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20th March 2018

Committee Secretary,
Economics and Governance Committee
Parliament House
George Street
BRISBANE QLD 4000

Dear Sir,

**LOCAL GOVERNMENT ELECTORAL
[IMPLEMENTING STAGE 1 OF BELCARRA]
& OTHER LEGISLATION AMENDMENT BILL 2018**

Thank you for the opportunity to comment on this Bill.

I refer to the three policy objectives for this legislation as defined on page 1 of the Explanatory Notes:
The first objective relates to minimising councillor corruption:

- The assumption is that all corruption originates from developers. That may be true in many cases but corrupting donations can originate from tenderers, those seeking to buy council assets or to sell things to the council, those seeking a favourable deal or discount from the council. One specific allegation of corruption made to the CCC concerns a tender to Moreton Bay Regional Council from a person who had contributed to the Moreton Bay Futures Trust. Public tenders were not called and none of the Councillors who benefitted from his donation declared an interest. This tenderer was not a developer.
- It was obvious from the Belcarra Inquiry that the chief focus, by those who seek a good result from council, is on Mayors. The mayors have enormous power and influence over councillors and staff. If it is intended to reduce corruption then it is desirable to reduce the influence of mayors. This can be achieved by the councillors annually electing the mayor from among their number [no point in corrupting a very temporary mayor] and by eliminating the mayor's exclusive role in framing the budget and in appointing, sacking and making performance reviews of the CEO. At present the CEO controls all staff and clearly the mayor, not the council, controls the CEO.

The second objective seeks to promote council transparency and accountability. There will never be transparency, accountability or openness in Queensland local government while:

- Pre-meeting meetings, in some places called "workshops", are permitted. These are secret meetings with no publicly available agenda or minutes, where the rules of the Act [especially declarations of interest] may or may not be enforced.
- While it remains so easy to exclude the public and media from meeting, and to permanently retain the secret status of certain documents. The bar has been set far too low and the department seems powerless to intervene.
- While formal complaints disappear into bureaucratic black holes, or yield only bureaucratic non-answers. Transparency and accountability might be restored if each month all outstanding complaints had to be publicly reported to a council meeting.

The third objective addresses real personal interest and conflicts of interest, real and perceived. The proposed legislation is, in my opinion, far too detailed, prescriptive and codified. A codified system instantly sets the lawyers to work seeking loopholes. After all, in a codified system any act or omission that is not specifically defined as unlawful must by definition be lawful. One can imagine [REDACTED] and [REDACTED] beaver away already devising strategies for those same mayors who were highlighted

at the Belcarra inquiry. I would much prefer a statement of principles, in much the same way as sect 4[2] of the LGA. For example: “Failure to declare a relationship of any kind that a reasonable person would consider could influence the vote of the councillor, or could bring the council into disrepute.” Or again “A prohibited donor is any person who stands to gain or lose a benefit due to any matter being decided by the council, including matters delegated to council staff or contractors”.

Other General Comments

- The proposed legislation places many additional responsibilities upon the Electoral Commission. The Belcarra Inquiry demonstrated that the present leadership and resources of the QEC is not up to its present tasks. Unless the organisation is overhauled, strengthened and re-focused there is a potential problem in expanding its roles.
- The proposed legislation does not strengthen the role of the Department of Local Government in monitoring and policing the elimination of corruption and the declarations of interest. The present system relies upon self regulation and complaints from the public. That is hardly satisfactory given the response to the many complaints that have achieved nothing. For example, during a recent Development Application five Moreton Bay councillors, who had received political donations from the applicant, all made highly contrived and clearly worthless [in my opinion] declarations that their interests did not outweigh their public responsibility. These “declarations” were all drafted by the LGAQ. However, the Department of Local Government [and the CCC] sat on their collective hands despite complaints and objections; the application was approved and has been implemented. It is not unreasonable to seek a role for the DLG in overseeing this legislation.
- Probably the most common form of electoral cheating is for incumbent councillors to freely avail themselves of ratepayer funded facilities. This takes the form of using council supplied vehicles, computers, office, stationary etc for campaign purposes; using insider information and influence to obtain discounted advertising etc at council rates. Strictly speaking, if a level playing field is desired, incumbent councillors should cease drawing their councillor pay for the duration of the caretaker period. The legislation does not address this matter.
- The “ Ordinary Business of Council” is excluded from the provisions of these amendments in 175C and elsewhere. The Ordinary Business of Council is defined in Schedule 4 to the LGA and includes [e] a planning scheme or an amendment to a planning scheme, and [f] a resolution to adopt a budget. Planning schemes are the instruments by which zonings are changed and other requirements are altered, usually to the benefit of particular owners and developers. These would be among the most productive areas of corruption [from the perspective of those seeking to corrupt councillors]. It is incomprehensible to omit this potential avenue of corruption. Likewise, the budget is a means by which corrupted councillors can ensure that works and infrastructure are approved which will most benefit their corrupting benefactors. The blanket omission of the ordinary business of council opens up very significant opportunities for developers and others to corruptly influence major decisions of councils.

Specific Comments

Electoral Act

273. It is not only property developers that benefit from corrupting mayors and councillors.

Many businesses go to some effort to hide their identity as political donors and as applicants. As one Developer put it at a public hearing: “We have dozens of shelf companies or multiple business identities for such use”. Likewise, DA applicants are frequently not in the name of the “real” owner. The legislation must ensure that both donations and applications identify the person of interest.

274. In [1][a] suggest add “a group of candidates”.

Local Government Act

175A. The pre-meeting meetings or workshops need to be addressed [see comments on second objective]

175B. Need to define “benefit”. There are many other benefits other than cash and other material benefits.

Suggest add in [1] “a person or corporation that has made a political donation to the councillor”.

175C. Need to clarify whether a meeting includes “workshops”.

Why is the ordinary business of council excluded here and in other clauses? See comments above.

175E. The process of having councillors decide whether their “mates” need to declare an interest is very dangerous.

Yours faithfully,

Kenneth E Park