LGAQ
LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND

Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019: LGAQ Submission

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The LGAQ welcomes the opportunity to provide a submission on the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (the Bill) on behalf of Queensland's 77 local governments.

Overwhelmingly the LGAQ and its members support any legislative changes that are designed to increase transparency and accountability and that will achieve this in practice and ensure that local government continues to be a highly functioning system of government.

Therefore, while there is broad based support for the intent of the Bill, Queensland councils have raised serious concerns about several proposed amendments and associated reform proposals, largely from a practicability standpoint. These concerns have been summarised below:

- The proposal to mandatorily fill councillor vacancies at undivided and multi-member division councils within the first three years of the term by awarding the position to the candidate with the next highest vote rather than via the current practice of holding a by-election is problematic. Councils believe this may result in undemocratic results as replacement councillors may be elected with little community support, especially where a candidate with strong voter support vacates the office. There is also little evidence to suggest that in these instances runners up are in fact elected when by-elections are held. Providing the existing council with the option to either appoint the next candidate or determine a by-election is required would seem the most acceptable outcome (as currently the case for the first 12 months).
- Planned changes to conflict of interest provisions are largely supported to provide greater clarity and certainty. However, the lack of specificity regarding the date for commencement of these provisions is a serious omission in the current drafting. Providing a commencement date which aligns with the incoming 2020 term would seem the most practical timing.
- The proposed amendments to the "ordinary business" exemption related to planning scheme amendments are impractical and unworkable. It is contended that with reinforced and expanded obligations to declare conflicts of interest combined with the banning of developer contributions and existing Ministerial oversight and guidelines regarding plan-making that any "ordinary business" changes will negatively impact the timeliness of decisions and administrative burden on councils when considering planning matters. Given the broader safeguards proposed and in place and the lack of evidence of the issue, this should be seriously reconsidered and the existing exemptions maintained.
- The establishment of a "councillor advisor" role within the Bill has raised serious and varied concerns from councils. Many believe these changes may be well intended but have been proposed without any proper consultation and consideration, and have serious potential for unintended consequences, especially where these roles currently do not exist and the industrial relations implications for both the council and potential incumbents need to be properly reviewed. The LGAQ would urge meaningful consultation take place before these changes are enacted.
- The introduction of expenditure caps for local government election campaigns is generally supported. However, particular concerns have been raised to ensure they equally prevent the potential distorting influence of electoral expenditure by third parties with aligned interests and do not restrict freedom of political communication.
- Changes to the *Local Government Regulation 2012* proposed to accompany the Bill are of great concern to councils across the state as they reveal a clear tendency on the part of the Government to move away from the general competency concept towards a prescriptive regime, particularly where in the view of the LGAQ and councils the prescription is likely to stifle meaningful participation for community engagement or alternatively reduce existing and effective mechanisms. There remains a need for councils to be able to be responsive and create systems which reflect the local needs and preferences of their communities.

Full and detailed commentary on all issues raised has been provided in this submission. Naturally, the LGAQ has limited its comments to amendments proposed to the *Local Government Act 2009* (some of which also apply to the *City of Brisbane Act 2010* amendments), related amendments under consideration to the *Local Government Regulation 2012*, and the Committee's inquiry into the feasibility of introducing expenditure caps for Queensland local government elections.

1.) Dealing with "prescribed" and "declarable" conflicts of interest

These changes were previously included in the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 but were not included in the final version of the Bill that was passed by Parliament on 16 October 2019.

The LGAQ has not identified any significant departure to what was previously proposed in relation to these changes. As a consequence, some of the following observations mirror the observations we made in our submission to the Committee on the previous Bill in May 2019.

The LGAQ supports, in principle, the proposed "conversion" of what is presently defined as a "material personal interest" to a "prescribed conflict of interest" and of what is presently defined as a conflict of interest (real or perceived) to a "declarable conflict of interest". However, there are, in the LGAQ's view, a number of ambiguities that require refinement (see below).

Furthermore, the Bill is currently silent on commencement date for these provisions. The LGAQ is of the view that these provisions should commence immediately following the March 2020 local government elections so that the new regime for dealing with conflicts of interest can apply to the new term of local government. It will also be important that the Department provide training for all elected councillors early in the new term to ensure proper implementation and compliance with the new regime. Failure to do so will likely result in the number of complaints about councillor conduct unnecessarily escalating in the short term.

Ordinary business matters

The LGAQ maintains fundamental concerns regarding the proposed changes to limit the scope of the current ordinary business exemption for conflicts of interest relating to decisions about a planning scheme, specifically:

- clause 104 of the Bill, proposed section 150EF(1)(b) of the *Local Government Act 2009*.

Proposed section 150EF(1)(b) refers only to the 'making of a planning scheme' as exempt and omits references to the 'amendment of a planning scheme', which is captured within the existing definition of an *ordinary business matter* under the current legislative framework.

The policy intent of the proposed changes expressed in the information paper released by the Department in November 2019 to accompany the introduction of the Bill is also cause for concern.

The information paper (page 6) states that an ordinary business exemption related to a planning scheme is to apply "*only to the adoption of new planning schemes or amendments impacting on the whole of the local government area*" and not to "*more localised planning amendments*" where councillors with a conflict of interest (COI) are "*to disclose a COI and deal with them under existing requirements*". References to the amendment of a planning scheme, or the delineation in the type of planning scheme amendment, are not expressed in the Explanatory Notes to the Bill.

Notwithstanding this inconsistency, the policy intent outlined in both the Explanatory Notes to the Bill and the information paper is problematic and not supported.

The Bill's proposed amendments may lead to a number of unintended consequences, including:

- Council meeting confusion through determination of conflicts;
- Inability to maintain a quorum in council meetings;
- Delays to plan making processes and less responsive planning schemes;
- Decreasing investment and development confidence.

Furthermore, the scope of a 'localised planning amendment' and rationale for the proposed changes is unclear and no documented systemic evidence has been forthcoming to justify the proposed changes. Operation Belcarra did not include a recommendation to change ordinary business matters. Fundamentally, the State should not confuse corruption with ordinary council business and planning schemes, and the status quo works. Existing transparency / accountability checks and balances are

considered appropriate through councillors' registers of interest and the fact that any planning scheme amendment will be made in accordance with the Minister's Guidelines and Rules made under section 17 of the *Planning Act 2016*, involving multiple State interest reviews and public consultation where required.

Whilst it may appear that a localised, specific or isolated amendment could more directly affect the interests of an individual councillor, compared to a broader amendment process or new planning scheme, in practice there is no guarantee that this is the case (or vice versa) and it is impractical to draw this distinction. The adoption of a new planning scheme or amendments impacting the whole local government area could equally include the same or greater changes and impact on personal interests.

There may also be difficulties in handling planning scheme amendments that impact the whole of a local government area but also contain amendments to specific local areas, sites and/or a number of different zones (which is common). For example, the proposed changes could increase the number of planning scheme amendment packages required (in order to separate the issues) however, this would place additional resource/administrative burden on state and local governments. To avoid this impact, a council might alternatively choose to reduce the number of 'localised' amendments which could result in a less responsive planning scheme.

In one example provided to the LGAQ, the proposed changes to ordinary business exemptions related to a planning scheme would have potentially impacted five out of their previous six planning scheme amendment processes, ranging from a 'major amendment' to facilitate and streamline tourism opportunities in certain locations and a 'minor amendment' to update mapping of flood hazard areas.

The LGAQ is also concerned about the implications of other proposed limitations proposed by the Bill to the current definition of "ordinary business matters" (see below).

As a result, the LGAQ believes there should be no changes made to the current definition of "ordinary business matters" other than the proposed new provision prompting councillors to voluntarily declare declarable conflicts of interest in ordinary business. The LGAQ supports the introduction of this "speedbump" and believes it should be given a chance to operate before any other changes are contemplated.

Prescribed Conflicts of Interest

As already mentioned, there are, in the LGAQ's view, a number of ambiguities that require refinement, including: -

a. Clause 104, proposed section 150EE - This section is extremely troubling. The reference to "other person" requires further explanation. Chapter 5B is intended to deal with how councillors are to deal with their conflicts of interest when participating in a Council decision. Chapter 5B is not concerned with regulating the conduct of any "other person". The words "other person" should be deleted.
b. Clause 104, proposed section 150EF - This section is more limited than the definition of "ordinary business matter", as currently defined in the Act. In addition to the planning-related changes discussed above, which are the LGAQ's chief concern, we are also concerned about the implications of the fact that paragraph (c) and sub-paragraphs (g)(i), (g)(ii), (g)(iv) and (g)(vi) of the current definition of ordinary business matter are not replicated in proposed section 150EF. At a minimum, paragraph (c) and sub-paragraphs (g)(ii) and (iv) should be restored in the Bill. Further, for better clarity (compared to the current definition), we recommend that the reference to "reimbursement of expenses" in proposed subsection 150EF(1)(d)(i) be expanded to read "adoption of a policy about reimbursement of expenses". The purpose of this change is to make it clear that Council decisions about the adoption of this policy (which policy deals with reimbursement of expenses and provision of facilities) are covered by the definition of ordinary business matter.
c. Clause 104, proposed section 150EI - To remove ambiguity, the words "or relates to", wherever they appear in the section, should be removed.

Declarable Conflicts of Interest

The most recently revised process for dealing with conflicts of interest (which commenced in May 2018) has been applied by Queensland councillors for the last eighteen months. That process involves councillors identifying to their councillor colleagues, at a council meeting, their "personal interests" in a particular matter, and volunteering to leave the meeting at that point or, alternatively, asking their colleagues to determine whether or not those personal interests amount to a conflict of interest and, if so, whether the councillor can stay in the meeting or leave the meeting because of that particular conflict of interest. The current process is transparent and allows a councillor's peers to examine and determine whether the interest disclosed is, truly, a declarable conflict of interest.

What is proposed by the amending Bill removes the ability for peer review of a possibly erroneous determination by a councillor of a "declarable conflict of interest" (as defined by the amending Bill). This may result in other councillors (with an identical or similar interest) being falsely accused of failing to declare the same interest which, in turn, will slow down meeting processes and, quite likely, result in more complaints about councillor misconduct being referred to the OIA (as has occurred at Moreton Bay Regional Council, for example).

Accordingly, it is our view that the regime prescribed for declaring "personal interests" prescribed by section 175E of the Act be retained in the amending Bill. If accepted, this would require the term "declarable conflict of interest" being changed. As an alternative, the term "declarable interest" could be used. To be clear, apart from the current process for declaring interests being retained, we are not suggesting wholesale changes to the remaining drafting of these new provisions.

Other issues identified with respect to the amending legislation in relation to declarable conflicts of interest are as follows: -

a. Clause 104, proposed section 150EO - The Bill may be missing clauses which make it clear that when assessing declarable conflicts of interest, similar to how the issue is dealt with in relation to prescribed conflicts of interest (see proposed section 150EG(3)), gifts and donations to a group of candidates should be divided by the number of candidates in the group.
b. Clause 104, proposed section 150EP, subsection (1)(b) – Is there any reason why the definition of "close associate" appearing in proposed subsection 150EJ(1)(f) should not apply in relation to the definition of "related party"?
c. Clause 104, proposed section 150EP, sub-paragraph (d) - What is, or is not, a "close personal relationship" is ambiguous and should be deleted. While it is acknowledged that the reasonableness test could apply, there is a lack of clarity regarding what would constitute a "close personal relationship". By the nature of their position, elected members develop and maintain many personal relationships while holding public office. This level of familiarity between councillors and constituents (giving rise to what may be construed as a close personal relationship) is potentially even more of an issue in regional and rural councils, where community/elected member interactions can be quite frequent and wide spread across the whole of the Local Government Area.
d. Clause 104, proposed section 150ER - We query the necessity for this section. The issue intended to be addressed by section 150ER appears to also be addressed by proposed sections 150EW and 150EX.
e. Clause 104, proposed section 150ES(1) - If our submission in relation to section 150ER is accepted, the reference in paragraph (1) of section 150ES to "section 150ER(2)" should be deleted and replaced with a reference to "section 150EX(4)".
f. Clause 104, proposed section 150ES, sub-paragraph (3)(a) - With the exception of the ability to delegate to the Mayor or chair of a standing committee (see section 257 of the Act), in the context of individual councillors having no individual decision making power, we do not understand the use of the words "...have been decided by the councillor under an Act, delegation or other authority".

g. Clause 104, proposed section 150EZ(2) - The current equivalent provision in the Act (section 175I(2)) does not contain the words "...or discuss the matter with...". We consider these words should be deleted on the following grounds: -
   i. A Councillor with a declarable conflict of interest may well be allowed by eligible Councillors to stay and vote on the matter when it reaches a meeting - difficulty arises with these additional words as it would be difficult for the Councillor to attend a briefing session or even ask a question of an officer prior to the meeting (as officers are involved in the decision making process);
   ii. The words impinge on basic rights of a Councillor to ask the simplest of questions of officers or the Mayor such as 'where is this matter at and when will it come to Council?'
   iii. The inclusion of the words heightens the possibility of inadvertent error - it may be that an application is received, Councillors are aware of the basic information but not the details and have discussions they should not have had when the detail becomes known. These discussions need not even stray into influence for this section to be contravened, as drafted.

2.) Changing how vacancies in elected office are to be dealt with

The LGAQ has concerns about the proposed amendments around filling vacancies in the position of councillors who were elected in either multi-member division or undivided councils within the first 36 months of the term, the consequence of which would be that the runner up in the last election is to be offered the role, and if accepted, must be appointed (S166 and 166A).

What if the departing councillor won with 80% and the next two candidates had 11% and 9% - how could appointing the runner up be a reflection of the electorate's wishes in these circumstances? What if the departing councillor was part of a group - would it not be fairer to allow the group to nominate a replacement?

Analysis of by-election results on the Electoral Commission of Queensland's website show that of 15 held in undivided councils since the last quadrennial council elections, the runner up in 2016 was subsequently elected at a by-election on just three occasions. This occurred in the 2018 by-elections held to fill vacancies on the Charters Towers, Livingston and Winton councils. On most occasions the runners-up either did not recontest or failed to win when running again at the by-election.

3.) Providing administrative support to councillors

The LGAQ's view is that Clauses 110 and 111 largely reflect what is already occurring in many councils in relation to the provision of administrative support to councillors. We do not see any great difficulty with the amendments proposed.

4.) Creation of the role of "councillor advisors"

The LGAQ does, however, see significant difficulty with what is proposed by clause 115 of the Bill.

Fundamentally, the Bill makes a false assumption that support provided to Mayors is set up in the same way as support provided to Ministers. With the exception of probably two councils in Queensland, this is not the case and generally only one staff member provides support and advice to the Mayor but reports to a Director or CEO as an officer of the council. This officer may also perform this function in combination with other functions (e.g. management of other staff or a division or department).

Another false assumption is that unlike a government losing an election, the suspension of a councillor does not mean that the business of that office ceases – councils have been incorporated since 1936! It therefore seems unfair and impractical for that staff member to be terminated two weeks after their councillor is suspended (remembering the basic legal tenant of the presumption of innocence). This termination will result in damage to the advisor's reputation and future career prospects, even if they have no knowledge of the offence the councillor is charged with or the councillor is ultimately not convicted.

Proposed section 197A intends empowering individual councillors to appoint a councillor advisor (subsection (1)), as a Council employee, on terms and conditions to be determined by the Council (subsections (3) and (4)). Alarmingly, subsection (4)(d) indicates that such a contract is to include when disciplinary action may be taken and the types of disciplinary action that may be taken. Is the intention of this provision to alter the current legislative regime which clearly states when disciplinary action can be taken against Council employees (see section 279 of the *Local Government Regulation 2012*) and the types of disciplinary action that may be taken (see section 280 of the Regulation)?

Further, section 197(1) of the Act empowers the Council's CEO to take disciplinary action against all other Council employees. Proposed section 197A makes it unclear as to whether section 197(1) is to apply to councillor advisors, or whether the appointing councillor is to be empowered to take disciplinary action against the councillor advisor (or advisors) that they appoint. Given the mire of legislative provisions existing in the *Local Government Regulation 2012*, *Industrial Relations Act 2016* (including provisions relating to unfair dismissal and adverse action) and *Public Interest Disclosure Act 2010* (including provisions relating to protection from reprisal and reasonable management action) that are potentially applicable to any anticipated disciplinary process, we query whether proper consideration has been given to empowering councillors to appoint councillor advisors, and how disciplinary matters are to be dealt with, in relation to such employees.

In relation to proposed section 197B, it is not beyond the realms of impossibility that a councillor advisor makes a report to a relevant authority that results in the councillor being suspended and the councillor advisor's appointment automatically ending. Under ordinary circumstances, the ending of the appointment could be considered adverse action under the *Industrial Relations Act 2016* and/or reprisal under the *Public Interest Disclosure Act 2010*, thereby exposing the Council to criminal prosecution and entitling the councillor advisor to a claim for damages, under either piece of legislation. We consider that this section needs to be strengthened to make it clear that, in the event of a councillor advisor's appointment ending for any of the reasons stated in that proposed section, the councillor advisor is only entitled to be paid ordinary accrued entitlements up to the time that the appointment ends, and it is not entitled to pursue any other claims under any of the legislation referred to in the previous paragraph.

Alternatively, we consider that clause 115 should be deleted, in its entirety, with consequential amendments to all other clauses deleting any reference to the role of councillor advisor.

Should the Government proceed with clause 115, the LGAQ requests that there be meaningful consultation with affected councils before the details are prescribed by Regulation, including which councils the provisions will apply to. The provisions raise concerns as to whether these roles are required as they appear to be attempting to replicate political advisor positions that exist within other tiers of government. Some councils are concerned that applying these provisions to councils other than the very large ones may lead to the creation of numerous new quasi-political roles at considerable cost to councils.

For those councils that already employ councillor advisors, the commencement date of these provisions could become an issue. If the Bill commences prior to or at the Quadrennial Elections, this could result in employment issues for councillor advisors who will not be able to be appointed until such time as councils are formed, the post-election meeting has occurred and sufficient notice is given for a special council meeting. Further, this will impact on the way in which the duties of councillor advisors are allocated in the interim which will result in an increased demand on other council employees during this period.

The LGAQ reserves its positions as to comments on the number of councillor advisors or the limits on the functions as a draft of the Regulation has not been provided at the time of drafting this submission. However, fundamentally we are of the view that:

(a) It is not appropriate for the number of councillor advisors to be set by Regulation as the amount of support staff should be determined by business requirements at any given time and allow necessary flexibility.

(b) The functions and key responsibilities of councillor advisors should be included in the individual contracts of employment. It is not appropriate for these functions and key responsibilities to be set by Regulation as they should be determined by the business requirements of the individual local government.

Depending on the number of councillor advisors permitted under the Regulation this could have privacy concerns for what may be relatively low paid staff and cause issues within the organisation regarding remuneration between staff. For example, if the Regulation prescribes that a councillor may only have one councillor advisor it will be evident what that individual is earning. One possible solution may be to give the role of determining the remuneration of councillor advisors to the Local Government Remuneration Commission.

Moreover, the new penalties to be introduced by Clause 115 are in addition to the penalties which apply to Council employees for improper conduct or misuse. These sections are also proposed to be amended to include councillor advisors. Further the value of the penalty units is higher than what is imposed on any other council employee, including the CEO for breaching provisions of the Act. This is in circumstances where the majority of councillor advisors will be undertaking fairly low-level tasks for modest remuneration.

Finally, these provisions are one example of provisions in this Bill that go further for local government than state government without sufficient explanation, even though the Attorney-General stated in her introductory speech that: "As the government has previously made clear, where we can align requirements for state and local governments we will". Do the same offences that will apply to councillor advisors apply to Ministerial and Opposition Leader office staff? Will all Ministerial and Opposition Leader office staff be required to have a Register of Interests like councillor advisors?

5.) Related amendments under consideration to the *Local Government Regulation 2012*

The Committee will be aware that the Government's November 2019 information paper on the Bill lists a range of future amendments under consideration to the *Local Government Regulation 2012*. While strictly speaking outside the scope of the Committee's inquiry, the proposed amendments are related to the Bill and, thus, the LGAQ wishes to take this opportunity to place on record its concerns with a number of amendments under consideration, including:

a. Informal meetings - The impact on council operations of the proposed restrictions on "informal meetings or workshops" will very much depend on how such meetings will be defined. Informal meetings should be a meeting arranged through a decision at a Council meeting or a committee meeting, not a meeting arranged with two councillors and a council employee. The latter, which in an average council setting is a daily occurrence, will significantly hamper council operations and make the public notice and reporting requirements drastically onerous and costly. Furthermore, provision would need to be made that any information that could be considered as commercial-in-confidence, prejudice a deliberative, investigative or other litigation process, legal professional privilege or any other legal impediment is not required to be released. These proposals (as well as those regarding closed meetings) also overlook the use of procedural motions which has been in place for many decades.
b. Closed meetings – The LGAQ has serious concerns over the proposed changes to what can be considered in closed session. The removal of these matters will create unnecessary implications for council employees and the communities. By bringing matters such as these to an open public meeting it will result in less transparency and matters which are personal, commercial in confidence or could prejudice interests of the community will not be able to be discussed. For example:
    i. Removing actions or decisions under the Planning Act and other business may give rise to issues in the management of appeals, making and amending planning schemes and consideration of sensitive financial matters.
    ii. Removing contracts proposed to be made from the topics that can be discussed in closed session would make it very difficult to prepare frank and honest reports outlining pricing details, historical performance of contractors, concerns with contractors etc., which allow Councillors to make an informed decision in open session.

iii. Removing "appointment, dismissal or discipline of employees other than the CEO" is also of concern. While the CEO would not need to go to the Council for approval of Council in relation to termination or discipline or appointment of subordinate staff, there are times when it is in the operational interests of council and the CEO for the CEO to be able to discuss staffing issues with council within a confidential setting which binds councils to the confidentiality (the LGAQ is aware of some very real examples).

c. Consultation on council budgets - Introducing a one size fits all requirement to consult with the community on their budgets would stifle innovation and destroy a lot of value in the system (as a result of adding red tape). Furthermore, the proposal deals with the wrong issue. Putting out a draft budget for consultation at the end of the process means there is limited opportunity for real input into issues that may change the resource allocation in a budget. A better model would be to encourage more "front-end" consultation on Council's long-term plans that determine resource allocation in a budget.

d. Minutes – These proposed amendments also raise a series of questions. For example, what is intended by a 'committee': is this a statutory committee or any committee? What is the point of publishing unconfirmed minutes, in circumstances where they may not be a true reflection of the meeting and could have reputational impacts on committee members?

As a general comment, what is evident in these proposals is a tendency to move away from the general competency concept towards a prescriptive regime. This is of concern to the LGAQ and its members.

The LGAQ has communicated these concerns to the Government on several occasions and continues to urge the Government to proceed with caution. The LGAQ remains available for further consultations with the Government.

6.) Feasibility of introducing expenditure caps for Queensland local government elections

For several years now, the LGAQ has supported the introduction of expenditure caps for Queensland local government elections. In September 2017, the LGAQ wrote to the Queensland Government and Opposition to propose expenditure caps for local government elections (a fact noted in the CCC's Operation Belcarra Report (page 46)). Expenditure caps were also part of the LGAQ's April 2018 Beyond Belcarra plan with reform proposals that went further than even the CCC was prepared to go.

At the LGAQ Special General Meeting held in Brisbane on 2 April 2019, the LGAQ membership passed three resolutions related to expenditure caps:

1. a resolution opposing the introduction of local government election campaign expenditure limits as proposed by the March 2019 Department of Local Government, Racing and Multicultural Affairs information paper: "Local Government Reforms – Key amendments currently under consideration";
2. a resolution supporting the introduction of expenditure caps for local government elections set at $1 per enrolled voter for mayoral and councillor elections, with lower expenditure limits ("floors") of $20,000 for mayoral elections, $15,000 for councillor elections in undivided councils, or $10,000 for councillor elections in divided councils; and
3. a resolution supporting the introduction of legislation to prevent the potential distorting influence of electoral expenditure by third parties with aligned interests.

To avoid confusion as to what is proposed, the "floor" is not intended as a must spend. Rather, its purpose is to ensure that in smaller population councils:

- Mayoral candidates can spend up to a maximum of $20,000 if their council area comprises 20,000 electors or less;
- Councillor candidates in undivided councils can spend up to a maximum of $15,000 if their council area comprises 15,000 electors or less; and
- Councillor candidates in divided councils can spend up to a maximum of $10,000 if their division comprises 10,000 electors or less.

The LGAQ agrees with the statement in the Committee's Issues Paper (page 4) that, ultimately, the success of any system of expenditure caps for Queensland local government elections will depend on

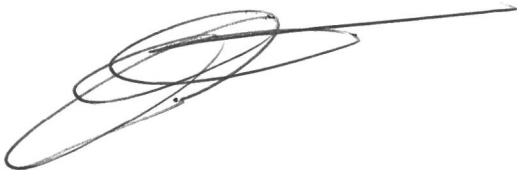
the design and features of the model implemented, and the extent to which they effectively balance freedom of political communication with the need to ensure a fair process that is free from perceptions of undue influence, and which ensures standing for office is not restricted to the wealthy.

The resolutions passed at the 2 April Special General Meeting represent the collective attempt of the LGAQ membership to achieve this balance. The Department's March 2019 expenditure limits (which included sliding caps but capped at $20,000 for councillor candidates and $100,000 for mayoral candidates) were rejected because the LGAQ membership felt they were set too low, thus having a negative impact on political communication. Low caps make it difficult for a candidate for Mayor or Councillor in councils with large populations or large geographic areas to reach electors, due to the naturally high campaigning costs in these circumstances. At the same time, and as stated in the Issues Paper (page 5), imposing a cap that is too high will render the cap meaningless.

The third resolution passed by the LGAQ membership reflects the importance of extending expenditure caps in some form to third parties so that third parties cannot be used to circumvent expenditure caps (a fact also acknowledged in the Issues Paper – page 5). The Government's proposal of March 2019 included a proposal to permit third parties to spend the same amount as mayoral candidates. This would have the potential to distort the election process by way of the aggregation of expenditure by a number of third parties against a particular candidate. Such an outcome would undermine the Government's own reasoning for setting expenditure caps, which was "to improve transparency" and "reduce integrity risks associated with reliance on significant donations".

I trust this submission will assist the Committee with its consideration of the Bill.

Yours sincerely



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