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26 February 2018

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

Email: egc@parliament.qld.gov.au

Dear Sir

Re: Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018

Thank you for the opportunity to offer comments on the above Bill.

Gecko Environment Council (Gecko) is a not for profit environmental organisation founded in 1989. and is the peak regional body. Our mission statement is *“To actively promote, conserve and restore the natural environment and improve the sustainability of the built environment of the Gold Coast region in partnership with our Member Groups and the wider community.”*

Throughout this period Gecko has taken the opportunity to fully engage with our local council in all matters impacting on our natural environment and on the liveability and sustainability of our City.

Gecko congratulates the government for promptly re-tabling of this Bill which lapsed in 2017 prior to the election. We had previously submitted our responses to that draft legislation and welcome this opportunity to renew our calls for greater transparency and accountability in Local Councils and to offer additional examples of the need for reform. We offer comment below on some suggestions for possible amendments to the Bill but on the whole substantially agree with its contents.

While this Bill would improve the application of the principles of transparency and accountability in all Councils across Queensland, we offer our comments from the perspective of the operation of the Gold Coast City Council.

Gecko members and members of a wide range of community groups across the city have grown increasingly concerned over the past 5 years with the conduct of this Council, including the lack of transparency, failure to consult adequately with the community and failure to comply with the City Plan. In particular, we are concerned about the actions of a voting bloc of Councillors which appear to be prepared to offer extreme relaxations of planning laws, resulting in reduced amenity of our City and a grave deterioration in the protection of our native plants and animals. There also appears to be a climate of bullying and harassment of those Councillors who seek to implement the provisions of the City Plan more consistently or who raises questions about the process followed in decision making.

Most recently Gecko has met with representatives of community groups from across South East Queensland who are voicing the same concerns and have offered many similar examples of poor decision-making in their local Council areas. The influence of the development industry to override City planning instruments and to be permitted their own advantageous codes and deviations from Town Plans **with no public benefit** is rampant and is resulting in enormous community dissatisfaction at the erosion of the amenity of their lifestyle and amenity.

Some of the behaviours displayed by some Councillors appear to be the result of a combination of matters including:

- the 2012 amendment of the Local Government Act to change the powers that mayors held in Council. Section 12 (4) (b) was amended from proposing the budget to Council to (b) preparing a budget to present to Local Government, resulting in greater powers of Mayors;
- excessive influence from the development industry, particularly since the inception of the Technical Advisory Group in 2013, followed by the Mayoral Advisory Committee this year;
- An outcomes-based planning framework which has resulted in some Councillors viewing the City Plan 2016 as a “guidance document” only, with a flexibility beyond its intent, rather than a legislative instrument.

Gecko welcomed the appointment of the Independent Councillor Complaints Review Panel in 2016 and the subsequent report of their findings, *Report ‘Councillor Complaints Review: A fair, effective and efficient framework’* which has led to the tabling of this Bill. Regrettably the inquiry concurrent with the previous iteration of the Bill, that is, the Local Government (Implementing Belcarra) and Other Legislation Amendment Bill 2017 has not been re-tabled thus far. We suggest issues raised in submissions to that inquiry, should be considered by the Committee in relation to this Bill where relevant.

Fair Treatment of Councillors

Gecko has read the July 2017 Queensland Government response to the report by the Independent Councillor Complaints Review Panel, *'Councillor Complaints Review: A fair, effective and efficient framework'*

<https://www.dilgp.qld.gov.au/resources/publication/local-government/councillor-complaints-reviewreport-government-response.pdf>

Gecko is substantially in agreement with the government's responses to the Review Panel's Recommendations however we offer the comment that the Committee's focus seems to be on the accusation of misconduct and does not sufficiently address potential for bullying and the raising of false or exaggerated claims of misconduct or the requirement for recourse against unfair treatment.

From the above report we note:

Chapter/topic	Recommendation	Queensland Government response
Natural justice, procedural fairness and confidentiality (Councillor Conduct Tribunal) 10.5 Appeals	The provisions of the LG Act limiting appeals, be amended to permit appeals to the District Court for decisions of the proposed Tribunal on misconduct matters on questions of law only, and for jurisdictional error.	The government supports in principle allowing for an appeal against a decision of the CCT. However, the government supports that an appeal should also be permitted on the merits of the matter and not just on a question of law or jurisdictional error. An appropriate body to conduct reviews and appeals will be identified.

Gecko strongly supports the above response by Government which is expanded in greater detail through the significant changes to the Local Government Act proposed in this Bill to appoint an independent authority to deal with complaints against Councillors. Gecko strongly supports this change. However there remains the potential for unfair treatment of Councillors to occur in a manner that would not necessarily be able to be redressed through the Office of the Independent Assessor should a Councillor wish to take the matter further. The existing situation in Gold Coast City Council is one in which Councillors who question planning decisions or the viability of proposals championed by the Mayor face humiliating dressings down at Council meetings, including

during meetings filmed live or attended by the public; unreasonable censure, sometimes in the media, without the opportunity for redress; exclusion from consultation on matters within a Councillor's own Division and the cutting of Divisional funds and most recently, removal from Committees on which Councillors may have served over many years, with no explanation. There is no currently recourse for this form of disempowerment of elected officials.

While there may be no actual misconduct or inappropriate conduct occurring at a meeting there remains too much scope for a Chairperson to exclude a Councillor from a meeting as the proposed amendment to Local Government Act s. 176(4) states that inappropriate behaviour includes:

(b) A failure by the councillor to comply with a direction to leave a meeting of the local government or its committees by the chairperson presiding at the meeting.

even though that direction may be without reasonable cause.

What constitutes inappropriate conduct appears to be open to interpretation by the Chair and may potentially include whistle-blowing and pointing out that due process has not been followed. The explanatory notes state that: *if the conduct of a councillor contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held or is part of a course of conduct that leads to orders for the councillor's unsuitable meeting conduct being made on 3 occasions within a period of 1 year, the local government may deal with the conduct under new section 150AG (Decision about inappropriate conduct) and **is not required to notify the Independent Assessor** about the conduct.*

Furthermore, the Bill (clause 29) provides that a local government may delegate the power to make a decision about a councillor's conduct under new section 150AG to the mayor or a standing committee of the local government. The Explanatory Notes state that the Bill does not provide a merits review of a decision by a local government in relation to inappropriate conduct. Thus the potential for bullying and the shutting down of Councillors seeking to hold other Councillors to account remains. **Gecko recommends** that an aggrieved Councillor should have the ability to refer the matter to the Independent Assessor for review. There should be no opportunity for persons in Council, either Officers or Councillors to have the ability to smear the good reputation of a Councillor (through censure, expulsion from Committees and other punitive measures) without that Councillor having the right to seek natural justice. This is important as the register to be held by Council (section 150DX) is accessible to the public.

The Independent Assessor may or may not find merit in the decisions taken under proposed section 150AG but such rigour is needed. The results of such a review would also have be recorded in the register.

While we accept there should be a healthy exchange of views on all matters before the Council, an entrenched culture of bullying is difficult to eradicate. Gecko therefore strongly supports the provisions of Part 2 Division 1 Section **150F** for a Code of Conduct being prescribed by legislation. **We suggest an additional requirement at 150G** requiring councillors to make a declaration that they will abide by the Code of Conduct.

150I Chairperson may deal with unsuitable meeting conduct

As discussed above there remains potential for bullying of Councillors to occur as Chairs of meetings might seek opportunities to shut down a Councillor through the Chair simply stating that “the chairperson of the meeting reasonably believes the conduct of a councillor during the meeting is unsuitable meeting conduct.” (151 I). There is little or no opportunity to seek redress in such a situation.

Such actions might be of such a petty nature that would not warrant representation to the Office of the Independent Assessor but would cumulatively impede the Councillor from carrying out his responsibilities. Accordingly, the model Code of Conduct needs to be sufficiently rigorous to ensure fair dealings between Councillors. Despite the focus of the Bill being mainly on the conduct of Councillors at Local Government meetings, the public needs to be made aware of the opportunity to raise complaints through the process outlined in Part 2. The Code of Conduct should therefore also encompass the way a Councillor deals with members of the public. Gecko members and other members of the public, standing up for the protection of matters in their local area frequently report rudeness and abuse from certain Councillors. Such behaviour is not dignified and does not encourage respectful interaction between the Council’s elected officials and city residents.

Gecko recommends that the Committee gives careful consideration to the budgetary implication of appointing an OIA and an Independent Commissioner as lack of adequate resourcing will impede the ability of the OIA to carry out its work. By way of example, we refer to an instance where the CCC reported (to a complainant) it was unable to assess a 50 page document compiled in relation to a serious breach of responsibility by the Gold Coast City Council due to lack of resources. The matter is now before the Court as a result of community action but we believe that in the first instance serious breaches should first be examined by the CCC. The relationship between the work of the OIA and the CCC needs further clarification in order that multiple inquiries on the same issue/s are not running concurrently.

We thank the Committee for its consideration of Gecko views. We also append some relevant letters previously sent to Planning and Local Government Ministers Trad and Furner during the term of the previous government which reference matters pertinent to this inquiry.

We trust the passing of this legislation will deliver a fairer and more transparent process in dealing

with complaints against Councillors as well as improving decision making by Councils across the State.

Yours sincerely



Handwritten signature of Rose Adams in black ink, appearing as 'C Adams'.

Rose Adams
Secretary

Appendices

Letter dated 17 June 2017 to Minister Jackie Trad, Deputy Premier and Minister for Transport, & Minister for Infrastructure & Planning

Briefing paper dated 31 July 2017 to Minister Mark Furner, Minister for Local Government, presented at Governing from the Gold Coast 30th July - 4th August.

Letter dated 24 September to Minister Furner

Hon. Jackie Trad
Deputy Premier
Minister for Transport, & Minister for Infrastructure & Planning
PO Box 15009
CITY EAST QLD 4002
deputy.premier@ministerial.qld.gov.au

Dear Deputy Premier

Re: City of Gold Coast Planning Scheme (City Plan) approvals

In 2016, the City Plan was adopted by Gold Coast City with the intention of accommodating the growing population with infill development within the urban footprint. Gecko Environment Council (Gecko) supports this approach in principle to protect and conserve the biodiversity and rural lifestyle of the hinterland. However, since the City Plan's inception it has become apparent that the interpretation of the planning instruments by city planning staff and some Councillors, in assessing and approving development applications is extremely broad and is leading to what we consider excessive relaxation of conditions. This causes great community distrust of the planning assessment process and fear that they will wake up one morning to find a monolith has been code assessed and approved next door to their premises.

MERIT BASED ASSESSMENT

While some flexibility in planning is considered desirable if it leads to better quality developments and improved social amenity, such flexibility in a merit -based assessment process can be abused to the detriment of the city and its residents. It is our contention that this process is indeed being abused in Gold Coast City.

Most leading community groups are greatly concerned about this trend, considering that it leads to undesirable social outcomes as well as negatively impacting on the physical fabric and sustainability of the city.

Throughout the city developments are being approved with few mitigating conditions to address non-compliance with the Strategic Intent and detail of the City Plan. These include:

- Greatly increased densities e.g. mapped residential densities are being relaxed to the density of Surfers Paradise and density increases of 2 or 3 times that allowed apparently with no community benefit. One example is ONYX on GC Highway at Palm Beach where the density has been increased from 64 units to 150. Another example is a duplex construction where the building is allowed to the boundary. This impacts on both neighbours of the property as they will not be permitted to reduce their set-backs at all.
- Greatly increased heights,
- Greatly decreased setbacks from site boundaries,
- Inadequate parking requirements and
- Greatly reduced communal space in mid and high rise buildings.

While increases (or decreases) in these applications under current assessment criteria can be expected to some extent, we understand that they should not be approved without a corresponding community benefit (See attachment A). To quote from the Community Benefit policy relaxations of the order that we are seeing "*must have met the overall outcomes of the zone and any other relevant code.*

In addition, the community benefits envisaged need to:

- (a) be demonstrably in excess of those that would normally be expected of the development under the relevant provisions of this planning scheme or building regulations; and*
- (b) meet both the purpose of the element and the prerequisites identified in the table in SC6.5.4."*

This is not happening and indeed the quantitative listing of community benefits in the City Plan are not being applied conscientiously to development assessments. The excessive yields in density and/or height do not tally with the “allowable” development contributions in SC 6.5.4.

An example is the Komune application for Coolangatta south, where the justification for the increase in height by more than double and site coverage of 90% from 50%, is that ‘ it is good for the area, a 6 star hotel is needed, and that it is not a precedent’. The building relaxations could not have been approved under SC 6.5.4 criteria of ESD/green buildings, there are no community facilities or improvements, no public art or artistic exterior lighting benefits, and the amalgamation bonus is well over the maximum of 6%.

Community concern also surrounds the lack of attention to the cumulative effect on the neighbourhoods and collectively across the city. There is little recognition by Council planners and Councillors that this can lead to a loss of social cohesion as neighbourhoods change rapidly beyond recognition to current residents. Further the broader public interest is not sufficiently considered and the benefits to the individual developer dominate. An example of this is in Palm Beach where a series of relaxations have been approved without community benefits and no recognition of the cumulative strain on existing community facilities.

Applications are not being assessed on their own merit because previous approvals with considerable relaxations are acting as a precedent thus making it difficult, if not impossible, to refuse subsequent applications. These relaxations in turn are not subject to scrutiny by the affected residents/community.

CODE ASSESSMENT

Assessment of code assessable developments, (which nowadays accounts for most applications) are approved by delegation to officers. This practice would suggest that acceptable solutions should be scrutinised more and who determines what is acceptable should be clearly defined as well as well-defined criteria. Officers need to be able to demonstrate that their planning decisions result in better outcomes for the area and its residents, not only for the benefit of the applicant/developer.

At times, the code assessable decisions are made by a committee consisting of the Mayor, Planning Committee chair and divisional councillor, resulting again in a lack of transparency and accountability. This leaves Councillors open to accusations of favourable treatment to certain developers or to a conflict of interest. Gecko has noted that while Councillors may declare a conflict of interest on occasion they invariably decide that it is not an impediment to them discussing and voting on the matter before their Committee or Council. Delegated decisions do not proceed to the Planning committee so there is no oversight of procedure and outcome and often at the exclusion of the Divisional councillor.

INFRASTRUCTURE

Further we are concerned that the approvals are being granted without knowing whether the current infrastructure of water, sewage, power, recreational spaces / facilities and traffic is able cope with the extra population. Arguments such as the open space being provided at the beaches does not consider the fluctuations of the beach as a usable space, or the fact that not everyone wants to use the beach as open space or the obligation of the developer to contribute to open space. This argument also neglects the impact of sea level rise on the availability of the beach as open space.

Arguments of profitability of the development unless relaxations are achieved should suggest that the proposed development is not an appropriate solution and should not proceed. At the very least Council should demand proof that compliance with the City Plan creates a non-viable development.

Retrofitting of community infrastructure to cope is an expensive and difficult option. Gold Coast City still does not have a current Local Government Infrastructure Plan even though the current City Plan is over 12 months old. The result will be an unplanned and overcrowded urban area that is no longer a pleasant place to live and

a reduction in community amenity that the current population enjoys and has a reasonable right to expect to continue into the foreseeable future.

The defining character of suburbs is being changed without the knowledge or consideration of existing residents who reasonably assumed they had their say on the City Plan during the consultation period and now find consistent overriding of the intent of the City Plan.

The character of the streets, enclosure and scale impacts with restriction of streetscape, shade trees and landscape in the public realm along with increased use of street parking due to lack of parking in the buildings is now of critical community concern that we tender this submission to enable your Ministry to investigate and intervene.

We list several instances below to substantiate the community concerns.

Examples – Please refer to table on the following pages.

Yours sincerely

Lois Levy. OAM

Campaign Coordinator

On behalf of the Community Alliance Groups listed below



SAVE OUR BROADWATER
Speak out. It's not for sale.








Wildlife Preservation Society Qld.






The Main Beach Association
Sharing a vision for Main Beach and The Spit






PROJECT	CONFLICTS WITH CITY PLAN 2016 and/or PLANNING SCHEME 2003	SCALE OF CONFLICT	LOCAL GOVERNMENT JUSTIFICATION	STATUS AND NOTES
<p>Café 228 Pacific Pde Bilinga IMPACT</p> 	<p>Not in a designated urban centre Residential area Car parking Waste management</p>	<p>*Dangerous vehicle access *Detached and multi residential area</p>	<p>None</p>	<p>Council Officers recommended approval. Planning Committee voted no on 24th April. Application withdrawn before full council meeting.</p>
<p>Komune Apartments, Hotel Café and Shop at 140 / 144 Marine Pde Coolangatta IMPACT</p> 	<p>Coolangatta LAP Height Density Site cover Scale and bulk Landscaping shortfall Carparking</p>	<p>*Excessive scale and bulk and podium height * impact on scenic amenity/contrary to city form (which called for low rise between CBD core and Greenmount Hill) *27 storeys Vs 10 storeys (85m Vs 47m) * three times density *no boundary clearances *99%site cover Vs 50% *significant carparking shortfall</p>	<p>Good for the area. Not a precedent Area needs a 6-star hotel (although the approval cannot be conditioned to ensure delivery of a 6-star hotel)</p>	<p>Planning Committee 24th April 17 Council officers recommending approval</p>
<p>Escape, 106 Pacific Pde Bilinga IMPACT</p> 	<p>Height Density Communal open space</p>	<p>*Prescribed 5 storeys- approved 8 storeys; *Prescribed 1 bedroom/ 33m21 – approved bedroom/20m2; *Prescribed Site coverage 49% -approved Site coverage 69%; *Prescribed Communal open space 1050m2- approved 191m2</p>	<p>Not known</p>	<p>Applicant appealed a deemed refusal. GCCVC and residents undertook mediation proceedings. GCCC discounted residents' issues and negotiated an approval with minor changes (one floor less) to the</p>

				original submitted design.
PROJECT	CONFLICTS WITH CITY PLAN 2016 and/or PLANNING SCHEME 2003	SCALE OF CONFLICT	LOCAL GOVERNMENT JUSTIFICATION	STATUS AND NOTES
<p>3-5 Lang St, Bilinga MCU201400572 IMPACT</p> 	<p>Height Density Communal open space Building Bulk</p> <p>30 objections; no submissions of support</p>		None	APPROVED (16/12/2016) - DELEGATED AUTHORITY DECISION
<p>1,3,5 Parnoo St, Chevron Island, Surfers Paradise and 258 Stanhill Drive, Surfers Paradise MCU 201501410 (9 Oct 2015) IMPACT Code assessable application MCU 201501410</p> 	<p>Density Building height, Site cover and communal space. Potential negative impact with respect to traffic, amenity, noise, use of community facilities, water, sewerage etc. infrastructure.</p> <p>Over 200 objections; few letters of support</p>	<p>*A plot ratio of 6.57:1 is proposed against allowed plot ratio of 2.057:1 *The site falls well below the required 3,000m2 area for a development over 8 storeys as required under the current Chevron Island LAP *Prescribed RD8 High Density of 1 bedroom per 13m2 , proposed Density of 1 bedroom per 9.27m2 *Prescribed maximum site coverage of 30%; proposed 39% at ground level *Reduced communal space and communal space on level 17 *Subject site lies outside the 800m walking distance to the GCRT Route. *Building is 3 times larger than permitted on the site.</p>	Not known No apparent community benefit	Impact assessable application withdrawn 13 Oct 2016 Code assessable application is still active.
<p>ONYX-1013 Gold Coast Highway Palm Beach MCU201700670 IMPACT</p> 	<p>Density Communal space Set backs Parking Shadow Amenity Height</p> <p>14 objections plus petition with 35 signatures; no</p>	<p>Approved 154 bedroom (additional 90) *Prescribed density-1 bedroom per 33m2 Approved density- 1 bedroom per 13.64m2 *Communal open space Required 2470m2 Proposed 348m2 - shortfall 2084m2</p>	No community benefit	Approved Planning Officer delegated authority 9 August 2016


	submissions in support			
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PROJECT	CONFLICTS WITH CITY PLAN 2016 and/or PLANNING SCHEME 2003	SCALE OF CONFLICT	LOCAL GOVERNMENT JUSTIFICATION	STATUS AND NOTES
<p>58-60 Jefferson Lane Palm Beach MCU 201601429 CODE</p> 	<p>Density Setback reductions Communal open space parking</p>	<p>Prescribed 66 bedroom - Approved 99 bedrooms; *Prescribed density 25m2 -Approved density 16.7m2; *Communal open space Required 1656m2- Proposed 306m2 - shortfall 1350m2</p>	<p>No community benefit</p>	<p>Approved Planning Officer delegated authority</p>
<p>1488-1496 Gold Coast Highway Palm Beach (Nyrang Ave) MCU201601131 CODE</p> 	<p>Density Communal open space Access from Nyrang St</p>	<p>*Prescribed 71 bedrooms - Approved 169 bedroom (additional 98); *Prescribed density 1 bed/ 50m2 - Approved density 1bed/21.13m2; *Communal open space Required 3178m2 - Proposed 341m2 - shortfall 2837m2</p>	<p>No community benefit</p>	<p>Approved Planning Officer delegated authority</p>
<p>140 Ridgeway Avenue Southport MCU201700033 IMPACT</p> 	<p>Density Car parking Property line Road widening requirement</p> <p>57 OBJECTIONS</p>	<p>*Prescribed 21 units with 28 bedrooms –approved 29 units with a total of 49 bedrooms; *Prescribed 34 parking spaces – approved 29 underground car parks plus 6 for visitors.</p>	<p>No community benefit</p>	<p>APPROVED (02/02/2017) - DELEGATED AUTHORITY DECISION</p>
<p>Orient Central Development Corporation Carrara flood plain</p>	<p>Flood plain development flooded during Cyclone Debbie</p>	<p>*Prescribed 970 units – approved 1,500 units</p> <p>Three boats and three days' food</p>	<p>No community benefit</p>	<p>Planning committee approval</p>

				
<p>PROJECT</p>	<p>CONFLICTS WITH CITY PLAN 2016 and/or PLANNING SCHEME 2003</p>	<p>SCALE OF CONFLICT</p>	<p>LOCAL GOVERNMENT JUSTIFICATION</p>	<p>STATUS AND NOTES</p>
<p>Sunland Developments No7 Pty Ltd Mariners Cove, L524 WD6023 64 Seaworld Drive, Main Beach L99 WD 839540 60 Seaworld Drive, Main Beach IMPACT</p> 	<p>Height Density Residential development Glass exterior Infill of Broadwater</p>	<p>*Prescribed (15m) 3 storey height limit – applied for 2 towers Height – 44 storeys *Residential development is not permitted –applied for 370 residential apartments *Site coverage over 100% requiring infill of Broadwater. *Glass permitted 66% - applied 100%</p>	<p>Some road works upgrades Perceived open space Perceived cultural contribution</p>	<p>Rejected by Planning Officers. Withdrew application for 12 months. Waiting on changes to Planning Scheme.</p>
<p>Orion Development 2 towers 103 and 76 storeys CODE ASSESSABLE</p> 	<p>Scale</p>	<p>*22m high podium containing carparking. The highest podium in the city at 7 storeys high. *Building height dwarfs surrounding high rise and shifts the epicentre of the city significantly southwards</p>	<p>Perceived “architectural addition” to the city</p>	<p>Approved by planning Committee 24 May 2017 Approved by full council 30 May 2017</p>

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PROJECT	CONFLICTS WITH CITY PLAN 2016 and/or PLANNING SCHEME 2003	SCALE OF CONFLICT	LOCAL GOVERNMENT JUSTIFICATION	STATUS AND NOTES
<p>Hapsberg Apartments 3547 -3549 Main Beach Parade Main Beach</p> 	Land zoned Medium Density Residential	Zoned: Medium density residential 363 beds on land zoned for 38 bedrooms Rejected by GCCC Planning Dept and Council for 10 reasons.	None	Decision being appealed by developer on the basis that it is erroneous, unreasonable and unlawful
Songcheng Development company, Gold Coast cane lands	Inter-urban break Agricultural land	Entire city on 66,000 ha	Not known	Not yet applied for

Governing from the Gold Coast 30th July - 4th August.

Briefing Paper

Powers of Mayors in Local Government and other matters.

31st July 2017

1. Minister/Agency	Hon. Mark Furner, Minister for Local Government
2. Topic title	Powers of Mayors in Local Government and other matters.
3. Background	<p>Budget: In 2012 the Newman Government amended the Local Government Act to change the powers that mayors held in Council. Section 12 (4) (b) was amended from <i>proposing</i> the budget to Council to (b) <i>preparing a budget to present to Local Government</i>. The purpose of the amendment was apparently to align the role of the mayors of all Local Governments with that of the Brisbane City Council Mayor. The budget is then adopted by Council with or without amendment. In our experience prior to this amendment to the Act, the budget was prepared with a high level of consultation between the mayor and the other councillors, who had access to submissions made by Council officers. The result was that the final document better reflected the needs of all constituents and was more democratic in its outcome.</p> <p>It is Gecko's understanding that the current situation on the Gold Coast is that the mayor prepares the budget in full before presenting it to the councillors only two weeks prior to the adoption vote. It is our opinion that this has led to unwarranted control by the mayor of councillors' ability to fulfil, to a reasonable extent, the needs of their constituents. The Councillors have limited opportunity to scrutinise a detailed and complex document, and have been refused access to Officer bid information so that Councillors can see what the Mayor has not put forward in the proposed budget. This process is far less democratic and can result in the withholding of funds from councillors who may not appear to agree with the mayor on various policies. Such a situation can result in some Divisional constituents benefitting from budget funds more than others, regardless of the level of need or urgency.</p> <p>Directives: Gecko also has concerns about the somewhat ambiguous wording re the powers of a mayor to give directives. The Act states:-s12 (4) states "The mayor has the following extra responsibilities—(d) directing the chief executive officer and senior executive employees, in accordance with the local government's policies", but s170(1) Giving directions to local government staff says "The mayor may give a direction to the chief executive officer or senior executive employees."</p> <p>It is our understanding that there used to be a requirement for a record of all directives from the Mayor to the CEO and Senior staff, but this is no longer the case. As a result Councillors do not know what communication has transpired between the mayor and Council staff. This situation has the capacity to put Councillors in an invidious position and needs to be rectified.</p>

	<p>Conflict of Interest: It has been noticed that on many occasions Councillors declare a conflict of interest in regard to a matter under discussion. Most times the declared conflict of interest can be dealt with and the Councillor remains in the room to participate in the discussion and vote as per the Act or removes him/herself from the room. However it has been noted that where the conflict of interest relates to development applications by donors to previous election campaigns, Councillors generally decide that they can deal with the conflict of interest and remain to discuss the application and vote. Gecko is of the opinion that this is an unsatisfactory situation and is often perceived by the public as the donors receiving “special” treatment” by virtue of their donations to that councillor’s election campaigns. Please see the attached example.</p>
<p>4. Issue Summary</p>	<ul style="list-style-type: none"> • Budget control by mayor’s in preparing the budget instead of proposing it. • Ambiguity in the directions of the mayor to the CEO and senior staff and the need to have such directives recorded and accessible to all councillors. • Conflict of interest in regard to discussion and voting on development applications from donors to a councillor’s campaign funds.
<p>5. Key Points / Issues</p>	<ol style="list-style-type: none"> 1. That the amendment to Section 12 (4) (b) in 2012 by the Newman Government to the Local Government Act and Other Legislation Amendment Act has increased the power and control of the mayor to an unwarranted degree. 2. That the resulting budgets prepared by the mayor of Gold Coast are less democratic and less responsive to the needs of all constituents. 3. That directives from the mayor to the CEO and Senior staff should be recorded and accessible to all Councillors 4. That the conflict of interest in regard to donors should result in the councillor removing themselves from the discussion and vote on a development application.
<p>6. Requests</p>	<ol style="list-style-type: none"> 1. That the changes to the Local Government Act and Other Legislation Amendment Act S 12(4) (b) be rescinded so that the power of the mayor in respect of the budget reverts back to proposing the budget rather than preparing the budget. 2. That the two sections of the Act in regard to the mayor giving directives to the CEO and senior staff are clarified so that they are not ambiguous and that the requirement to keep a record of these directives is reinstated. 3. That councillors be directed to remove themselves from the discussion and vote of development applications when they have received donations to their election campaign funds from the developer in question. 4. That the Government instigate a ban on developer donations to Council and State Government election candidates.
<p>Submitted by</p>	<p>Lois Levy, Acting Secretary, Gecko Environment Council Assoc. Inc. [REDACTED] [REDACTED]</p>



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24th September 2017

Hon Mark Furner.

Minister for Local Government

local.government@ministerial.qld.gov.au

Dear Minister,

Re: Follow up to submission made 31st July and other matters

On 31st July Gecko Environment Council representatives had the pleasure of speaking with you about our concerns of the way some of the Gold Coast City Council Councillors and the Mayor conduct their business. I attach a copy of our submission which outlines our concerns about the powers of the Mayor in controlling the budget process, declarations of conflict of interest by Councillors in making decisions, particularly in reference to development applications and failure by the Mayor to record his directives to the CEO and senior staff.

Having listened to you speak on the Steve Austin ABC 612 radio program (19/9/2017) I was pleased to hear that there is an enquiry continuing under Operation Belcarra with Alan MacSporran QC heading this up. We look forward to the findings and actions by your Government to improve the transparency and accountability of Councillors. We trust that this will not be too long in coming as it is important to maintain the momentum for reform created by programs such as 4 Corners. It would be useful if you could give a time line for the Belcarra Report.

Conflict of Interest: The 4 Corners program aired on ABC television, Monday 18th September, has raised some of the issues we raised in our submission namely that the current legislation allows Councillors to remain in the discussion and vote on matters on which they have a declared a conflict of interest. Gecko members, and judging from the public response to the 4 Corners program, many others find this completely unacceptable. We urge your Government to change the legislation so that Councillors must physically remove themselves from the room in which such conflicted matters are decided. We realise that this is not a complete answer since decisions can be stitched up in advance despite the Councillor removing themselves, but it is a necessary step to improve accountability.

Developer and other donations: In regards to developer and other stakeholder donations to political candidates at both local government and state government elections, Gecko believes it is essential that these are banned and that public funding for election candidates be considered. Not only will this reduce corruption in government, but will increase the range of candidates able to run for office. The current system favours those with connections and money so that the public end up with a plutocracy type of representation.

We further note that a retired Supreme Court Judge and former Assistant Commissioner of ICAC, Anthony Wheely, QC speaking on ABC 612 radio on 19th September, noted that State political parties had tried to get around the ban in New South Wales by promoting donations to the Federal branches, which then in turn sent much of that money to State branches. It is essential that changes

to legislation regarding stakeholder donations incorporate measures to avoid this back door method of directing donations.

Delegated authority: We also have concerns about the number of decisions on major Gold Coast developments that are made by delegated authority of a small group consisting usually of the Mayor, Tom Tate, Chair of Planning, Cameron Caldwell, a Senior Planning Officer and sometimes the Divisional Councillor. The public do not even get to hear of these decisions until they are a fait accompli. This practice needs an urgent review as it can very easily be abused.

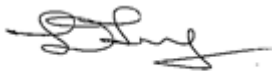
Redacted reports; Gecko also wishes to raise concerns about a recent pattern of behaviour within Gold Coast Council of releasing reports on important and sometimes controversial matters to the community with large sections redacted. Two examples include the Feasibility Study into the Cruise Terminal by Price, Waterhouse, Cooper which had up to 56 pages redacted material dealing with the financial and physical risks to the City of Gold Coast. Gecko has put in a Right to Information request for the full report, but it was noted that the 4 Corners program on Monday 18th had a copy of the full report. This program reported that the Feasibility Study stated this proposed project is not financially viable and poses a serious safety risk to cruise ship. This is information that the residents of the Gold Coast have a right to know since it is their funds that are paying for these reports and potentially the terminal itself since it is highly unlikely any private enterprise would be interested. The other report that has appeared on City of Gold Coast website related to a review of the City Plan in regard to high rise developments. Many pages are redacted from this report also even though residents in a number of suburbs would be directly affected by Councillors intentions to increase the spread of high rise throughout the city in direct contravention of the City Plan 2016.

The residents of the Gold Coast are suffering from development decisions being made by the current Council which provide what we consider excessive relaxations of City Plan requirements, such that we will lose a great deal of social and environmental amenity. It is our opinion that the reforms we are requesting will assist in addressing this issue as well.

There are so many unacceptable and undemocratic practices happening with the Council that residents are extremely disturbed and angry about. We urge your Department to investigate this situation.

We look forward to your response to our original submission and the matters raised in this letter.

Yours sincerely



Lois Levy

Campaign Coordinator

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