



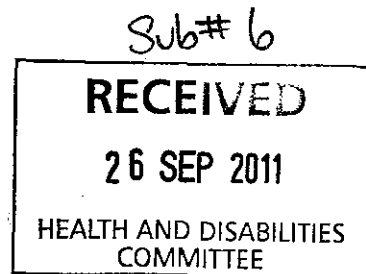
Dedicated to a better Brisbane

Brisbane City Council ABN 72 002 765 795

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26 September 2011

The Research Director
Health and Disabilities Committee
Parliament House
George St
BRISBANE QLD 4000



11.1.2.3

TO WHOM IT MAY CONCERN

Council received an email from Ms Lindy Nelson-Carr MP, Chair of Health and Disabilities Committee on 2 September 2011 inviting submissions relating to the *Health Legislation Amendment Bill 2011*. A number of amendments in this Bill will create varying impacts to Council's strategic and operational business processes.

While I support in principle a number of the amendments proposed, changes will be required to IT systems, training, documentation and industry consultation. It is important that funding is provided in order for Council to meet the legislative requirements should the Bill be passed. As an illustration, amendment to the s 48 (Meaning of licensable food business), amendment of s 53 (what application must state), and amendment of s 94 (form of licence) will all require changes to operational processes and systems.

However, most importantly I have serious concerns over amendments to the *Food Act 2006* pertaining to a food safety rating scheme. Clause 14 creates a new provision (Part 3B into Chapter 11 of the *Food Act 2006*) relating to the establishment of a 'state-wide' food business rating scheme which local governments may choose to implement for voluntary participation by licensed food businesses. If local government chooses to participate, they must follow the criteria outlined in the Regulation (yet to be made available for comment) or face a fine of \$100,000.

As you are aware, in November 2010, Brisbane City Council introduced the very successful '*Eat Safe Brisbane*' scheme which is a new approach to food safety compliance and regulation for licensable food businesses. This incentive based initiative was introduced as a result of overwhelming community support for the concept and with the full endorsement and engagement of the food industry of Brisbane.

Although this Bill does not provide for the immediate introduction of a rating scheme, as it is reliant upon the development and approval by the Australia and New Zealand Food Regulation Ministerial Council for a national framework, I understand that it establishes a head of power to provide for the development of a consistent state-wide model for local governments to implement.

The proposed inclusion will potentially legislate against Brisbane City Council using the *Eat Safe Brisbane* scheme in its current form. Although the proposed provision is not specific in terms of the rating criteria, I am advised that discussions between my officers and Queensland Health have indicated the State's criteria will relate only to the legal requirements of the Act, omitting the incentive elements that are strongly supported by industry groups across Brisbane.

I am also concerned with the inclusion of an offence created by s.271H 'Offence about conducting food business rating scheme'. This new provision establishes an offence for a local government to conduct a food business safety rating scheme that does not comply with the scheme prescribed in regulation. A penalty of 1,000 penalty units (\$100,000) applies to this offence. The imposition of a fine on local governments for such an offence is considered extreme and inappropriate. The usual approach would be to make such non-compliant schemes of no effect.

If Part 3B provisions are inserted into the Act immediately, there must be transitional arrangements introduced, including adequate funding, and sufficient time to adjust IT systems to match the prescribed scheme, including consultation and engagement with the food industry and public about the changes to the rating system in place.

Rather than progress the section of the proposal related to food business safety rating scheme, I strongly recommend that your officers work with Brisbane City Council officers to identify opportunities which will achieve the desired outcome of consistency across food safety rating systems by leveraging off the work in place in this Council. For example, Brisbane City Council has a demonstrated commitment to sharing the intellectual property generated in developing Eat Safe Brisbane, including forms, brochures and training CDs. This applies across Australia, and would help support the introduction of a comprehensive, consistent and successful scheme at low cost to all local government areas. It may also be worth reconsidering the rationale for the confidentiality provisions of the *Food Act*, section 272, in the light of how they might assist the policy intentions of the food business rating scheme.

Please contact Mr Brett Turville, Manager Compliance and Regulatory Services on 3403 8888, for further information, and to schedule ongoing advisory opportunities for Council to contribute to this amendment.

Yours sincerely



Colin Jensen
CHIEF EXECUTIVE OFFICER

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