

19 March 2018

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

**Subject: *Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018***

Dear Secretary

I previously made a submission on this matter to the Legal Affairs and Community Safety Committee last year. I wish to resubmit to your committee although my views remain essentially the same.

I noted the Government's response to Operation Belcarra and strongly welcome it for the most part. I believed the proposed Bill at that time (*Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017*) reflected the intention of the CCC, and the desire of the community, for reform in the area of developer donations and handling of Conflict of Interest by councillors.

I believe the new iteration of the Bill meets the same criteria.

I strongly support the changes proposed in relation to **developer donations**.

I would like, however, to propose an amendment in relation to **conflict of interest** for the consideration of your committee.

Note: My comments relate to the amendments to the LGA 2009 but would be equally applicable to the COBA 2010.

To implement Recommendation 23 of the CCC Report, the Bill proposes (*Section 175E (3) (4)*) that if a councillor has informed a meeting about their personal interests in a matter and the councillor does not decide to leave the meeting, other councillors who are entitled to vote at the meeting must decide:

- *whether the councillor has a real conflict of interest or perceived conflict of interest in the matter; and*
- *if they decide the councillor has a real conflict of interest or perceived conflict of interest in the matter whether the councillor:*
  - *must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on; or*
  - *may participate in the meeting in relation to the matter, including by voting on the matter.*

In my view the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors. Once a conflict of interest is declared (or reported by a third

party), amendments must **mandate** that councillors can take no part in debate or voting on the matter under consideration.

Requiring fellow councillors to decide whether a councillor has a real conflict of interest or perceived conflict of interest in the matter and then determine, in the cases where they do in fact decide the councillor has a real conflict of interest or perceived conflict of interest in the matter, whether the councillor remains in the room appears to be introducing a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of *Section 175J*.

Much more importantly, however, is that the community would have little faith in a process that requires a councillor's colleagues to decide these matters. My experience with the two councils I attend meetings of (Noosa Council and the Sunshine Coast Regional Council) is that councillors might be loath to vote against a colleague who has indicated an intention to remain in the room after declaring a conflict of interest. This would be even more likely where councillors tend to vote as a bloc or in councils where there are formal political party groupings.

Even worse is the fact that this removes the **personal accountability** of a councillor who under the legislation being proposed can claim it was his/her colleagues who determined whether she/he stayed in the room to take part in debate, and vote, on the matter in question. This makes the proposed section of the bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation. I am sure this is not what the CCC intended despite the recommendation made on this issue.

The events that led to the establishment of Operation Belcarra, and its subsequent findings, strongly suggest that in the councils investigated, and clearly in other councils in Queensland (such as the Sunshine Coast Regional Council where there is little consistency in how certain councillors act after declaring a conflict of interest), there has been a historical failure by councillors to observe the spirit of existing legislation governing conflict of interest and their **discretionary power in this area must be removed**.

Therefore, I believe the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats **conflict of interest in the same way as material personal interest**. Accordingly, conflict of interest should be dealt with in the same way as determined by *Section 175C (2) (b)* which requires that in the case of material personal interest [The councillor must] *"leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is being discussed and voted on"*.

I would urge the members of the Economics and Governance Committee to consider favourably my request for the change I have proposed. I believe this would better ensure that the *"policy objective of the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 ... to:*

1. *reinforce integrity and minimise corruption risk that political donations from property developers has potential to cause at both a state and local government level;*
2. *improve transparency and accountability in state and local government; and*
3. *strengthen the legislative requirements that regulate how a councillor must deal with a real or perceived conflict of interest or a material personal interest."*

is achieved, resulting in legislation that truly reflects the desire of the broader community for more open and transparent local government which is at the crux of this component of the proposed legislative reform.

I wish the committee well in its deliberations.

Yours sincerely



Greg Smith

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