

MR MATTHEW MAGIN

Our Ref: MM:KME ( 75401 )

The Chair  
Economics and Governance Committee  
Queensland Parliament  
George St  
**BRISBANE QLD 4000**

To Whom It May Concern,

**Re: Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation  
Amendment Bill 2019 - Balonne Shire Council Submission**

On 1 May 2019 the Hon Yvette D'Ath MP, Attorney-General and Minister for Justice introduced the Electoral and Other Legislation Amendment Bill 2019 into the Legislative Assembly. The explanatory notes state that the policy objectives of the Bill are to:

- improve the integrity, transparency and public accountability of State elections by implementing the second legislative stage of the Government's response to certain recommendations in the Report of the Crime and Corruption Commission (CCC) titled Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government (Belcarra Report);
- facilitate operational improvements and support efficiencies in the State electoral system by implementing the Government's response to the Independent Panel's report, A review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election;
- ensure that provisions of the Electoral Act 1992 and related legislation reflect the adoption of four-year fixed terms in Queensland; and
- improve consistency across the electoral system by aligning State and local government elections and referendums, and by aligning Queensland's position on prisoner voting with that of the Commonwealth and other states and territories.

In accordance with the Standing Order 136, the Bill was referred to the Economics and Governance Committee for consideration on 2 May 2019. Balonne Shire Council (BSC) has, during discussion in General Business at a special meeting of Council held on Thursday May 9, 2019, requested that a formal submission be prepared in relation to the proposed reforms and lodged with the Economics and Governance Committee.

BSC thank the Economics and Governance Committee for the opportunity to provide comments on the draft Bill. The BSC supports implementation of the remaining Belcarra recommendations to increase transparency and accountability in local government but opposes this draft Bill, for the following reasons:

- BSC opposes at local government elections a system of compulsory preferential voting (Resolution 1 carried overwhelmingly at the 2 April 2019 LGAQ General Meeting). Arguments against CPV include the potential for high numbers of informal votes and/or “donkey” votes, the complexity and length of the count, and voters being required to express ‘preferences’ for candidates whom they do not know or may even dislike.
- BSC opposes the proposed amendment to the legislation that will remove the power of the mayor to direct senior executive employees (Resolution 8 carried overwhelmingly at the 2 April 2019 LGAQ General Meeting).
- BSC opposes the proposed amendment to the legislation that will remove the power of the Mayor, in conjunction with either the Deputy Mayor or a Councillor who is a Committee Chair, to participate in the decision to appoint senior executive employees (Resolution 9 carried overwhelmingly at the 2 April 2019 LGAQ General Meeting).

For the record, the BSC also opposes the introduction of proportional representation in time for the 2024 local government elections (Resolution 2 carried overwhelmingly at the 2 April 2019 LGAQ General Meeting).

Furthermore, BSC wishes to make the following comments:

### **Local Government Act 2009**

Conflict of interest changes:

- The way in which the ordinary business matters have been split up into different parts (s150EF and s150EL) is confusing. The definition of ordinary business matters should be located in the one place in the legislation so as to make it as easy as possible for councillors to understand their obligations.
- BSC has concerns that declaring confidential or private details of name and nature of the interests could potentially put someone at risk or cause them harm (e.g. domestic violence). One solution may be to exempt councillors declaring a personal interest from providing the name of the other person and the nature of the relationship with the other person where to do so could result in a serious threat to the life, health, safety or welfare of that other person.
- BSC understands and supports the intent of new s150EE but considers it is poorly worded. The expressions “other person” and “local government meeting” are far too broad.
- The definition of “close associate” in s150EH(e) will capture councillors appointed as board members to Council owned entities, meaning that they will have a prescribed conflict of interest in relation to the types of decisions described in s150E[G2]. However, this same interest is not a declarable conflict of interest – see section 150EL (3). Is this the legislative intent, or is some other outcome envisaged?
- BSC understands the intent of new s150EW (2) but considers the wording “discuss the matter” to be blunt and too broad.

- BSC considers s150EP (2) to be impractical as currently worded and proposes that the conditions available to councillors be made explicit.
- Natural disaster management: there is the possibility in a small number of circumstances that the decisions of a mayor (or councillor) in his/her capacity as LDMG Chair could give rise to a COI. Given the speedy decision-making required in these circumstances, BSC considers there is a need for an exemption to be provided where a natural disaster has been declared.

#### Caretaker:

- BSC opposes the proposed changes to the definition of major policy decision. Detailed arguments in support of our position were provided during the discussions with the reference group by LGAQ. In summary, the prohibition on planning schemes being adopted in caretaker is problematic. The adoption of a planning scheme is simply the formality of finalising a lengthy and costly process. If the State delays the timing for its State interest check, councils may potentially be unable to finish a multi-year project. The proposed prohibition on varying existing development approvals is equally problematic. The business of assessing planning applications must continue through the caretaker period, due to planning legislation timing requirements, regardless of whether they are applications or varying existing approvals.

#### Intervention powers:

- BSC requests that the Minister reiterate his commitment to review the new “public interest” powers within two years of their introduction.

#### Access to information:

- BSC does not consider it reasonable to require the CEO to comply with an access to information request within 5 business days and does not consider it appropriate to make non-compliance an offence. For these reasons, BSC opposes the changes to s170A as currently proposed and requests that 5 business days be changed to 10 business days; and the penalty for non-compliance by the CEO is removed.

#### Local Government Electoral Act 2011

- BSC opposes the introduction of new criteria for councils wanting to conduct elections by postal ballot and instead requests that councils be provided with the discretion to conduct full postal ballot elections (2018 LGAQ Annual Conference Resolution 85). Full postal ballot needs to remain a readily accessible option e.g. for councils with sparse populations or impacted by monsoonal flooding.
- BSC remains concerned about the reference to industry or occupation of the donor in s109 (1) (e). Donors could easily mask their identity by providing misleading information.

- BSC has concerns about the proposed new s101A, i.e. registered political parties, groups and elected councillors being able to request elector information. The information that could be requested under this provision is highly intrusive.
- In light of negative experiences at the 2016 local government elections, BSC requests that consideration be given to introducing a new provision requiring the ECQ to, wherever practicable, undertake the mayoral election count first.

### Welcome Rethink on Electoral Changes

The Queensland Government's decision to wind back some proposed major changes to the way people vote at local council elections was very welcome:

- Compulsory preferential voting will only apply to elections for mayor and councillors in divided councils, while proportional representation will not be a feature of next year's poll.
- Plans for campaign spending caps and public funding of election campaigns needs more consultation before any legislative change could be made.
- Dual candidacy allowing a candidate to simultaneously run for Mayor and Councillor has been removed completely

BSC applauds the Queensland Government's rethink on these electoral matters and urges them to take on board the submission of BSC together with the LGAQ submission on behalf of all the other Local Authorities across Queensland.

Yours sincerely,



**Matthew Magin**  
CEO Balonne Shire Council  
16 May 2019