act) as a public company limited by guarantee. Under its objects of incorporation, it is incorporated principally to represent Local Government in its dealings with other Governments, unions, businesses and the community. Its additional objects of incorporation include 'providing and facilitating the provision of goods and services' to its member Councils. Accordingly, it would not appear that the LGAQ's commercial interests and operations are inconsistent with its objects of incorporation.

Although the LGAQ is 100 per cent Council-owned, as it is incorporated under the Corporations Act, it falls within the jurisdiction of the Australian Securities and Investments Commission (ASIC). The Queensland Government does not have any jurisdiction over a company incorporated under the Corporations Act in relation to matters covered by that legislation, such as its corporate structure or its objects of incorporation.

However, the Corporations Act imposes a number of fiduciary duties on Directors of entities incorporated under that legislation. Individuals appointed as Directors of companies must comply with the Corporations Act in carrying out their duties. Under the Corporations Act, Directors are required to:

- act in good faith and for a proper purpose
- act with care and diligence
- avoid improper use of information
- avoid improper use of position
- disclose certain interests.

Breach of statutory duties draws penalties under the Corporations Act which range up to \$200,000. Under both the common law and the Corporations Act, officers may also be required to pay compensation or to account for profits. In some cases, Directors may also be disqualified from office.

If the petitioners believe that a Director of the LGAQ has breached one or more of their fiduciary duties, then they should refer those matters to ASIC. Contact details for ASIC are available on its website at [www.asic.gov.au](http://www.asic.gov.au).

However, the Directors of the LGAQ and members of its Policy Executive are generally serving Councillors. As Councillors, their conduct is subject to the Councillor conduct provisions of the *Local Government Act 2009* (LGA) and *City of Brisbane Act 2010* (COBA) and the other provisions under that legislation relating to the obligations of Councillors, including the provisions relating to material personal interests and conflict of interests.

If the petitioners believe that a Councillor, who is a Director of the LGAQ or a member of its Policy Executive, has engaged in conduct which could constitute inappropriate conduct, misconduct or corrupt conduct or has breached a provision of the LGA or COBA in relation to their joint role as a Councillor and as a LGAQ Director or member of the Policy Executive, then they should refer alleged inappropriate conduct or misconduct as defined in the LGA to the OIA. Contact details for the OIA are available on its website at [www.oia.qld.gov.au](http://www.oia.qld.gov.au). For alleged corrupt conduct, as defined under the *Crime and Corruption Act 2001*, a complaint may be made to the Crime and Corruption Commission via its website at [www.ccc.qld.gov.au](http://www.ccc.qld.gov.au).

I would like to thank the petitioners for raising this matter with me and I trust this information is of assistance.

Yours sincerely



**STIRLING HINCHLIFFE MP**  
**Minister for Local Government,**  
**Minister for Racing and**  
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