



Sunshine Coast Regional Council ABN 37 876 973 913
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25 July 2018

Mr Linus Power MP
Chair, Economics and Governance Committee
Parliament House
George Street
BRISBANE QLD 4000
By email: egc@parliament.qld.gov.au

Dear Mr Power

INQUIRY INTO A DRAFT OF THE LOCAL GOVERNMENT (DISSOLUTION OF IPSWICH CITY COUNCIL) BILL 2018

I refer to the email from the Economics and Governance Committee ("the Committee") Secretariat to Mayor Mark Jamieson of the Sunshine Coast Council ("Council") on 17 July 2018 inviting submissions as part of the Committee's inquiry into a draft of a proposed *Local Government (Dissolution of Ipswich City Council) Bill 2018* ("the proposed draft Bill").

In Mayor Jamieson's absence on leave, I am making this submission on behalf of Council.

Council is of the view that the policy intent of the proposed draft Bill – namely, to effect the dissolution of the Ipswich City Council – is a matter for the Parliament and the Executive Government to determine. Our Council notes however, that the circumstances relating to the Ipswich City Council and the actions of its Mayor and former Mayor, two former Chief Executive Officers, Council contractors and former Council staff have contributed to undermining the reputation and credibility of local governments across Queensland.

Moving beyond the policy intent, our Council holds a comparable view to that recently expressed by the Local Government Association of Queensland (LGAQ) that the intention of the Minister for Local Government to proceed with the dismissal of the Ipswich City Council is profoundly regrettable, if understandable in the circumstances. Our Council also acknowledges the efforts of the LGAQ to advocate to the Queensland Government for a fairer and more robust process for managing its concerns in relation to the Ipswich City Council.

In this context – and in line with the position being pursued by the LGAQ - our Council seeks to raise its concerns with the process that has underpinned the development of the proposed draft Bill and the impact it will have on the democratically elected Councillors of the Ipswich City Council. These matters are canvassed in more detail below for the consideration of the Committee as part of its current inquiry.

Lack of sufficient regard to the institution of the Parliament

Arguably of greatest significance is the unprecedented approach that has been adopted where a Parliamentary Committee has resolved to conduct an inquiry into a draft Bill, acknowledging that this Bill has not yet been introduced in the Legislative Assembly and referred to the Committee to examine. There is an arguable point that this fails to have sufficient regard for the processes and institution of the Parliament. The proposed draft Bill



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has no standing and leave has not been granted by the Legislative Assembly to allow the introduction and first reading of the Bill. The fact that the Committee is conducting an inquiry into a proposed draft Bill prior to its introduction in the Legislative Assembly gives an impression of the Committee's intent to facilitate the truncation of the established process for the consideration and debate of a new (and significant) piece of legislation, prior to the Legislative Assembly having granted leave for the Bill to be introduced.

There does not appear to be any discernible, legitimate reason why the proposed draft Bill needs to be advanced in this manner, other than the desire of the Government to have the legislation in place and the Ipswich City Council dissolved prior to current proceedings in the Supreme Court (which were instituted by that Council) being heard and determined.

Accordingly, our Council raises for the consideration of the Committee and the Legislative Assembly, the appropriateness of engaging in a process that sets a questionable precedent in the context of the role of Parliamentary Committees, the passage of legislation and respect for the institution of the Parliament.

Extent of community engagement

The dissolution of a local government is an action of such significance that our Council believes it should be undertaken in close consultation with the communities that comprise the Ipswich local government area. It is noted the draft Explanatory Notes to the proposed draft Bill do not identify any consultation with the communities of Ipswich in proposing this legislation.

While there have been a number of media statements about the complaints and concerns received by the Minister for Local Government and the Department of Local Government, Racing and Multicultural Affairs in relation to the Ipswich City Council, this alone is not a sufficient community engagement strategy and nor is it a robust barometer of the views of the entire Ipswich local government area – particularly when the intended policy consequence is the dissolution of a democratically elected government. The reliance on this measure as providing the basis for a substantial and ostensibly irreversible action by the Parliament - coupled with the absence of a mechanism that validly tests the sentiment of the electors of the Ipswich local government area - inevitably gives rise to concern about the precedent this creates.

Our Council raises for the Committee's consideration the fact that there are more substantive and robust engagement tools that could (and should) have been relied on to underpin the policy intent of the proposed draft Bill, which in turn would have improved the integrity of the proposed legislation and the action it contemplates.

Appropriateness of frustrating Supreme Court action by Ipswich City Council

Whilst this is not acknowledged in the draft Explanatory Notes for the proposed draft Bill, it is widely understood that its intent is to frustrate current Supreme Court action by the Ipswich City Council to prevent the Minister for Local Government from recommending to the Governor in Council to dissolve the Council under section 123 (3) (a) of the *Local Government Act 2009*. As indicated above, our Council is of the view that the appropriateness of dissolving the Ipswich City Council is a matter for the Parliament and the Executive Government to determine. Council does however, wish to draw to the Committee's attention its concern relating to the effect of the proposed draft Bill to ostensibly set aside the lawful proceedings instituted by the Ipswich City Council in this manner.



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While Council recognises that the Parliament has in the past, seen fit to enact legislation to frustrate or terminate avenues of appeal and/or judicial process, Council remains concerned about the appropriateness of doing so when it involves the continuance in office of a democratically elected government.

Infringement of Fundamental Legislative Principles

Our Council notes that section 4 of the *Legislative Standards Act 1992* prescribes a set of fundamental legislative principles as "...principles relating to legislation that underlie a parliamentary democracy based on the rule of law". There are aspects of the proposed draft Bill that infringe, or do not have sufficient regard for, some of the fundamental legislative principles. While this is acknowledged in part in the draft Explanatory Notes accompanying the proposed draft Bill, the justification and treatment of the infringement of these principles appears to be superficial.

Of particular concern is the proposed draft Bill does not have sufficient regard to the principles of natural justice and could adversely affect the rights and liberties of individuals in that it will (subject to its enactment without amendment) remove from office persons who have not been charged with any criminal or civil offences. The removal from office (through the dissolution of the Ipswich City Council) without having been charged with any offence will have a detrimental impact on the existing Councillors of the Ipswich City Council in terms of loss of income and damage to personal and professional reputation. This impact is only elongated by the proposed tenure of the interim administrator (see comments below).

Our Council raises with the Committee its strong concerns about the inevitable impact of the proposed dissolution of the Ipswich City Council on the existing Councillors (who have not been charged with any criminal or civil offence), through a process where there is no referral back to the electorate to express its will in this matter and no compensation being provided to the Councillors for summary loss of employment.

Term of the proposed interim administrator

Council notes that the proposed draft Bill provides for the appointment of an interim administrator for an interim period, with the interim period extending to the conclusion of the 2020 quadrennial elections. This is likely to be a period (depending on the date of commencement of the proposed draft Bill) that could extend for up to 18 months, when there is no justification provided as to why the residents of the Ipswich local government area should be left without a democratically elected council for such an extended period of time.

It is also noted that as a principle, this extensive period of appointment of an interim administrator is at odds with section 123 (6) of the *Local Government Act 2009* which provides as follows:

"It is Parliament's intention that a fresh election of the councillors of the local government should be held as soon as practicable after the Legislative Assembly ratifies the dissolution of the local government."

Whilst Council acknowledges that the above mentioned section 123 (6) of the *Local Government Act 2009* applies to the dissolution of a local government by the Governor in Council (as opposed to a dissolution of a local government by an Act of Parliament), the principle that the community should have the opportunity to elect new representatives as soon as practicable is one that should be considered in this instance.



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Our Council acknowledges that this would give rise to the ratepayers of the Ipswich local government area needing to meet the cost of a full local government election in 2018 and again in 2020. However, in the absence of a clear justification to the contrary, the holding of a fresh election as soon as practicable after the dissolution of the Council would ensure that it is the electors of Ipswich that will ultimately (and appropriately) determine whom they consider to be their appropriate representatives. Under the arrangements outlined in the proposed draft Bill, this opportunity will be denied to the Ipswich community until March 2020.

Our Council raises for the Committee's consideration whether there is sufficient and reasonable justification for the proposed interim administrator to hold office until the conclusion of the 2020 quadrennial elections, or whether the principle espoused in section 123 (6) of the *Local Government Act 2009* should apply – that the electors of the Ipswich local government area should have the opportunity as soon as practicable after dissolution to determine their local government representatives.

Summary

In summary, our Council is of the view the appropriateness of dissolving the Ipswich City Council is a matter for the Parliament and the Executive Government to determine. Beyond this, our Council raises the following matters for the consideration of the Committee:

1. There are more substantive and robust engagement tools that could (and should) have been relied on to underpin the policy intent of the proposed draft Bill, which in turn would have improved the integrity of the proposed legislation and the action it contemplates;
2. Council is concerned at the intention of the proposed draft Bill to effectively set aside the lawful proceedings instituted by the Ipswich City Council;
3. Council has strong concerns about the inevitable impact of the proposed dissolution of the Ipswich City Council on the existing Councillors (who have not been charged with any criminal or civil offence), through a process where there is no referral back to the electorate to express its will in this matter and no compensation being provided to the Councillors for summary loss of employment; and
4. Whether there is sufficient and reasonable justification for the proposed interim administrator to hold office until the conclusion of the 2020 quadrennial elections, or whether the principle espoused in section 123 (6) of the *Local Government Act 2009* should apply – that the electors of the Ipswich local government area should have the opportunity as soon as practicable after dissolution to elect new representatives.

Further, our Council raises for the consideration of the Committee and the Legislative Assembly, the appropriateness of considering the proposed draft *Local Government (Dissolution of Ipswich City Council) Bill 2018*, which could effectively constitute engagement in a process that sets a questionable precedent in the context of the role of Parliamentary Committees, the passage of legislation and respect for the institution of the Parliament.

Thank you for the opportunity to contribute to the Committee's inquiry into the proposed draft Bill. If you have any questions, please do not hesitate to contact my office on 5441 8242.

Yours sincerely

A handwritten signature in black ink, appearing to read "Tim Dwyer", with a checkmark at the end.

CR TIM DWYER
ACTING MAYOR