

Lockyer Valley Regional Council



Submission to the Economics and Governance Committee Inquiry into the Draft Local Government (Dissolution of Ipswich City Council) Bill 2018

24 July 2018

Introduction

The Economics and Governance Committee of the Parliament of Queensland is conducting an Inquiry into the Draft Local Government (Dissolution of Ipswich City Council) Bill 2018. The policy objectives of the Bill are to dissolve the Ipswich City Council (ICC) and provide for the appointment of an interim administrator to act in the place of the ICC Councillors for an interim period.

This Submission is made by the Chief Executive Officer of the Lockyer Valley Regional Council (LVRC) in response to a number of concerns relating to the Draft Bill. LVRC has been concerned for some time over the alleged behaviour of a number of Councillors and Officers from ICC that has been reported in the press. It is understood there are a range of legal proceedings on foot. It is important to note that Council has no view on the merits or otherwise of the matters that are before the Courts. Council is in favour of these matters being dealt with in accordance with existing legislative framework.

Council does not support the Bill as currently drafted. Despite Council's apprehension over the allegations against individuals from ICC, Lockyer Valley Regional Council has a number of concerns over the passage of this Draft Bill. In particular, Council has concerns over the speed at which this Bill has been drafted which limits consultation and appropriate review. The Council specific nature of the legislation, the apparent lack of natural justice and the absence of a right of appeal are also issues of concern to Council.

Role of Local Government

Local governments play a significant role in their respective communities and are an integral part of our Australian democracy. The *Local Government Act 2009* establishes the framework for the way in which local government is constituted, defines roles and responsibilities and establishes a system of government that is accountable, effective, efficient and sustainable.

Significantly that legislation also sets out principles that underpin the Act and specifies a framework to ensure local government is accountable and is performing its responsibilities properly.

These principles include:

- (a) Transparent and effective processes, and decision making in the public interest;
- (b) Democratic representation, social inclusion and meaningful community engagement;
- (c) Good governance of and by local government; and
- (d) Ethical and legal behaviour.

It is most important that these principles are adhered to by local governments. These principles should also be adopted by governments in the promulgation of legislation. On that basis Council retains a number of concerns regarding the Draft Bill that are briefly discussed below.

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Council Specific Legislation

Council is cognisant of the amendments made to the *Local Government Act* and other legislation following the review of Councillor complaints legislative requirements and the Crime and Corruption Commission's Belcarra Report. These recent changes to the legislative framework apply to all local governments across Queensland. It is concerning that a Bill is now proposed that targets a specific local government.

It is considered that a legislative framework, especially one that has so recently been reviewed and amended, should be robust enough to deal with breaches without resorting to Council specific legislation. If the existing legislation for local governments is ineffective, the framework for all local governments should be addressed.

Process for Drafting of Bill

The local government principles described above appear to be under some threat if this Draft Bill is to proceed. The Council of Ipswich has been democratically elected. To terminate all Councillors and replace them with administrators raises questions about the nature of Ipswich's democratic representation.

Meaningful community engagement would generally provide for legislation to be provided to stakeholders for consideration and input. The current Inquiry has only allowed a week for submissions. This timeframe would generally be considered insufficient for the purposes of meaningful community engagement.

Procedural Fairness/ Natural Justice

As indicated above, the Council specific nature of the Bill is of concern particularly with respect to the *Legislative Standards Act 1992*. That Act specifies fundamental legislative principles that underlie a parliamentary democracy based on the rule of law. One of those fundamental legislative principles is for legislation to be consistent with the principles of natural justice. The legislation does not provide for procedural fairness for affected parties. Councillors who have their role terminated by this legislation will have no rights under this legislation. The Minister is not required to provide justification for this termination and Councillors will not be given a fair hearing or the opportunity to present their case.

Appropriate Review of Decisions

Another of the fundamental legislative principles relates to ensuring that decisions are subject to appropriate review. This Bill specifically removes any right to judicial review relating to decisions made by Minister to appoint administrators. This approach appears to be distinguished from the general capacity under the *Local Government Act* for the review of decisions.

If this Bill were to proceed, the Minister would have the power to dismiss the entire Ipswich City Council which contains 10 Councillors who have no allegations or charges against them. Further, under this Bill, these Councillors would not be able to seek recourse to the decision.

This approach does not seem to be in consistent with the local government principles outlined above, nor generally in keeping with the intent of the *Legislative Standards Act*. It is not apparent that there are sufficient grounds at this time for such a punitive approach.

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Concluding Remarks

Lockyer Valley Regional Council is concerned about the reputational damage being caused to the system of local government. The matters currently before the Courts and further allegations made against both individual Councillors and officers at ICC reflect poorly on that Council. These matters also potentially undermine confidence in our entire system of local government.

However, Council is also concerned about the potential changes proposed by this Draft Bill. It is considered that the dismissal of the entire ICC without due process will compound the damage being done to our local government system. While the State Government's frustration with these matters is palpable, the approach taken in the draft Bill is concerning for the reasons outlined above. Further, the substance of the draft Bill does not show sufficient respect for this important tier of government. This in turn works to undermine the effectiveness of, and respect for, local governments in our communities.

Local government seeks quality leadership from our elected representatives. If Councillors can be dismissed from democratically elected positions without any wrongdoing, and without any avenue of appeal, it will discourage good people from entering local government.

It is considered that the approach taken with this Bill compounds the problems that have been highlighted at ICC and that the current legal actions underway against individuals from ICC should be allowed to take their course. Given the concerns outlined above, the Bill in its current form is not supported.