

Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

Submission No: 004
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Appointment of senior executive employees of a local government via a panel consisting of the mayor, the CEO, and either the relevant committee chairperson or deputy mayor:

I DO NOT support for the following reasons;

Senior executive employees are employees of the local government whose appointment should be merit based.

The proposal to establish a panel consisting of the mayor, the CEO, and either the relevant committee chairperson or deputy mayor, to appoint the senior executive employees moves the appointments from merit based to potentially political or nepotistic.

Additionally, there are no minimum qualifications or experience a person requires to be eligible as a candidate in a local government election. This proposal could result in having elected representatives with no experience, understanding of process or the role that is being filled, be responsible for appointing a person who has far more qualifications and experience than they do.

Furthermore, elections have the potential to destabilise local governments. Where there is a change in elected representatives – especially the Mayor role – that results in significant change in organisational leadership eg CEO and subsequent senior executives, this creates a ripple effect through the organisation and could see employees lose confidence. It would also result in operational disruptions while positions are filled or backfilled. This would be even more impacting on smaller local governments who have closer working relationships and longer recruitment times to find suitable applicants.

If it is the State's desire to have an elected representative on the panel, the number of elected representatives should not be equal to or greater than the number of non-elected representatives. It should just be one – either the Mayor or the Deputy Mayor but ideally no elected representatives on the panel.

Further detail is also required of this proposal;

- Would this proposal be the process for contract renewals or new hires?
- Would the elected representatives be able to clear the positions soon after the election without performance appraisals being required?

Responsibility of mayor – official spokesperson of a local government:

I support IN PART;

A subclause is required for the circumstances where the Mayor has either a declared conflict or does not support the position of Council on the subject matter being spoken about ie has publicly spoken against (either as an elected representative or unelected community member), based an election campaign against or voted against the subject matters. In this situation a subclause as exemplified below would apply

- Where the Mayor has a declared conflict of interest, publicly spoken against (either as an elected representative or unelected community member), based an election campaign against or voted against the subject matter to be spoken on, an alternative spokesperson shall be appointed.

This hierarchy of appointment could be via a Council adopted Media Policy. Further detail is also required of the practical implementation of this proposal. Eg.

- Media releases often need to be timely. If the Mayor has not or is not able to approve a media release promptly, how can an alternative spokesperson be used?
- Who will be the spokesperson where the Mayor does not wish to be the spokesperson?
- Often responses to media enquiries will be attributed to “a council spokesperson”, will this proposal still allow for that?

Replace the current conflicts of interest framework in the COBA and LGA with the framework that was in place from 2013 to early 2018, with some minor modifications, to provide additional conflict of interest exceptions for councillors and to clarify penalties for breaches.

I am not familiar with the framework that was in place from 2013 – 2018 however the requirement to declare a conflict based on a close associate of a councillor making a written submission to the local government **should be reviewed.**

This requirement removes the ability of close associates of a councillor being active and engaged members of their community. Their ability to have input into matters of importance to them should not be removed because their family member or associate decided to become an elected representative.

Simplifying the councillor conduct framework by removing conduct breaches and capturing serious conduct breaches in the definition of ‘misconduct’.

- Does this now result in the Councillor Code of Conduct being void?
- If not, how will Councillors be held to the Councillor Code of Conduct?

The amendment to the definition of misconduct should include provisions about misleading/lying to the public and avoiding any action that erodes public trust and confidence in the integrity of the local government and may diminish its standing, authority or dignity as such conduct has the potential to cause significant harm to persons and to the reputation of local government.

Automatic removal from office upon nomination as a candidate for the Legislative Assembly to ensure stability, minimise disruption and reduce operational impacts of councillors running for State office.

I DO NOT support for the following reasons;

There is no such requirement for State MP’s to be removed from office upon nomination as a candidate for other levels of government. If State MP’s aren’t prepared to have this requirement of themselves then they should not be imposing it upon Councillors.

Additionally the reasoning is flawed – Councillors do not manage the operational functions of Council this is the role of the CEO and Council employees.

Enhancing safeguards for local government election candidates and participants.

Serious consideration should be given to the removal of ‘the gauntlet’ for not only the safety of candidates and participants but ECQ staff, volunteers and the public. The 2020 elections were successfully conducted without “the gauntlet”. Other democratic countries including the UK and New Zealand have arrangements that restrict the canvassing of votes at election places.

An alternative method could be to have Concierge’s that assist voters in determining who their Divisional/Ward and Mayor candidates are and directing them to provided election material.

Other matters that should be amended;

Role and function of the Deputy Mayor.

Under LG Act Section 175 – Post Election Meetings, the local government must, by resolution, appoint a deputy mayor from its councillors (other than the mayor).

The role of a deputy (in any position) is widely accepted to support the role and function of the position they are deputy for. Examples of the practical application are;

- If the Mayor is unable to attend an event, the deputy mayor would be delegated to attend instead.
- If the Mayor is unable to attend a meeting in person of which they are the Chair, the Deputy would Chair the meeting instead.

However, under the LG Act the Mayor may delegate their mayor's responsibilities and powers to another councillor of the local government – in effect disregarding the role of the Deputy Mayor.

With the provision for the Mayor to delegate their duties to any councillor, the role of Deputy Mayor under the LG Act seems to serve the only purpose of Acting as the Mayor in the Mayor's absence or temporary incapacity; or if the office of mayor becomes vacant.

The Act should be amended to acknowledge the stature of the Deputy Mayor position by having the Mayor's responsibilities and powers delegated in the first instance to the Deputy before any other Councillor.