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Research Director
Infrastructure, Planning and Natural Resources Committee
BY EMAIL: ipnrc@parliament.qld.gov.au

Dear Sir/Madam,

Submission on Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016

Thank you for the opportunity to make a submission on this Amendment Bill.

Development Watch is a volunteer community group based in Coolum on the Sunshine Coast. Our goals include, amongst other things, *“to encourage greater public involvement in development issues by keeping our members and the general public informed of Local Government actions”*. We have prepared this submission with this in mind and have also based our submission on our experiences with our current Local Government over the past 4 years.

We note the following:

“Policy objectives and the reasons for them

The objectives of the Bill are to:

- 1. improve transparency and accountability in local government electoral disclosure requirements and to remove any confusion*
- 2. clarify that the Electoral Commission of Queensland (ECQ) may continue to recover direct and indirect costs associated with local government elections*
- 3. make amendments to 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 particularly note the following CCC recommendations:

CCC Report recommendation 3 – *That the Government consider amendment to disclosure time frames to make the disclosure of donations more contemporaneous with the receipt of the donation by the candidate and others required to make a disclosure.*

The CCC Report noted “that the candidates are required to disclose campaign donations within 15 weeks from polling day. There is no requirement to disclose donations on or before polling day. This would seem to hamper voters’ ability to make an informed decision about a candidate on polling day. ...The CCC believes that it should be possible for campaign donations to be declared via online or electronic submission on an ongoing basis throughout a campaign, with a significantly shorter time frame for compliance. In that way, declarations would be more useful to the public in helping them determine the suitability of a candidate before polling day.”

CCC Report recommendation 4 – *That the Government consider amendment to disclosure requirements in the LGEA and the Local Government Act 2009 (LGA) to align the threshold obligations for reporting.*

The CCC Report noted that differing disclosure requirements under the LGEA and LGA “make it difficult for those who have to adhere to these requirements to understand and comply with them.

CCC Report recommendation 5 – *That the Government expand the regulation of donations to include the expenditure of donations and a requirement to account for unspent donations by either only using the funds for campaign purposes or transferring them to a registered charity*

The CCC Report provides that “*Integrity in electoral processes is fundamental and prescription of sound process should be such that the recording of monies received and spent is evidence that each candidate is acting in good faith.*

As a consequence, transparency would be greatly increased if, at the end of the relevant disclosure period, candidates were required to:

- *submit a return in relation to the expenditure of the funds; and*
- *maintain any unspent funds in a dedicated account until the candidate runs for the next election or transfer the funds to a registered charity.”*

OUR SUBMISSION :

Amendment of Local Government Electoral Act 2011

Clause 11 – Amendment of s 106 (Definitions for pt 6)

Clause 11(2) We agree with contemporaneous disclosure of returns and implementation of a real-time online system of disclosure of election donations for Local Governments.

Clause 12 Amendment of s 114 (Disclosure period for candidates who were previously candidates in a local government election) and

Clause 13 Amendment of s115 (Disclosure period – other candidates) and

Clause 14 Amendment of S116 (Disclosure period for groups of candidates)

We agree with the commencement of the disclosure period.

We do not agree with the end date for the disclosure period.

Reasons:

In order for voters to make an informed decision about a candidate on polling day, voters need to be able to see prior to polling day, who is supporting a particular donor eg. whether it be the entire community generally, the business sector, the development industry etc. The State Government has stated it will implement a real time online system for donations. However, if the last day for donations is not before polling day then the whole purpose of disclosure is superfluous.

We respectfully submit that the closing date for donations should be on the Monday of the week before polling day. Receipt of any donations beyond this date should be prohibited.

Clause 16 Amendment of s 117(Gifts to candidates) and

Clause 17 Amendment of s 118 (Gifts to groups of candidates) and

Clause 18 Amendment of s 119 (Particular gifts not to be received)

We do not agree to an increase in the disclosure threshold for gifts to be declared by individual candidates and third parties from \$200.00 to \$500.00.

Reasons:

We note the LGAQ has supported an increase to \$500.00.

The current Mayor of the Sunshine Coast Regional Council in his election campaign in 2012 received donations totalling approx. \$161,388. Of this amount, approx. \$6,805.00 consisted of donations ranging from \$200.00 to \$499.00. In his election campaign for 2016 the Mayor received donations totalling approx. \$172,675.00. Of this amount approx. \$11,500.00 consisted of donations ranging from \$200.00 to \$499.00. These sums of money are substantial and should be declared.

Any increase in the disclosure amount could discourage the declaration of many perceived conflicts of interest by successful candidates. Also, the community would have no way of knowing if a successful candidate was acting in a transparent manner.

With all due respect, the purpose of this amendment is to **improve transparency and accountability, not to lower the disclosure burden for candidates**. If candidates are nominating for a position in Local Government they should, at the very least, have the ability to keep track of their donations no matter what amount.

In addition, the CCC Report of December 2015, which very much informed the contents of this Bill, made explicit reference (at page 18) to “how easy it is to submit and register many types of documents electronically...”

We therefore ask that the disclosure threshold for all matters relating to all Local Government candidates and third parties be set at and/or remain at \$200.00.

The State Government is a higher level of government than Local Government so we can see no reason for disclosure thresholds to align. However, if the State Government wished to do so, that would be best achieved by making \$200 the common threshold for all reporting obligations.

Clause 19 Replacement of s 120 (Loans to candidates or groups of candidates)

Clause 20 Amendment of s 121 (Particular loans not to be received)

Again, for the reasons stated for Clauses 16, 17 and 18 above, we do not agree that the disclosure threshold for loans to candidates or groups of candidates or to a change in the loan amount from \$200.00 to \$500.00.

It should remain at \$200.00 to align with our recommendation for the donation threshold.

Clause 23 Amendment of s 124 (Third party expenditure for political activity)

We do not agree to a change in the disclosure threshold for third party expenditure from \$200.00 to \$500.00. The example for donations shown in our comments in Clause 16 above can also be used here ie. Many expenditure amounts between \$200.00 and \$499.00 when totalled, can add up to a substantial sum.

Part 5 Amendment of Planning Act 2016

Clause 32 Replacement of s 19

We do not have an issue with this clause, however, perhaps the reference to section 167(5)(c) should be a reference to s 167(2)(c)?

CONCLUSION

We generally support the thrust of the amendments to the *Local Government Electoral Act 2011* (Qld) proposed in the *Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016*. In particular, we support the requirement for continuous and real-time online disclosure. However, we make the following comments in summary:

1. We are concerned at the proposal to increase the disclosure threshold from \$200 to \$500. The Explanatory Notes to the Bill make reference to a need to “[reduce] the disclosure burden” but make no reference to the extent of that burden or suggest that the burden would be onerous if the threshold were to remain at \$200. Importantly for present purposes, the CCC report of December 2015, which very much informed the contents of this Bill, made explicit reference (at page 18) to “how easy it is to submit and register many types of documents electronically...” If candidates are nominating for a position on Local Government they should, at the very least, have the ability to keep track of their donations no matter what the amount. There is, we respectfully submit, no apparent justification for increasing the threshold to \$500.

The CCC Report recommended the alignment of threshold obligations. That would best be achieved, we suggest, by making \$200 the common threshold for all reporting obligations.

2. We are concerned that there is no requirement to disclose all campaign donations before polling day. In order for voters to make an informed decision about a candidate on polling day, they need to be able to view a candidate's donations. We see absolutely no reason why the closing date for donations could not on the Monday of the week before polling day, with the receipt of any donations beyond this date being prohibited.
3. We are disappointed the State Government did not endorse that part of the CCC's recommendation 5 relating to Expenditure Returns. Again, if a candidate is capable of fulfilling the role of a Mayor and/or Councillor, then he or she should have no problem keeping track of their expenditure and submitting a Return.

Finally, whilst we commend the State Government on the Bill's intention to achieve "contemporaneous" disclosure, we are disappointed that the issue of conflicts of interest has not been raised. We would hope that another Bill in the future could address this serious issue perhaps by placing a limit on the amount of, or banning altogether, developer donations.

Yours faithfully,

Lynette Saxton,
President, Development Watch Inc