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Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

Via email: egc@parliament.qld.gov.au

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

Thank you for the opportunity to provide input into the Committee's consideration of the Government's *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019*.

The Property Council of Australia is the leading advocate for Australia's property industry. We are a national not-for-profit organisation established to promote the work of the property industry in delivering prosperity, jobs and strong communities to all Australians. Here in Queensland, the Property Council represents over 390 member companies across residential, commercial, retail, retirement living, industrial, tourism and education sectors.

As an industry strongly affected by the decisions of local governments, and the major industry contributor to local government rates, fees and charges, the property industry has a strong interest in measures which ensure good governance at a local level.

The intent of the Bill is to increase transparency and integrity. The Property Council highlights concerns with the following two provisions within the Bill which would impede the operations of local government without contributing towards these objectives.

Prohibitions on making major policy decisions during a caretaker period

The Bill outlines a range of "major policy decisions" that councils will be prohibited from making once ECQ publishes a notice of election. Decisions about variation requests and changes to variation approvals are included in this list.

A variation of a development approval is not in the same category as the other types of decisions identified as major policy decisions. The other decisions in this category are, in the main, related to employment and commercial matters. While making, amending and repealing a local law or a local planning instrument (see sub-clauses (f) and (g) of the definition) will now be caught by the definition of a "major policy decision", these decisions have much broader effect across a wider area.

Variation approvals are the outcome of a highly regulated assessment and decision making process under the *Planning Act 2016* (PA). By way of example, an application for a variation request is subject to public notification for 30 business days (see s.53(1)(b) & s.53(4), PA), may be subject to referral agency input (see s.56(2)), and is subject to its own regime for assessment and decision (see s.61). Finally, variation approvals are subject to applicant and third-party appeals under the *Planning Act 2016*.

Varying development approvals is typically a minor administrative action, that is usually undertaken by delegation to Council officers following this detailed assessment and approval regime, and a period of public scrutiny.

Changes to variation requests under Chapter 3, Part 5, Division 2, Subdivision 2 could be minor changes or other changes. A minor change is, by definition, minor, and there is no justification for such decisions being deferred during the caretaker period as it will not have any policy implications.

With respect to other variation changes, there will be many other changes that, although not falling within the definition of a minor change for technical reasons, are not significant. Again, other changes to a variation approval are inherently limited by the fact that any other change must be one that is capable of being assessed in the context of the existing variation approval (see s.82(2), PA). There are also advertising requirements for other change applications (see s.82, PA for details).

An example of a minor matter requiring a variation application in many Queensland local governments would be to alter boundary setbacks for a residential block, including to construct a carport, deck or rainwater tank.

Given there is typically no political involvement in these decisions, it is appropriate for decisions about variation requests and changes to variation approvals to continue to be approved during the caretaker period.

Any restrictions on decision-making relating to new or varied development applications should be confined only to those applications that require a decision of the full Council.

Conflicts of interest

The Property Council is concerned that the proposed *prescribed conflicts of interest* provisions will create perverse outcomes which interfere with the operations and decision-making ability of democratically elected councils.

The Bill, as drafted, would have the effect of preventing councillors from participating in matters where *prescribed conflicts of interest* are involved. If an entity interested in the matter has provided a gift above the disclosure requirement to a councillor, a close associate of the councillor, or their political party, it will be considered a *prescribed conflict of interest*.

The Property Council is concerned that in party-political councils these provisions could see many Councillors ruled out of considering matters due to unrelated electoral donations. Political parties may have received donations from the entity in question for a federal campaign, or they may have received the donation in another state or territory. Electoral gifts received by a political party for unrelated purposes, should not create an automatic conflict for local government representatives of that political party.

Similarly, conflicts that relate to 'close associates' of a councillor also may bear no relation to the appropriateness of a councillor making a decision on a matter. For instance, if a councillor's sibling is a director of a planning firm this may be classified as a 'close associate' conflict, and as such the councillor would be prohibited from dealing with any matter associated with that firm's applications. Rather than simply excluding councillors conflicted in this manner, a more flexible approach is required to ensure each conflict is considered on its merits

The Property Council recommends that conflicts related to 'close associates' of a councillor, or a councillor's political party, should be designated as *declarable conflicts of interest* under the new framework. This would enable the non-conflicted councillors to make an appropriate judgement on whether the councillor could make an objective decision in relation to the matter.

Thank you for the opportunity to respond to this Bill. If you have any questions or would like to discuss this further, please do not hesitate to contact Henry Pike, Senior Policy and Communications Advisor, on [REDACTED] or [REDACTED]

Yours sincerely,



Chris Mountford
Queensland Executive Director