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21 May 2019

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

Email: egc@parliament.qld.gov.au

Dear Committee Secretary

Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019

I refer to the Committee's call for submissions addressing any aspect of the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 (the Bill). The Sunshine Coast Council would like to detail the following for the consideration of the Committee. Councillors are aware that they are also able to make individual submissions for the consideration of the Committee.

Clause 214 Amendment of s 83 (How electors must record a vote on a ballot paper – optional-preferential voting)

The Sunshine Coast Council does not support the introduction of compulsory preferential voting (CPV) for mayoral and single councillor elections. Optional preferential voting recognises the right of the individual to not have to vote for a candidate that they do not support or do not know. Forcing the electors to express a preference could ultimately contribute to the election of a candidate the elector does not wish to see in office.

CPV is directly at odds with a recommendation in the Government-appointed Soorley review of the 2016 local government elections, which recommended that optional preferential voting be retained at least until after the 2020 local government election.

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Optional preferential voting was originally introduced on the back of recommendations of the Electoral and Administrative Review Commission (EARC) in 1991 (established in the wake of the Fitzgerald Inquiry). The eminent late Professor Colin Hughes, Australia's first independent Electoral Commissioner and a Commissioner of EARC, led the electoral reform work that EARC undertook in 1990-1993. He was also widely regarded as having been Australia's leading authority on electoral law and related matters. Professor Hughes recognised that optional preferential voting was fairer than either first past the post or compulsory preferential voting, especially given the compulsory requirement to vote. In his own words, "Electors should not have either to invent preferences or arbitrarily assign rankings to candidates about whom they know nothing and care less, or otherwise accept that their ballot will be informal". Despite the major political parties at that time wanting to remain with compulsory preferential voting, optional preferential voting – as recommended by EARC – was adopted given it is ultimately a fairer voting system.

The local government system celebrates the fact that in the main, Councils are independent of the political party system.

Clause 60 Amendment of s90D (Prohibition on election material in caretaker period)

The definition of both 'control' and 'controlled entity' is unclear, specifically with the inclusion of the wording 'dominate decision-making, directly or indirectly'. Suggest wording could be clarified and examples of application included.

Clause 106 Insertion of new ch 5B

Chapter 5B Councillors' conflicts of interest

150EE When does a person participate in a decision

With the omission of the definition of 'local government meeting' contained in (current) section 150C (per Clause 72 of the Bill), the wording of new section 150EE(a) is unclear. Use of the word 'considering' could apply to both non-decision/information/briefing sessions and formal or statutory decision making meetings of the local government. Suggest that a definition of 'local government meeting' is included in the general definitions.

150EF Personal interests in ordinary business matters of a local government

150EF(1)(b) could be expanded to include or otherwise 'part of' a planning scheme.

150EJ Who is a close associate of a councillor

150EJ(2) – suggest that the word 'candidate' should be 'councillor'.

**150EP Who is a related party of a councillor**

150EP(c) – a clear definition or examples of a person who has a close personal relationship with the councillor would aid application of this subsection.

150ES Procedure if councillor has a declarable conflict of interest

150ES(3) The eligible councillors at a meeting may impose conditions on the councillor under a decision mentioned in subsection (2)(a)(i) or (b)(i).

Should eligible councillors be able to decide that a councillor with a declarable conflict of interest may remain in the room for the debate on an issue, but then vacate the room and not participate in the vote for that matter, the situation could arise whereby the councillor with the declarable conflict of interest uses his or her participation in the debate to influence the vote of the eligible councillors. The application of this subsection within the meeting context is impractical at best.

Application of proposed 150ES(4) is also impractical as it would require continued review of decisions made and applied about a councillor. The interests and associations of individual councillors can and do change over time and each declarable conflict of interest should be considered in relation to the current decision before Council.

Importantly, one must consider the perceptions a 'reasonable person' in the community may have if the procedure for leaving or staying in the chamber during a formal meeting is complicated. We believe this procedure should be kept as simple as possible.

Part 4 Amendment of Local Government Electoral Act 2011

Generally the amendment to require the publication of various notices by the Returning Officer on the electoral commission's website is timely and supported.

Please contact my office on [REDACTED] should you require any additional information in support of this submission.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Whittaker", written over a white background.

Michael Whittaker
CHIEF EXECUTIVE OFFICER