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Committee Secretary
Economics and Governance Committee
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Dear Committee

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

Thank you for the invitation to make a submission on the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 (the Bill).

As you may be aware, the Urban Development Institute of Australia (the Institute) is a national not-for-profit organisation representing the property development industry and the Queensland office is the largest of the state bodies. The role of the Institute is to assist our members to deliver jobs, diverse housing and thriving communities.

Independent economic modelling commissioned by the Institute shows that in 2016, the development industry was the third largest generator of jobs in Queensland. 10 per cent of Queenslanders' jobs are directly linked to property development and approximately 85 per cent of industry expenditure is spent on local goods and services. Our industry therefore is very important to the economy and legislative changes that can make its operation more difficult are a substantial concern.

Last year the Institute welcomed the release of the Crime and Corruption Commission report into complaints about the conduct of some candidates contesting the last local government election. In the Institute's opinion, safeguarding the integrity of local government in Queensland is of paramount importance for at least two key reasons:

- ensuring the strongest levels of protection are afforded to workings of democracy in Queensland allowing for the community's long standing trust in government to be maintained; and
- ensuring the highest levels of certainty, predictability and professionalism are provided to the Queensland development industry in its interactions with local government to allow it to get on with the job of delivering housing and creating jobs.

Clearly, standards in some areas of local government in Queensland need to be raised. Members of the Institute wholeheartedly support this objective. Further, in light of the critical nature of the industry's need for certain and predictable local government policy, process, systems and regulation referred to above, it is the Institute's view that:

Urban Development Institute of Australia Queensland submission to the Economics and Governance Committee on the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

- all recommendations arising from the Crime and Corruption Commission report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* should receive thorough consideration and investigation. The results of this investigation and rationale for action taken should be documented and made publicly available
- a wide range of models which serve to “take the politics out of development assessment and planning policy” as evidenced in operation in many other states of Australia should be considered and investigated
- should it be necessary to ban industry donations to political entities as an independent means of preventing corruption, then a ban on donations from all industries should be considered as should the consideration of publicly funded elections.

The Institute is very concerned the Bill singles out one industry and could destroy the reputation of the industry. Many entities, including mining, medical, and infrastructure make financial contributions to political candidates and parties. To exclude only property developers is to besmirch the development industry as a whole.

The Institute would be very supportive of a thorough debate on how to ensure our political processes maintain the highest standards of integrity, accountability, and transparency. We support transparency and advocate for a solution that achieves this without resorting to one set of rules for one industry and other rules for other industries, when so many interact with government decision makers on a daily basis.

Notwithstanding these concerns the Institute also has a number of specific concerns with the operation of the Bill, should it be approved in its current form, that require resolution. These issues are included in the attached schedule. The Institute particularly seeks to ensure a range of ordinary operations of industry organisations are not inadvertently captured should the Bill be approved.

The Institute does not consider this submission as confidential and would welcome the opportunity to discuss this matter further, or to provide any other assistance during the consultation process. If you have any questions relating to this submission, please contact me (kchessher-brown@udiaqld.com.au) on (07) 3229 1589.

Yours sincerely

Urban Development Institute of Australia Queensland



Kirsty Chessher- Brown
Chief Executive Officer

Urban Development Institute of Australia Queensland submission to the Economics and Governance Committee on the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

Property developer definition

The use of the term 'property developer' in the Bill is somewhat misleading. While it captures those companies who are 'property developers' within the ordinary meaning of that term, the Bill's definition is wider than just those companies. As it stands the definition could extend to consultants involved in making planning applications for those companies, even though the consultants themselves are not ultimately profiting from the development. If this was not intended by Parliament, the definition of 'property developer' needs to be revisited, and specific exclusions should be provided. This is particularly important as this is legislation of a prohibition kind and so absolute certainty should be provided as to who is and is not caught by the definition. On present drafting the Bill potentially captures a wide range of participants in the industry.

Gift definition

There are also potential unintended consequences for industry organisations in relation to the Bill's broad definition of 'gift'. By way of example, if an industry organisation hosts an elected member at an event, which is sponsored and for which attendees pay an admission fee to the organisation; is it arguable that this amounts to the provision of a service by the industry organisation for the benefit of the elected member or political party that is within the definition of 'gift' and therefore a prohibited political donation? If this is not intended, the Bill should be redrafted to ensure that industry organisations are able to carry out usual business which includes but is not limited to:

- conducting events for members where a local or state government politician is a speaker
- seeking sponsorship for events where a local or state government politician is a speaker
- advocacy activities which include the industry organisation meeting with politicians to discuss industry issues and priorities
- seeking and publishing articles from politicians for the purposes of industry organisation collateral, for distribution to industry organisation members
- invitations to politicians to attend selected industry organisation events at no cost.

Another example is the advocacy functions of industry organisations, particularly before and during election campaigns. As currently drafted, it could be argued that the activity of advocating (being a service provided by the industry organisation) is a gift made for the benefit of an elected member or a political party, where a position taken by the industry organisation favours one political party over the other. It surely cannot be the case that Parliament intends to preclude industry organisations from undertaking advocacy on behalf of their memberships (particularly where there does not seem to be any restriction on other types of organisations that might advocate on behalf of their members) or from carrying out their day to day activities, such as holding seminars and events that might be attended by elected representatives or candidates but where no 'gift' is provided within the ordinary meaning of that term. Again, if Parliament does not intend for the Bill to have that effect on industry organisations, **any broad or vague drafting should be amended to put the issue beyond doubt**, particularly given the serious consequences in the case of a breach.

Scenarios requiring clarity

A further range of scenarios are raised below to seek that the Bill does not exclude ordinary industry organisation or developer activities. Additional concerns with the Bill are also included:

Urban Development Institute of Australia Queensland submission to the Economics and Governance Committee on the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

- The Institute is regularly involved in consultative groups, panels or working groups with government including with political representatives
- Providing information service to government that might inform recommendations ultimately made by public servants to the politicians
- A developer or industry body donating to a charity for example a wildlife fund or guide dogs that subsequently lobbies or contributes to a politician
- Donating to fund such as flood clean up, Lord Mayor's Town Hall appeal that has close affiliation to a politician
- Purchasing a ticket to attend a political party conference or event
- Taking a politician on a site tour
- Donation by a national industry organisation in the state or elsewhere
- Donating to a national political organisation that may distribute funds in the state.

Other issues

The Institute has some additional concerns which are listed below:

- The Institute is concerned at the limited time made available for consideration of the Bill. This has left many matters as uncertain that have potential serious repercussions, particularly on the operations of industry organisations. We note the public committee briefing broadcast was not immediately available and the Hansard record will not be available until after the time for submissions has ended. This is unacceptable and does not provide sufficient transparency of the Bill and its contents
- Leaving the Electoral Commission of Queensland to prepare guidelines for clarification of the law is inadequate and a task for which they do not have experience. The preparation of guidelines should be in consultation with key stakeholders, including property industry organisations
- Copying substantial parts of the Bill from the New South Wales legislation does not adequately account for the Queensland situation and differing legislative history, and in any event the New South Wales government have seen fit to review that legislation, presumably for deficits that it contains. A review of the operation of the Bill should be undertaken 12 months after implementation.
- Funding is not designated for policing of the legislation
- The reform departs significantly from the recommendations of the Belcarra report, particularly regarding:
 - Recommendation 20 banning donations from property developers for purposes associated also with the state
 - The retrospective effect of the Bill from 12 October 2017
- The Institute questions the reason for singling out banning donations from developers for immediate action, versus the other Belcarra recommendations, evidence for this has not been provided
- No indication has been provided of an education program to be provided to ensure the community is not inadvertently caught up by the provisions
- Politician decision making on planning scheme policy has not been caught in the Bill's conflict of interest provisions as they are an "ordinary business matter"; such decisions are a critical decision point arguably equally or more an area of concern as development assessment decisions. This warrants further consideration by the committee of alternative mechanisms to remove politics from planning.