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20 May 2019

The Committee Secretary
Economics and Governance Committee
Parliament House
George Street
BRISBANE QLD 4000

Email: egc@parliament.qld.gov.au

Dear Sir/Madam,

Re: Submission to the review of the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019

Burdekin Shire Council notes that the abovementioned Bill has been referred by the Queensland Parliament to the Economics and Governance Committee for consideration and the Committee has invited submissions on the Bill.

The Council has reviewed and discussed the Bill and supporting information tabled by the Minister for Local Government in relation to the proposed reforms to the local government legislative framework and wishes to make a submission to the Committee concerning these reforms.

The Council is generally supportive of the recommended reforms arising from the implementation of the Belcarra recommendations and also those arising out of the previous reviews of local government elections. It does however wish to make comment on some of the specific provisions contained in the Bill, including those which were not recommended in either the Belcarra report or local government election reviews.

In relation to the specific reforms the Council wishes to make the following comments on the reforms:

1. Real time disclosure of electoral donations and expenditure

Whilst agreeing with the policy principles about the full disclosure of electoral donations and candidate expenditures the Council does have concerns about the ability of candidates to meet the reporting obligations within the proposed time frames. Whilst the Bill is silent on these time frames it is understood they will be contained in the regulations supporting the Bill and will require candidates to disclose expenditure to the ECQ within 24 hours of it being incurred during the final seven business days before polling day. These time frames will be extremely challenging for candidates to meet during the final days leading up to the election and seem a somewhat unreasonable and unrealistic requirement.

2. Candidate training

The Council supports the requirement for candidates to undertake training as a condition of nomination but wishes to ensure that the options available to undertake the training provide a range of alternatives, particularly for candidates in regional and rural areas.

3. Disclosure requirements for candidates about particular interests

The Council supports these requirements but notes the proposed definition of a 'close associate' in clause 252 of the Bill in the *Local Government Electoral Act* (LGEA) is different to the proposed definition in the *Local Government Act* (LGA), which may lead to confusion. The restricted definition in the LGEA is supported but perhaps a different term could be used to address any confusion between the two Acts.

4. Refining the processes around managing conflicts of interests

The Council notes that the Bill contains provisions to change the terminology and some of the processes in relation to managing conflicts of interest with the introduction of 'prescribed conflict of interest' to replace a 'material personal interest' and 'declarable conflict of interest' to replace a 'real or perceived conflict of interest.' No objection is offered to the proposed changes but concern is expressed at the timing of the introduction of the changes, which are planned to commence on Assent to the Bill.

Given the serious consequences for councillors if they do not properly declare and manage these conflicts it is suggested that the introduction of the changes be deferred until proper training has been provided to councillors about the changes. In the interim the existing provisions could continue to apply.

5. Reduction in the powers of the Mayor

The Bill proposes some major changes to the powers of the Mayor in relation to the local government budget, the appointment of senior executive employees and direction of senior executive employees. The Council supports the proposed changes in relation to the local government budget as it believes all councillors should be responsible for the development of the budget and this is the practice that Burdekin Shire Council has adopted since the current provisions were introduced in 2012.

The Council is opposed to the proposed changes relating to the appointment of senior executive employees. Council believes that the Mayor and Deputy Mayor or the Committee Chair should have an involvement in the appointment of senior executive employees given the importance of these roles in supporting the strategic direction of Council.

In a similar vein the Council believes the Mayor should be able to provide lawful directions to senior executive employees and the removal of this power may present some difficulties with the operations of council and impact on the relationship between the Mayor and these employees.

6. Introduction of compulsory preferential voting

The Council is strongly opposed to the proposed introduction of compulsory preferential voting for mayoral and single member division elections. The proposed reforms were not recommended in either the Belcarra report or the Soorley review of the 2016 local government elections and there appears to be only limited justification for the change in terms of aligning with the processes for state and federal government elections.

The Council believes the existing optional preferential voting system is fair to all concerned and enables voters to exercise the right to allocate preferences to multiple candidates if they wish to. Council is not aware that this system of voting has presented any major issues at previous local government elections.

The compulsory allocation of preferences will require voters to indicate their preference for candidates they may not support and will increase the possibility of informal votes because voters have not indicated all preferences on the ballot paper.

Whilst Burdekin Shire is undivided at the present time, with six councillors elected across the whole Shire, Council is concerned that if these changes are introduced then some form of proportional voting system will be introduced as a next step. Council does not support this as it will introduce added complexity to the voting process and encourage the formation of groups of candidates to contest elections.

7. Changes to the definition of major policy decision

The Council notes that it is proposed to amend the definition of major policy decision by adding additional items that will be captured by this provision during the Caretaker period. The Council supports the inclusion of some of the items but is concerned about the proposed prohibition on varying existing development approvals. Minor variations are dealt with by Council officers under delegated authority from Council and these processes should not be disrupted during this period.

There are also statutory requirements in relation to timelines under the *Planning Act 2016* that Councils must comply with as Assessment Manager for planning applications and these should not be impacted by the caretaker provisions.

8. Comments about other Changes

The Council would also like to offer comments on the following specific provisions in the Bill:

- Section 150EP – includes in the definition of a 'related party' in paragraph (c) : 'a person who has a close personal relationship with the councillor'. This term is not defined and could be subject to broad and subjective interpretation and therefore its inclusion in the definition should be reviewed.
- Section 150 EZ (2) – the use of the term 'or discuss the matter with' is extremely restrictive of a councillor's rights to seek basic information. The intent of the provision is understood but the current wording takes the provision too far and the inclusion of the above wording should be reviewed.

The Council appreciates the opportunity to make a submission on the Bill and hopes that its comments will be taken into consideration by the members of the Committee in their deliberations on the proposed legislation.

Yours faithfully,



Terry Brennan
Chief Executive Officer