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

Email: egc@parliament.qld.gov.au



Dear Secretary

I refer to the Economic and Governance Committee's (the Committee) call for submissions on the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 and the Electoral and Other Legislation Amendment Bill 2019.

Please find attached a submission from the Electoral Commission of Queensland (ECQ) on these Bills. Given the Bills are complementary in operation and have been introduced and referred to the Committee concurrently, the ECQ has provided a joint submission on both Bills.

The ECQ welcomes the opportunity to provide a submission on the Bills and would be pleased to provide any further information to assist the Committee in its consideration of the Bills.

Should you require further information regarding this matter, in the first instance please contact Ms Cecelia Nuttall, A/Director, Strategy, Policy and Governance, ECQ on telephone [REDACTED] or at [REDACTED].

I trust this information is of assistance.

Yours sincerely

Pat Vidgen PSM
Electoral Commissioner

Electoral Commission of Queensland
Submission to Economics and Governance Committee
Electoral and Other Legislation Amendment Bill 2019 and
Local Government Electoral (Implementing Stage 2 of Belcarra) and Other
Legislation Amendment Bill 2019

The Electoral Commission of Queensland (ECQ) welcomes the opportunity to provide a submission to the Economics and Governance Committee (the Committee) on the *Electoral and Other Legislation Amendment Bill 2019* and the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019* (the Bills). Given the Bills are complementary in nature and are being considered concurrently by the Committee, this submission relates to the amendments contained in both Bills.

The Bills propose a range of policy and operational changes to the ECQ's core functions of delivering election events and regulating electoral funding and disclosure requirements. This submission deals with the key operational impacts of those changes and does not comment on the policy merits or rationale for the amendments proposed through the Bills.

During development of the Bills, the Department of Justice and Attorney-General (DJAG) and the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) undertook regular consultation with the ECQ regarding the proposed amendments and their potential operational impacts. Given the ECQ will be delivering two major election events in 2020 – the March local government quadrennial elections and the October State general election – this consultation process has been critical to the timely planning for implementation of the proposed amendments in conjunction with ongoing preparations and planning for the conduct of these major election events.

Background

The Bills include amendments which propose to:

- implement the second stage of reforms arising from the Crime and Corruption Commission's report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (the Belcarra report)
- facilitate operational improvements and efficiencies to the conduct of elections in line with recommendations of the independent panel's report *A review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election* (the Soorley report), and
- promote consistency across the electoral system, including aligning procedural requirements for State general elections, local government elections and referendums as contained in the *Electoral Act 1992*, the *Local Government Electoral Act 2011* and the *Referendums Act 1997*.

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The Bills form part of an ongoing process of electoral reform implemented in stages over recent years in response to Operation Belcarra and to give effect to other policy initiatives of government. In implementing these amendments, the ECQ has been responsible for:

- implementing changes to the disclosure threshold for political donations
- delivering the electronic disclosure system to allow real-time disclosure of political donations from February 2017, including operation through the 2017 State general election period and
- establishing the prohibited donors scheme from October 2018 which bans property developers from making political donations to political parties, Members of Parliament, councillors and candidates.

These measures have significantly strengthened the ECQ's regulatory role and powers within the electoral system and contributed to greater transparency and rigour around political donations in Queensland. In performing this role, the ECQ has engaged proactively with registered political parties to provide information, advice and training regarding donation and disclosure obligations to promote and ensure compliance.

Concurrently, the ECQ has been implementing a range of administrative and operational improvements to its election management processes in advance of the 2020 local government and State elections. This has included a major project to replace the ECQ's election management system (EMS) and implementation of administrative measures recommended in the Soorley report such as developing a strategic workforce plan for the recruitment and training of temporary election staff.

The amendments proposed through the Bills would provide the legislative basis for implementation of further election efficiency measures, strengthen the ECQ's compliance role with respect to electoral funding and disclosure requirements, and further align state and local government electoral processes, as discussed below.

Administration of elections

Many of the proposed amendments are aimed at delivering State and local government elections more efficiently and effectively, implementing a range of recommendations from the Soorley report requiring legislative authority, and complementing other administrative improvements already being implemented by the ECQ.

The ECQ considers the following proposed amendments will further increase event efficiencies and improve elector experiences prior to and on polling days:

- Advertising of ordinary, mobile and pre-polling booths on the ECQ website (Soorley report recommendation 74), which will allow the distribution of information in accordance with modern practices and public expectations.

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- Authorising the ECQ to adjourn a poll in cases of a serious threat of a riot or open violence, a serious risk to the health and safety of persons or another emergency, which ensures ECQ can maintain public safety during the conduct of elections.
- Allowing electors voting outside of their electoral district to cast an ordinary vote, which will enhance flexibility in voting options and lower the volume of declaration votes being exchanged between Returning Officers.
- Changing timeframes for receipt of applications for postal votes to 12 days before polling day (Soorley report recommendation 41) to ensure sufficient time is available for distribution of ballots.
- Changing procedures for preliminary counting at the end of polling day (Soorley report recommendation 61) to allow faster processing of votes.
- Removing the requirement for a separate detachable flap on a declaration envelope (Soorley report recommendation 74), addressing ECQ experience that electors mistakenly remove this flap resulting in the vote not being admitted to the count, effectively disenfranchising themselves by not having their vote count.
- Removing the requirement for ballot papers to be attached to a butt that has a unique number (Soorley report recommendation 74), which will reduce printing times and allow ECQ election staff to copy ballot papers when demand requires it.
- Authorising the ECQ, rather than the Governor in Council, to appoint Returning Officers and Assistant Returning Officers for State elections (Soorley report recommendation 4), which will streamline appointment and termination processes and promote consistency with local government electoral processes. This will complement the move to a more dynamic merit-based recruitment process for these important roles which will incorporate a performance assessment phase between the local government elections in March 2020 and the State general election in October 2020.

Overall, these amendments will allow the ECQ to modernise processes in planning and conducting election events, in line with public expectations around accessing information and exercising choice in voting options. A number of these amendments, in particular those implementing recommendation 74 of the Soorley report, would implement improvements identified by the ECQ to streamline the conduct of elections and enhance consistency between state and local government elections.

Increasing consistency in processes for state and local government elections will reduce the complexity and risk inherent in the ECQ's ongoing requirements for the training of temporary election staff. The amendments will also impact on the development of the EMS, and these requirements are being incorporated into current planning and delivery processes.

Funding and disclosure requirements

As mentioned above, earlier reforms have strengthened ECQ's regulatory role and signify the increasing importance of the ECQ in ensuring transparency in electoral processes.

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Accordingly, several of the proposed amendments reinforce the ECQ's goal of promoting public awareness of these processes, which the ECQ is pursuing through working proactively with stakeholders.

The ECQ acknowledges the proposed new function for the ECQ to 'promote compliance with the funding and disclosure provisions under Part 11 of the *Electoral Act 1992* and Part 6 of the *Local Government Electoral Act 2011*'. Outside of delivering fair and just elections, the ECQ's other primary business is the regulation of political donations; the inclusion of this function accurately reflects the ECQ's important regulatory role. This is a constructive acknowledgement of the growing importance of this function and reflects the ECQ's current practice across the entire suite of the ECQ's regulatory responsibilities.

The proposed amendments include a range of measures to promote transparency in electoral processes, including those addressing recommendations of the Belcarra report, such as:

- aligning the definition of a gift between the *Electoral Act 1992* and the *Local Government Electoral Act 2011*
- amending disclosure periods to increase reporting for third party campaigners
- prescribing information which is required to be disclosed, including company directors, employment type, industry and the true source of the gift
- increasing reporting by third parties of gifts received and expenditure
- requiring candidates, agents, third parties to inform the public of the disclosure obligations under the respective legislation
- mandating 24-hour disclosure of expenditure and gifts received within the final seven business days before polling day
- tightening the requirements for dedicated bank accounts and require local government candidates to provide details of the accounts at the time of nomination, and
- mandating training prior to nomination for local government candidates.

The ECQ currently applies a range of tools to enforce compliance with funding and disclosure-related obligations. The proposed additional measures will further strengthen the ECQ's regulatory role, supported by the introduction of additional penalties for failing to comply with reporting obligations. While it is important that the ECQ has sufficient regulatory powers to pursue proportionate enforcement action, the ECQ has also sought to increase stakeholder awareness of reporting obligations as the first step in promoting compliance. Over the last 12 months, the ECQ has performed this role through conducting information sessions, distributing fact sheets and directly engaging with candidates and elected representatives through compliance audits.

While these measures have resulted in a high level of compliance, the ECQ has also exercised its powers to issue penalty infringement notices where instances of non-compliance have been identified. In the case of councillors, the proposed amendments seek to prescribe the offence for failing to lodge a return as an integrity offence which may disqualify them from

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being a councillor. The additional deterrent factor, being the seriousness of the consequences, will assist the ECQ in gaining compliance from local government elected members.

In implementation of the measures proposed through the Bills, the ECQ will seek to continue its current practice of increasing awareness by electoral participants of the new obligations, particularly in relation to real-time disclosure, to promote compliance. Overall, these measures are expected to strengthen the ECQ's regulatory and education functions while contributing to increased public transparency and accountability in the electoral process.

Operational impacts

For the ECQ, the introduction of increased reporting and offence provisions will require an upgrade of the current real-time disclosure system, the Electronic Disclosure System (EDS) to ensure it has the capacity to deliver the enhanced public reporting of political donations and expenditure envisaged by the Bills. In addition, the amendments would require increased resourcing of the ECQ's compliance function to administer the new reporting requirements, monitor compliance and where necessary take enforcement action.

Additional resourcing will also be required for the ECQ, to enable continued promotion of public awareness and education of stakeholders about their rights and responsibilities under the electoral acts. The ECQ has already commenced consultation with other integrity agencies and the DLGRMA with respect to these requirements in preparation for the 2020 local government elections.

In considering the operational implications of the Bills, the ECQ has provided advice to the Government regarding potential resourcing impacts, which are being considered as part of the State Budget process. The ECQ will continue to work closely with relevant state agencies and other key stakeholders to ensure it is well-prepared to implement the measures proposed through the Bills, in advance of the 2020 local government and State general elections.