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

Dear Sir/Madam

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

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.”

We congratulate the government for drafting this Bill early in its term and introducing legislative measures to restore public confidence in the integrity, transparency and accountability of elected officials. However, this Bill does not go as far as the previously tabled Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 which lapsed in that it only addresses 5 of the Belcarra recommendations. We look forward to further legislative reform being introduced in the near future to address the remaining recommendations.

Gecko offers its support for the Government’s response to recommendations 20 and 23 to 26 of the Belcarra report.

**Comments**

We support the insertion of clause 4 amending section 153 of the Local Government Act to provide that an offence against the following sections is an integrity offence.

To implement recommendation 23, the bill requires that, when a councillor declares a real or perceived conflict of interest in a matter to be discussed at a council meeting and fails to absent themselves, the other councillors present must decide whether the councillor has a conflict of interest and whether the councillor must leave the meeting or may stay and participate in the meeting. LGA Section 177E (3) provides that section 177E(4) applies if the other councillors who are entitled to vote at the meeting are informed about a councillor’s personal interest in a matter by the councillor or another person and the councillor has not voluntarily left, and stayed away from, the place where the meeting is being held while the matter is discussed and voted on.

This section raises a question about the impartiality of Councillors in making such a determination. Given the existence over many years of blocs of pro-development Councillors voting on development applications there is potential for conflicts of interest to be swept aside. This is certainly the case with Gold Coast Council where there is a bloc of 11 Councillors who vote together. This example further supports the establishment of the Office of the Independent Assessor as proposed in the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 currently before this Committee and offers a Councillor the opportunity to take the matter further.

Section 177G implements the Government's response to the Belcarra Report recommendation 24 by providing that the councillor who has the belief or suspicion must, as soon as practicable, inform the person who is presiding at the meeting about the belief or suspicion and the facts and circumstances that form the basis of the belief or suspicion. It is not necessary to include a requirement to report to the chief executive officer as the chief executive officer has no formal role in a council meeting.

However we note that the CEO can play a role in decision-making in circumstances in which he is given delegated authority.

### **Councillors making decision under Delegated Authority**

Gecko has concerns with the operation of Delegated Authority in Gold Coast City Council as it is unclear from Council's Policy on Delegated Power and Authorisations <http://www.goldcoast.qld.gov.au/documents/bf/Delegated Power and Authorisations Policy.pdf>

whether the exercise of this authority takes place in what can be formally considered to be a council meeting and how the requirements of the Bill can be fulfilled in these circumstances.

Given the shortened time frames under the Sustainable Planning Act 2009 and the current Planning Act 2017 within which planning decisions must be made, Delegated Authority has become a necessary tool in order to ensure timely planning decisions are made, because there appears to be a trend of developers putting in applications at the last minute to ensure they are dealt with through delegated authority rather than Planning Committee or full Council. It has been reported that some developers berate Councillors who insist that Material Change of Use applications are sent through to Planning Committee and full Council. It appears from this that the system is being abused. However, the current situation is now that well over 90% of planning decisions in the City of Gold Coast Council are made by a select few members, with development applications being decided by delegated authority of the Mayor, Chair of Planning, sometimes the Divisional Councillor and a senior planning officer, such that the application never goes to the scrutiny of the Planning Committee or full Council. It is unclear whether it is the Planning Committee or full Council which delegates the authority, whether it operates as a committee and how their decisions are recorded. There is potential for non-transparent decision-making and the stitching-up of deals behind closed doors. It is reasonable therefore for the public to expect that the obligations for Councillors (in relation to the conflict of interest matters addressed by the Bill) would apply in the same way under Delegated Authority as they would for what is described in the Bill as a Committee. This is not covered in the text of the Bill.

The Local Government Act 2009 section 257 states:

Delegation of local government powers

(1) A local government may, by resolution, delegate a power under this Act or another Act to—

(a) the mayor; or

(b) the chief executive officer; or

(c) a standing committee, or joint standing committee, of the local government; or

(d) the chairperson of a standing committee, or joint standing committee, of the local government; or

(e) another local government, for the purposes of a joint government activity.

(2) However, a local government must not delegate a power that an Act states must be exercised by resolution.

Does a Council officer, as a member of the Delegated Authority making planning decisions then act as a *de facto* Councillor and should he/she be subject to the provisions of this Bill?

Gecko suggests that if this is the case, the Bill should be amended to insert, wherever there is reference to a council meeting, the words “or any committee convened under Delegated Authority” and while it might be unwieldy, insert “or Council officer acting under Delegated Authority” after each reference to a Councillor.

### **Government response to Belcarra recommendation 20**

Gecko supports the ban of donations from property developers to candidates, third parties, political parties and councillors though ideally this ban should be extended to all “for-profit” corporations, including mining and gambling. The recent example of the enormous donations from the gambling industry during the Tasmanian government elections shows how powerful and wealthy interests can sway electoral outcomes in their favour.

We have further concerns that property developers simply instruct their consultants (town planners, surveyors, architects, engineers etc) to make political donations, or to act as third parties in the transfer of donations to the selected candidates. This easy ploy to get around the “no developer contributions” appears not to have been stopped by the proposed legislation.

We thank the Committee for its consideration of our views.

Yours sincerely



Rose Adams  
Secretary