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Committee Secretary  
Economics and Governance Committee  
Parliament House  
Sent via email: [egc@parliament.qld.gov.au](mailto:egc@parliament.qld.gov.au)

Dear Chair and Committee Members

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

Thank you for the opportunity to make this submission on the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 (**Belcarra Stage 2 Bill**).

**About EDO Qld**

EDO Qld is a non-profit community legal centre with 30 years of experience providing legal assistance to clients from around Queensland, both rural and urban areas, on environmental law matters that are in the public interest. Our solicitors provide legal advice to over a thousand individuals every year in total, through our educational events and in response to specific advice requests by clients. We also provide representation on public interest environment matters and undertake work to improve our environment and governance laws for the better health of our environment and communities. Our legal work covers a range of planning, environmental and resource law topics, including accountability and transparency in governance. A key function of EDO Qld is to provide assistance to the Queensland Parliament and government in improving the drafting of Bills relevant to EDO Qld's areas of practice.

**Overall comments on the Bill**

We congratulate the government for taking this further step to address the Crime and Corruption Commission's (CCC) recommendations in their report 'Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government' (**Belcarra Report**).

Overall, we support this Bill. However, we also note that more needs to be done in Queensland to increase integrity, accountability and transparency of decision-making, to ensure decision-making that affects Queenslanders is always done in the public interest.

We strongly support the government implementing the full suite of recommendations made by the CCC in the Belcarra Report.

**We support that the Belcarra Stage 2 Bill reforms propose to:**

- require real-time disclosure of electoral expenditure and disclosure of details of electoral expenditure of \$500 or more incurred by candidates, groups of candidates, registered political parties and associated entities during the disclosure period for the election (Belcarra Recommendations 2 and 19);
- require disclosure of a candidate's interests upon nomination (Belcarra Recommendations 3 and 4);
- require candidates to declare additional matters on their nomination form and require the Electoral Commission Queensland (ECQ) to publish a copy of the nomination on its website, including any recent contracts the candidate, or a close associate of the candidate, has entered into with a local government; whether the candidate is, or was within the last year, a member of a registered political party, trade or professional organisation; and whether the candidate, or a close associate of the candidate, has made particular applications and representations to the local government under the *Planning Act 2016* and *Sustainable Planning Act 2009* (Belcarra Recommendation 4);
- prohibit a person from engaging in a group campaign activity (such as use of the same campaign slogans, brands, election resources and how-to-vote cards) for an election unless the activity relates to candidates who are members of a group of candidates as stated in a published record for the group or candidates who are endorsed by the same political party for the election (Belcarra Recommendation 5);
- expanding the list of disclosable details around loans or gifts, including the true source of a loan or gift to be disclosed if it is not the entity through which it was provided (Belcarra Recommendations 6 and 18);
- implement a presumption that, unless proven otherwise, an election participant or councillor knows the source of a gift or loan, and requires an entity making a gift or loan to disclose this via notice to the recipient (Belcarra Recommendations 7 and 21);
- implement increased penalties and limitation periods to existing offences (Belcarra Recommendations 29 and 30).

This Bill, and the Act providing for 'Stage 1' of the Belcarra Report recommendations being implemented,<sup>1</sup> are a great start, but they do not implement the extent of changes that are necessary to reduce corruption in our local governments as much as is needed.

We provide below our further recommendations for improvement in summary and our submissions in detail on this Bill.

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<sup>1</sup>*Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018*

## **Recommendations for improvement in summary:**

### **Recommendation 1:**

- We strongly recommend that a cap on election expenditure is introduced for state and local government elections, as recommended by the Belcarra Report recommendation 1.
- Publically funded elections should also be considered to reduce risks associated with election donations winning favour for private interests.

### **Recommendation 2:**

- Extend the ban on political donations from property developers to include all corporate donations to candidates, third parties, political parties and councillors, to reduce the loopholes provided by limiting the ban to one narrowly defined sector.

### **Recommendation 3:**

We suggest that the Committee recommend that the government investigate or introduce the following methods of increasing integrity in decision-making:

- providing for a 'betterment tax' payable to the government where land zoning benefits a property developer in order to reduce the incentive in existence to change zoning to benefit particular developers, and to compensate the community adequately in exchange for the windfall to the developer due to the change in planning regulation; and
- addressing the revolving door between industry and government, which can lead to inside relationships being used to the benefit of the private sector without due regard being given to the public interest. While Queensland has comparatively strong restrictions around when a senior public servant/Minister can work as a lobbyist, our framework could be further strengthened by:
  - a) improving the definition of 'lobbyist', for example to include acting for even non-profit entities that represent private industry, such as the Queensland Resource Council; and
  - b) better enforcing existing limitations on lobbyists moving between government and the private sector.

### **Recommendation 4:**

We suggest that the Committee recommends that the government prepares amendments to allow the CCC to investigate:

- disciplinary breaches by councillors. Currently councillor disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not 'criminal offences' or non-discretionary dismissible breaches; and
- possible corrupt conduct by unsuccessful candidates.

## **Submissions in detail:**

### **Cap on expenditure or publically funded elections needed to reduce the influence of private interests**

The cap on expenditure for elections, as recommended by the Belcarra Report Recommendation 1, would be an effective mechanism to increase fairness and transparency around elections.

NSW has implemented a cap on electoral expenditure at a state and local government level (see [here](#) for more information). The ACT and South Australia also have systems which provide for a cap on electoral expenditure.<sup>2</sup>

The [Final Report](#) of the ‘Inquiry into options for the reform of political funding and donations in the Northern Territory’ by John Mansfield, June 2018, further recommended that a cap on electoral spending should be implemented in the Northern Territory (see paragraph 5.2.26).

The problem of uncapped electoral spending has just been witnessed being played out in the federal election, with electoral candidate Clive Palmer spending a reported \$60 million on election advertising for his party United Australia Party and against the other electoral candidates.<sup>3</sup> Queensland cannot afford at any level of government to expose our democracy to being bought out by millionaires.

We understand the Queensland Government has undertaken some consultation on the proposal to cap expenditure, however we have not seen the results of this consultation. The implementation by other jurisdictions demonstrates that this is an accepted practice; Queensland will remain a laggard on taking full action to reduce the risks of corruption if we do not proactively move to cap electoral spending and reduce the risk of private interests buying our democracy.

Alternatively, publically funded elections may be an effective means of reducing risks associated with election donations winning favour for private interests.

#### **Recommendation 1**

- **We strongly recommend that a cap on election expenditure is introduced for state and local government elections, as recommended by the Belcarra Report recommendation 1.**
- **Publically funded elections should also be considered to reduce risks associated with election donations winning favour for private interests.**

### **Banning property developer donations must be extended to all corporations to be effective**

The *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018* (Qld) (**Belcarra Stage 1 Act**) provided for a ban on property developer donations for candidates, third parties, political parties and councillors, including Members of State Parliament. We here re-iterate our concerns that, while this is an important step, we consider that the policy of prohibiting only donations from property developers is too limited to have true impact at reducing the risks of corruption of decision making processes inherent in allowing political donations.

<sup>2</sup> *Electoral Act 1992* (ACT), Part 14, Division 14.2B.

<sup>3</sup> <https://www.abc.net.au/news/2019-05-19/election-2019-clive-palmer-says-uap-ads-gave-coalition-win/11128160>

In NSW [Operation Spicer](#), undertaken by the Independent Commission Against Corruption and reporting in August 2016, uncovered a number of issues of corrupt conduct involving donations in NSW even with the prohibition on property developer donations, as donations were going through other entities. It is worth noting also that Operation Spicer also demonstrated the strong need for enforcement of the ban as well, to ensure it is effective at achieving its aim.

We therefore recommend that there be a ban on all corporate donations recommended for addition to this Bill, to reduce the loopholes provided by limiting the ban to one narrowly defined sector.

Alternatives to this policy are suggested above, being the capping of election expenditure or publically funded elections, which if implemented would remove the need for this ban.

#### **Recommendation 2:**

- **Amend the Bill to extend the ban provided in Belcarra Stage 1 Act to provide a ban on all corporate donations to candidates, third parties, political parties and councillors; to reduce the loopholes provided by limiting the ban to one narrowly defined sector.**

#### **Further action needed to truly address threats to integrity of decision making in Qld**

As above, this Bill is a good start, but significant new provisions are needed in this Bill to reduce incentives which increase corruption risks in Queensland.

#### **Recommendation 3:**

**We suggest that the Committee recommend that the government investigate or introduce the following methods of increasing integrity in decision making:**

- **providing for a ‘betterment tax’ payable to the government where land zoning benefits a property developer in order to reduce the incentive in existence to change zoning to benefit particular developers, and to compensate the community adequately in exchange for the windfall to the developer due to the change in planning regulation; and**
- **addressing the revolving door between industry and government, which can lead to inside relationships being used to the benefit of the private sector without due regard being given to the public interest. While Queensland has comparatively strong restrictions around when a senior public servant/Minister can work as a lobbyist, our framework could be further strengthened by:**
  - improving the definition of ‘lobbyist’, for example to include acting for even non-profit entities that represent private industry, such as the Queensland Resource Council; and
  - better enforcing existing limitations on lobbyists moving between government and the private sector.

#### **CCC jurisdiction must be extended to ensure adequate powers to investigate corruption**

As highlighted in our submission to the parliamentary committee inquiry into the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Act 2018, we again highlight the need for reforms which would enable the CCC jurisdiction to extend

to investigating potential corrupt conduct more adequately. The limitations on the CCC powers to investigate were raised in the CCC Belcarra Report at page 3. To address these limitations, we recommend the Committee recommends that the government prepare amendments to allow the CCC to investigate:

- disciplinary breaches by councillors. Currently councillor disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not 'criminal offences' or non-discretionary dismissible breaches; and
- possible corrupt conduct by unsuccessful candidates.

**Recommendation 4:**

**We suggest that the Committee recommends that the government prepares amendments to allow the CCC to investigate:**

- **disciplinary breaches by councillors. Currently councillor disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not 'criminal offences' or non-discretionary dismissible breaches; and**
- **possible corrupt conduct by unsuccessful candidates.**

We are available to appear before the Committee in their hearing into these Bills.

Yours faithfully



Revel Pointon  
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