



NQROC

North Queensland Regional Organisation of Councils

20 May 2019

Economics and Governance Committee
Parliament House
Cnr George and Alice Streets
Brisbane Qld 4000

Email: egc@parliament.qld.gov.au

Dear Committee,

Subject: Submission into the review of the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Amendment Bill 2019

The North Queensland Regional Organisation of Councils (NQROC) is a collaborative organisation that promotes cooperative regionalism to advance the interests of North Queensland communities. The NQROC region covers more than 80,036km², contributes over \$15.94B annually to the Queensland economy and is home to nearly 240,000 people.

NQROC's five member-councils include Burdekin Shire Council, Charters Towers Regional Council, Hinchinbrook Shire Council, Palm Island Aboriginal Shire Council and Townsville City Council.

NQROC Councils work together to advocate for increased investment in critical infrastructure and services by State and Federal Governments. Our efforts are targeted towards enhancing economic growth, social capacity and the environmental sustainability of our region.

NQROC welcomes the opportunity to make a submission in respect of the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Amendment Bill 2019 (the Bill). We acknowledge and are supportive of the State Government's objectives to strengthen transparency, accountability and integrity measures for local government in Queensland, however, would like to make the following comments and recommendations on the Bill.

1. Real time disclosure of electoral donations and expenditure.

NQROC is supportive of the legislation's principles regarding full disclosure of electoral donations and candidate expenditures. However, the reporting obligations and time frames candidates will need to

meet raises some concerns. It is understood the regulations supporting the Bill will require candidates to disclose donations and expenditure to the Electoral Commission of Queensland within twenty-four hours of it being incurred during the final seven business days before polling day. This will place extremely challenging and unrealistic reporting requirements on candidates in the important final days leading up to an election.

Recommendation 1: NQROC recommends the reporting requirements for electoral donations and expenditure disclosure allow for realistic and achievable reporting timeframes.

2. Definition of Sponsored Hospitality Benefits does not cover contributions paid by the Commonwealth Government and is unclear on value-in-kind contributions made by third parties.

A new definition of what constitutes a 'sponsored hospitality benefit' has been included in the Bill in the new 150EH section however, there is limited information contained in the Explanatory Notes/Memorandum as to why this changed definition has been introduced.

The new definition makes it clear that travel and accommodation costs paid by the State or a local government to the relevant person are excluded from the definition. It is unclear why travel and accommodation costs paid for by the Commonwealth government are not similarly excluded from the definition of 'sponsored hospitality benefit' in terms of assessing potential conflicts of interest.

Recommendation 2: NQROC recommends the definition of 'sponsored hospitality benefits' be amended to also exclude any contribution paid for by the Commonwealth government.

The current definition of 'sponsored hospitality benefit' does not clearly deal with travel or accommodation benefits supplied to the relevant person as a value-in-kind contribution. For example, during site visits and overseas trade missions it is not uncommon for the relevant organisations in the host country, (either government or non-government entity) to provide transport and/or accommodation at no charge to the site visit delegates or the state or local government entity organising the visit.

Recommendation 3: NQROC recommends where the relevant activities form part of the official itinerary that no conflict of interest should be considered to arise and that appropriate amendments be made to reflect this.

3. Management of Conflicts of Interest

The Bill seeks to place restrictions on local government councillors being involved or participating in decisions on matters where a certain type of conflict of interest exist. In doing so, the Bill also seeks to explicitly state that the restriction on participating in a decision covers any Act, not just the Local Government Act 2009 (see for example new proposed section 150EE and section 150EK).

The above-mentioned changes appear broader than the existing 'no influence' provisions of the Local Government Act 2009 such as section 175I which appeared to focus predominantly on matters under the Local Government Act 2009 and/or decisions involving votes by Councillors at council meetings. These new changes could have unintended consequences in term of Councillors involved with Local Disaster Management Groups being prevented from being able to exercise their obligations and duties as members of those groups or in accordance with the Disaster Management Act 2003 in responding to disaster management or emergencies response issues.

Similar concerns may arise where local governments operate critical infrastructure, such as dams, and Councillors are involved with the governance and decision making of this type of infrastructure. Further consideration should be given in relation to the above issue to ensure that the proper operation of LDMG's and critical infrastructure is not unintentionally impacted by the newly proposed conflicts of interest regime.

Recommendation 4: NQROC recommends that consideration be given to include a schedule that seeks to exclude certain Acts and legislations from being covered by the new section 177B.

4. Definition of 'related party' is unclear in relation to what constitutes a 'close personal relationship'

The Bill does not contain any guidance on what constitutes a 'close personal relationship' for the purpose of determining if a person is a 'related party' of a Councillor. Clearer guidance needs to be provided considering the potential consequences a councillor can face if they fail to make the appropriate declarations in relation to conflicts of interest affecting a 'related party'. If such guidance can not be included, this part of the definition of 'related party' should be removed.

Recommendation 5: NQROC recommends clearer guidance be included in the legislation on what determines a 'close personal relationship'.

5. Disclosure requirements and definition of a 'close associate'.

The definition of a 'close associate' in clause 252 of the Bill in the Local Government Electoral Act (LGEA) differs from the proposed definition in the Local Government Act (LGA). NQROC is supportive of the disclosure requirements, however clear guidance on what defines a 'close associate' between the two Acts will reduce confusion.

Recommendation 6: NQROC recommends use of an alternate term to define a 'close associate' to avoid any confusion between the two Acts.

6. Declarable conflicts of interest and 'relevant term'

NQROC accepts the inclusion of the 'relevant term' concept as it provides clarity for Councillors as to the time period for considering the effect of loans, gifts, donations or other benefits and interests. However, the Bill does not expressly state that gifts, loans, donations outside this timeframe are excluded from the definition of a 'declarable conflict of interest'.

Recommendation 7: NQROC recommends further clarity be given in relation to gifts, loans, sponsored hospitality and other benefits or interests received outside a 'relevant term'.

7. Refining the process around managing conflicts of interest

NQROC is supportive of the proposed changes the Bill contains relating to the terminology and some processes in managing conflicts of interest (COI). This includes 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'.

However, considering the potential serious consequences councillors can face if they do not properly declare and manage these conflicts, clearer communication and comprehension for the councillors will be more beneficial. In the interim the existing provisions could continue to apply.

Recommendation 8: NQROC recommends introducing the proposed changes to COI terminology and processes once mandatory training has been provided to elected officials.

8. Candidate mandatory training

NQROC is supportive of the introduction of compulsory training for Councillors and candidates to ensure they have a strong understanding of their obligations both during an election campaign and when elected. How this training will be made available to candidates and councillors will impact the ability for meaningful participation, particularly in regional and remote locations. Clarification also needs to be given on how this training will be provided and funded.

Recommendation 9: NQROC recommends the options to complete the mandatory training include a range of alternatives to allow for easy participation, particularly for regional and remote areas.

9. New caretaker period restrictions

The new definition of 'major policy decision' has been expanded to place further restrictions on the type of procurement decisions local government can make during the caretaker period before a local government election. These further restrictions may compromise timely decision making by local governments, particularly during storm season or in response to disasters and emergencies.

There is also concerns regarding 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 statutory requirements in relation to timeliness under the Planning Act 2016, that Councils must comply with as Assessment Manager for planning applications. These processes should not be impacted by the caretaker provisions.

Recommendation 10: NQROC recommends the committee consider including a materiality threshold for procurement exceptions in the Local Government Regulations (2012) as exists for major contracts.

The caretaker period prior to the 2020 local government elections is likely to cover much of the North Queensland storm season period. Consideration needs to be given to ensure local councillors and CEOs are not prevented from making critical and timely decisions in response to disaster situations. The Bill appears to prevent local governments from procuring goods and services during the caretaker period. For example, where a genuine emergency exists and/or where the local government seeks to leverage an existing contract held by another government agency under section 235 in the Local Government Regulation (LGR 2012). It is unclear why decisions of this type should be prevented during a caretaker period under the Bill.

Recommendation 11: NQROC recommends the Bill should be amended to ensure procurement decisions are not negatively impacted during genuine emergency situations.

10. Introduction of compulsory preferential voting

NQROC is opposed to the introduction of compulsory preferential voting for mayoral and single member division elections. The compulsory allocation of preferences will require voters to indicate their preferences for candidates they may not support and will increase the possibility of informal votes due to incomplete or incorrect ballot papers. The optional preferential model allows voters to preference those candidates they are aware of and support and not allocate a vote to others.

The proposed reforms were not recommended in either the Belcarra report or the Soorely review of the 2016 local government elections. The limited justification for the change to align with state and federal government elections is unnecessary at the local level. Unlike State and Federal government elections, Local Government is, in the main, not party political and voters are often unaware of the policies, views and standpoints of the candidates.

NQROC believes the existing optional preferential voting system allows for local voters to exercise the right to allocate preferences to multiple candidates if they wish to, allowing for a true indication of who the majority of the community want in local office.

Recommendation 12: NQROC recommends retaining the existing optional preferential voting system.

11. Reduction in the powers of the Mayor

NQROC supports the proposed changes in relation to the local government budget and powers of the Mayor. NQROC believes the Mayor and Councillors should be responsible for the development of the budget.

Recommendation 13: NQROC supports the proposed changes as it relates to Mayoral powers and the local government budget.

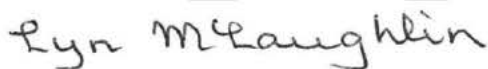
NQROC is opposed to the proposed changes as it relates to the appointment of senior executive staff. Mayor and Deputy Mayor or the Committee Chair should be involved in the appointment of senior executive employees given the importance of these positions in supporting the strategic direction of council. Focus should be placed on supporting any councils with identified conflict between elected officials and senior staff.

Similarly, NQROC believes Mayoral powers as they relate to the Mayor directing the CEO, should remain status quo. The role of both the Mayor and CEO should be recognised, and due regard be given in their involvement in both the direction and operation of the Council. The Mayor should be able to provide lawful direction to senior executive staff, including the CEO to maintain relationships and operations of Council.

Recommendation 14: NQROC recommends the status quo remain for Mayoral powers as it relates to the appointment and direction of senior executive staff.

NQROC appreciates the opportunity to provide a submission on the Bill. If you require further information or would like to discuss this submission in more detail, please contact Ms Laura Vidmar, Executive Officer, NQROC on [REDACTED] or email [REDACTED].

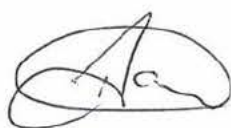
Yours sincerely,



Councillor Lyn McLaughlin
Chair, North Queensland Regional Organisation
of Councils (NQROC)
Mayor, Burdekin Shire Council



Councillor Liz Schmidt
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Councillor Ramon Jayo
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