

# Victorian Local Governance Association



# Leading Edge Forum

## 2 April 2009



**Working with the new Conflict of Interest Requirements**



**Speaker**  
**John Rantino is next...**



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# **VLGA Leading Edge Forum**

## **Working with the new conflict of interest provisions**

**John Rantino | Partner**

April 2009



## Conflict of Interest - Direct

- Reasonable likelihood of altering benefits, obligations, opportunities or circumstances
- benefit or loss measurable financial terms
- affect on residential amenity





# Conflict of Interest - Indirect

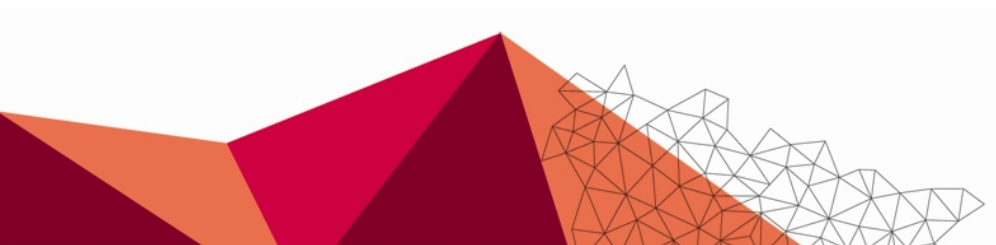
- By association
- By indirect financial interest
- By conflicting duty
- By applicable gift
- By becoming an interested party





# Personal and Private Interest

- As opposed to a conflict of interest
- As opposed to conflicting personal interest
- As opposed to strongly held views





## When is a personal / private interest a conflict of interest?

- “The private interest must intersect or overlap with a person’s official duty”.
- If the interest “might compromise their ability to act in the public interest”
- Only applies to “a particular type of personal interest”





## Best Practice Disclosures

- While the rules only require conflicts of interest to be disclosed in defined circumstances, as discussed in the previous Parts of this Chapter, it is good practice to make your interests known to other people in any situation where there might be a perception that you might unduly influence an outcome



## Best Practice Disclosures cont...

- Best practice disclosures should be made in other meetings or gatherings where Council decisions are discussed and in any interaction with an officer who is likely to exercise a delegation in relation to the matter





# When is personal / private interest a conflicting personal interest

- Where the **councillor or committee member considers** that personal interest is in conflict with his or her public duty (s.79B)
- No obligation to apply to be exempted





# When is a strongly held interest a conflicting duty?

- No statutory provision dealing with strongly held views
- Could be a section 79B conflicting duty
- Could require exemption at common law





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**Speaker**  
**Cr Rose Iser is next...**



# AN INTEREST IN CONFLICTS

Cr Rose Iser

# THE GOAL?

- a clearly codified position
- on when councillors need to speak up or step out
- based on an ethical rationale
- that makes sense to community representatives



# WHAT DO WE NEED TO AVOID?

- Interference with our objective professional judgment
- The appearance of such interference
- Undermining public confidence in our council
- Exploiting our official capacity for personal benefit
- Influencing the outcome of a decision for our personal benefit



# PROBLEM SPOTS?

- Gifts
- Close association
- Residential amenity
- Indirect financial interest
- Conflict of duty
- To whom laws apply
- Bias



# APPLICABLE GIFTS

- Bribery?
- Existing declarations?
- \$200?
- 5 yrs?
- Retrospective?



# CLOSE ASSOCIATION

- Measure = relationship
- Domestic partner's indirect interests?



# RESIDENTIAL AMENITY

- How far away?
- Direct interest of relatives?



# INDIRECT FINANCIAL INTEREST

- Third party has an interest in the matter
- Direct or indirect

- Cr will receive benefit or loss as result of benefit or loss to third party
- Measured in financial terms

- Cr likely to receive benefit or loss

Net result



# CONFLICT OF DUTY

- Ethically sound?
- Councillors are active community participants
- Another test? 'But for' the Cr's involvement...



# OTHER CONCERNS

- To whom provisions are applicable
- Bias

- Disclaimer: All gifts of VLGA are to be considered awkward gifts received by you on behalf of your Council!



**Thank you and good night!**



# **Victorian Local Governance Association**

**Connecting Communities  
Strengthening Democracy**