



Recognising and upholding excellence in local government

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20 May 2019

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Email: egc@parliament.qld.gov.au

Dear Secretary

Subject: *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019*

OSCAR (Organisation of Sunshine Coast Association of Residents) is the peak body representing 40 resident and community organisations on the Sunshine Coast. We are a non-partisan and not-for-profit incorporated association.

The Economics and Governance Committee (EGC) is currently considering the proposed reforms to the local government legislative framework as listed below. For each proposed reform, OSCAR has indicated its view on the matter (below each heading) for the consideration of the members of the EGC.

The explanatory notes state that the objectives of the Bill are to implement:

- the second stage of the government's response to the recommendations of the Crime and Corruption Commission's report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (Belcarra Report), following the commencement of the *Local Government Electoral (Implementing State 1 of Belcarra) and Other Legislation Amendment Act 2018*
- the government's response to certain recommendations of the report of the Independent Panel, *A review of the conduct of the 2016 local government elections, the referendum and Toowoomba South by-election* (Soorley Report), and
- other reforms to improve diversity, transparency, integrity and consistency in local government in Queensland.

We note that these recommendation largely reflect the recommendations of Operation Belcarra and the Soorley Report and we endorse the amendments that go beyond those recommendations where appropriate; particularly to ensure consistency of policy between councils and across the three tiers of government in Queensland and to improve ***diversity, transparency, integrity and consistency*** in local government.

Our response to the proposed reforms is outlined on the following pages:

Implementing real time disclosure of electoral donations (Belcarra recommendation 2)

Strongly support provided the \$500 threshold applies to cumulative donations and expenditure from/to the same source as well as one-off items.

Based on the following information provided to OSCAR in an email from the LG Reform team of the Department of Local Government, Racing and Multicultural Affairs (DLGRMA, the Department) on 14 March 2019 from the Department:

“The obligation to disclose in real time donations from a single donor is triggered when the total donations from that donor reach the threshold of \$500 (so, for example, if a donor made three separate donations of \$200, on receipt of the third donation the candidate would be required to disclose receipt of \$600 from that donor).

All donations, including those less than \$500, will need to be reported by candidates on their electoral finance returns after the conclusion of the election.

The same principles and requirements apply to electoral expenditure.”

we are confident that is the intent of the amendment.

Requiring candidates to undertake training as a condition of their nomination (Belcarra recommendation 12)

Strongly support.

OSCAR maintains its previously expressed view that re-nominating Councillors should also be required to attend mandatory training. We see ongoing evidence, in the two councils we monitor, that sitting Councillors are often not aware of the legislative requirements of their role – particularly when changes in legislation occur during a term of council.

We also believe the timeliness of training is important; the Department should start candidate training as soon as possible so all potential candidates have the opportunity to undertake it well before nominations are called – ideally commencing no later than early in October 2019.

We are comfortable with the suggestion that this training could be effectively delivered via face-to-face sessions or via web based delivery (particularly where it is time critical) or a combination of both.

Requiring candidates to disclose particular interests when nominating as a candidate, including membership of a political party (Belcarra recommendations 3 and 4)

Strongly support.

Providing that candidates can only participate in group campaign activities where they are members of a group or political party (for greater transparency regarding cooperative or collective campaigning activity – Belcarra recommendation 5)

Strongly support.

Requiring candidates to provide details of dedicated campaign bank accounts when nominating and prohibiting candidates and groups of candidates from using credit cards to pay for campaign expenses (Belcarra recommendations 14 and 15)

Strongly support.

Refining the processes for managing a conflict of interest, to provide councillors with more certainty and clarity (including introducing prescribed conflicts of interest)

Strongly support these amendments in general. We agree with the notion of prescribed and declarable conflicts of interest and the actions councillors/councils must follow in each case.

Based on our understanding of the issue of “ordinary business matters” is correct we do not support that these matters will be excluded from the operation of the conflict of interest provisions however; this is the main area of concern for us in relation to conflicts of interest.

The notion of “ordinary business” needs to be removed from the legislation or there needs to be a new and tighter definition of “ordinary business”. We believe it is totally inappropriate that planning scheme matters are regarded as ordinary council business and therefore currently exempt from conflict of interest provisions.

Under the existing legislation we believe a Councillor is not deemed to have a conflict of interest even if they own property that is impacted by a new Planning Scheme, or an amendment to an existing scheme, on which they are voting (beyond an interest that is no greater than other individuals in the area), and which has the potential to impact on the value of that property. Nor would the past receipt of a donation from a developer or individual who had a financial interest in a parcel of land trigger a conflict of interest declaration.

In our view, if our interpretation is correct, this is inconsistent with the principle of transparency and therefore totally unacceptable.

Requiring further information around declaring gifts, loans, donations and third party expenditure, and prescribing additional notification requirements to clarify and support compliance with disclosure obligations (Belcarra recommendations 6, 18 and 19, 7 and 21, 8, 10)

Strongly support.

Amending the councillor complaints framework to streamline investigations where there are related allegations of corrupt conduct, and applying the council complaints framework to the Brisbane City Council (BCC) in addition to all other local governments

Strongly support.

Consistency between all local government entities in Queensland is desirable.

Prescribing additional integrity offences (Belcarra recommendations 29 and 30)

Strongly support.

Strengthening the existing State intervention powers in in chapter 5, part 1 of the Local Government Act 2009 and applying the full suite of State intervention provisions to the BCC

Strongly support. The Minister must have the legislative power to act in the way that has resulted in the dismissal of the Ipswich and Logan City Councils.

We accept that the term “public interest” is not defined at this stage in order to allow the phrase to evolve over time to reflect community expectations but trust that the DLGRMA will develop a more definitive list of factors that determine public interest.

Again, consistency between all local government entities in Queensland is desirable.

Removing powers of mayors (other than for the BCC) in relation to budgets, the appointment of senior executive employees and directions to the chief executive officer and senior executive employees, and providing for a record of directions issued by the mayor to the chief executive officer

Strongly support the proposed changes.

The Register of Directions that records Mayoral directions to the CEO; must be a **publicly** available and should include a reference to the appropriate Council policy under which the direction is given.

Improving access to information for all councillors and providing for greater transparency regarding BCC decision-making

Strongly support the amendments proposed.

Again, consistency between the LGA and the COBA is desirable, as is the removal of the exemption in the RTI Act relating to the BCC.

Extending the prohibition on publishing or distributing election material during a caretaker period to include local government-controlled entities and prescribing additional decisions that councils are prohibited from making during a caretaker period

Strongly support.

We support a limit of \$200,000 but believe the 1% of rates option is too generous and should be removed or amended to say “contracts of more than \$200,000 or 1% of rates, whichever is lower”. In the case of larger councils, such as the Sunshine Coast Regional and Moreton Bay Regional Councils, for example, based on their General Rates revenue (as shown in their Annual Reports, 2017/2018) this would allow contracts in excess of \$2,000,000 being potentially entered into (\$2,150,690 and \$2,428,950 respectively). These amounts are far too high to be committing a new council to during the caretaker period.

Mandating full preferential voting for mayoral and single councillor elections

Strongly support this provision as a much fairer system of voting that allows electors to express their preference for candidates other than their preferred candidate if that candidate proves unsuccessful.

We also endorse any amendment that seeks to align Federal, State and Local Government election methodologies to ensure consistency across jurisdictions.

We can see no evidence that this reform will result in an increased party presence in councils, particularly ones that do not have a tradition of party politics such as Noosa and Sunshine Coast Regional Councils with which we are most familiar.

We also support preferential voting for undivided councils and note the Government’s intention to introduce this for the 2024 local government elections.

We further note that the proposed recommendation is now for **partial** preferential voting; this is something OSCAR has advocated for previously and it will counter the argument that full preferential voting will result in confusion, lengthy ballot papers, increased informal voting etc in undivided councils (the LGAQ has already run a scare campaign along these lines). We understand that under this methodology, electors would be only required to number candidates on a ballot paper from 1 to the number of candidates to be elected for their vote to be formal (eg in the case of Noosa Council, candidates must be numbered from 1 to 6); of course electors would have the option of voting beyond the number of candidates to be elected if they wished to fully indicate their preferences.

Refining postal vote processes and addressing other operational electoral matters to support more flexible and transparent administration of voting, and to align the State and local government electoral systems

Strongly support.

Introducing new requirements relating to councillors’ registers of interests, to align with the requirements applying to State Members of Parliament

Strongly support.

Again, consistency between all tiers of government in Queensland is desirable.

Clarifying that a proposed ‘local government change’ could request multi-member divisions

Support.

We question, however, whether such a request from a council would meet the community test with respect to associated cost!

OSCAR notes that further important reforms have been flagged by the Government but deferred for further stakeholder consultation and we have chosen not to comment on these (eg election expenditure caps, full preferential proportional representation in undivided councils, public campaign funding and handling of councillor vacancies) at this stage, but will continue to make separate representations on these matters and the Regulation amendments also proposed, to the

Department and would urge the State Government, supported by the Economics and Governance Committee, to continue its on-going program of Local Government reform in Queensland.

We would like to also take the opportunity to congratulate the Department's officers who have done an excellent job of consultation through face-to-face meetings, webinars, a helpdesk and information documents that have been clear and comprehensive.

OSCAR wishes the Committee well in its deliberations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Greg Smith', with a stylized flourish at the end.

Greg Smith
President, OSCAR

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