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Officer: Victoria Nelson

27 January 2017

Research Director
Infrastructure, Planning &
Natural Resources Committee
Parliament House
BRISBANE QLD 4000
Email: ipnrc@parliament.qld.gov.au

Dear Sir/Madam

Re: Submission – *Local Government (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016*

Thank you for providing Sunshine Coast Council with the opportunity to make submission to the Infrastructure, Planning and Natural Resources Committee on the *Local Government (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016* (the Bill).

The objectives of the Bill to improve transparency, accountability and public confidence in the electoral process is supported.

Comment is provided on each of the Bill's objectives below.

1. *Improve transparency and accountability in local government electoral disclosure requirements and to remove any confusion*

In light of the recommendations in the Crime and Corruption Commission's report on transparency and accountability in local government, the proposed amendments to the *Associations Incorporation Act* 1981 are supported.

The Bill's amendments to sections 117, 118 and 120 of the *Local Government Electoral Act* 2011 (the Act) which increase the disclosure threshold for receipt of gifts and loans to candidates to $500 are supported. These amendments meet the Bill's objective of removing confusion by aligning the threshold amount with the disclosure requirements for receipt of gifts under the *Local Government Regulation* 2012.

The amendment of these sections also makes provision for contemporaneous disclosure. Under section 171B of the *Local Government Act* 2009, sitting councillors must update their registers of interest with particulars of gifts (including electoral donations above the

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prescribed threshold) within 30 days of receipt. This requirement often results in councillors' electoral donations being made public *before* an election, while donations to other candidates may not be made public for 15 weeks *after* the election. It is our view that the amendments to sections 117, 118 and 120 of the Act will provide equity in the disclosure requirements for all candidates and is therefore supported.

For further clarity, we also recommend that the definition of "gift" under the *Local Government Act* be amended to specifically include electoral gifts.

These amendments also align with public sentiment which, if passed, will increase confidence in the electoral process.

It is noted however, that the opportunity to improve transparency in electoral funding from political parties has not been addressed within this Bill.

With regard to the proposed amendments to section 126 of the Act, we question what control mechanisms will be established to oversee the proper acquittal or disbursement of amounts remaining in a candidate's dedicated account at the conclusion of the disclosure period.

2. *Clarify that the ECQ may continue to recover direct and indirect costs associated with local government elections*

It is accepted that the responsibility for payment of the Electoral Commission Queensland's (ECQ) costs in association with the conduct of, and preparations for elections within its local government area, rests with Council.

Efforts made by the ECQ in recent time seeking to minimise costs to local government are appreciated.

Councils annually contribute to the ongoing costs associated with the Local Government Elections Branch (LGEB) in addition to the quadrennial cost of conducting elections.

Section 202(1) of the Act currently states:

> *A local government must pay the costs incurred by the electoral commission for conducting an election in its local government area, including the remuneration, allowances and reasonable expenses paid to members or staff of the electoral commission.*

This section makes it clear that costs incurred are related specifically to elections within each local government area. Proposed clause 202(3) states that local governments "must pay the costs incurred by the electoral commission … relating to conducting elections generally" (emphasis added).

Whilst it is understood that the costs associated with the LGEB attributable to our Council under the formula agreed with the Department of Infrastructure, Local Government and

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Planning are to be fair and reasonable, we hold concerns that councils may be burdened with ECQ costs associated with elections outside specific council areas, including those for elections relating to other levels of government.

3. *Make amendments to the planning and building legislation to give early effect to planning reforms contained in the* Planning Act 2016 *and* Planning and Environment Court Act 2016*, make various technical and clarifying amendments, and address issues arising from several court decisions concerning development approval for building work*

We are generally supportive of the intent of the proposed amendments foreshadowed in the Bill. The following specific comments are provided:

- The intent explained by the Explanatory Notes to redefine, for the new *Planning Act*, a Preliminary Approval for Building Works as a second Development Permit for Building Work where issued by local governments is supported. However, the draft provisions giving effect to this change are less than clear (see next dot point below).

- The proposed section 73A of the *Planning Act* 2016 and future amendment to section 83(1)(b) of the *Building Act* 1975 by the *Amendment of Planning (Consequential) and Other Legislation Amendment Act* 2016 is confusing. The intent, as described by the Explanatory Notes, is to enable a second Development Permit for Building Work for local governments under their planning scheme, yet section 73A of the *Planning Act* will still only refer to a 'relevant preliminary approval' - not a Development Permit for Building Work under the planning scheme. It is not clearly understood why the *Planning Act* cannot explicitly refer to a Development Permit for Building Work made assessable by a planning scheme.

- Some concerns are held in relation to the proposed amendment to section 83 of *Building Act*. The amendment proposes to allow a private certifier to issue a building approval despite there being outstanding development permits yet to be obtained, provided those outstanding permits do not interfere with the form or location of the building work. It is considered that a much sounder position would be simply to require all Development Permits to be obtained prior to any building approval. By attempting to clarify what a "necessary development permit" is, it is considered that this will actually lead to more uncertainty, with certifiers and applicants pushing the boundaries even further than is currently the case.

- These provisions do not remove the duplication and complexity of regulation associated with (i) material changes of use; (ii) building work assessable against the planning scheme; and (iii) concurrence referrals for building work matters. The Explanatory Notes for the Bill state, as one of its policy objectives that "it would also be desirable to minimise to the greatest extent possible, any duplication between council assessments under development applications, and referrals to councils from private certifiers". Neither this Bill, nor the proposed Planning Regulations, effectively achieve this stated objective.

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Council has provided the Department of Infrastructure Local Government and Planning with previous submissions relating to the *Planning Act* and Regulation seeking amendments to further improve and simplify the regulation of building work under planning schemes. Council intends to provide further comments in relation to this during the current consultation period for the draft Planning Regulation.

Yours sincerely

Michael Whittaker
Chief Executive Officer