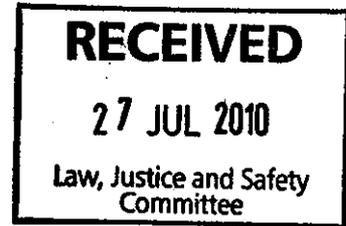




Submission 042

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27 July 2010

The Research Director
Law, Justice and Safety Committee
Parliament House
BRISBANE QLD 4000

Dear Sir/Madam

A New Local Government Electoral Act: Review of the Local Government Electoral System (excluding Brisbane City Council)

Please find attached submission from Rockhampton Regional Council on the Review of the Local Government Electoral System (excluding Brisbane City Council) which was discussed by Council at its Ordinary Council meeting on 27 July 2010.

Yours sincerely

A handwritten signature in black ink, appearing to be "E. Pardon", written over a white background.

Evan Pardon
Chief Executive Officer



SUBMISSION TO

LAW, JUSTICE and SAFETY COMMITTEE

ON

**A NEW LOCAL GOVERNMENT ELECTORAL ACT:
REVIEW OF THE LOCAL GOVERNMENT ELECTORAL
SYSTEM (EXCLUDING BCC)**

BY

ROCKHAMPTON REGIONAL COUNCIL

27 July 2010

Preamble

The Terms of Reference for the current Review:

1. *That in light of the government drafting a new local government electoral act, the Law, Justice and Safety Committee undertake a review of the local government electoral system for all local governments except for Brisbane City Council.*
2. *In undertaking this inquiry, the committee should consider and report on the application of different electoral systems to local government elections in Queensland, including but not limited to postal voting, divided/undivided councils and proportional representation;*
 - *consider local government systems in other jurisdictions in Australia;*
 - *conduct public hearings and consultation with stakeholders; and*
 - *provide recommendations as to the content of the proposed new local government electoral act.*
3. *The committee will report to the Legislative Assembly by the end of November 2010.*

as indicated in the Issues Paper, builds in large part on the work of predecessor reviews – Electoral and Administrative Review Commission (EARC) 1990, its parliamentary oversight committee Parliamentary Committee for Electoral and Administrative Review (PEARC) 1990 and the Local Government Reform Commission (LGRC) 2007 – and having regard to the passage of time since the previous reviews, the change dynamic currently operative in local government and the maturity of the electorate to robustly and constructively debate the issues; inevitably addresses fundamental elements of the local government democratic process.

The issues set forth for community input are:

- Electoral Divisions
- Conduct of Elections
- Candidature
- Voting
- Voting system
- Other – at the discretion of the submitter.

and Council would express the opinion of Council as a whole and not of any one individual relative to those issues as detailed below.

Electoral Divisions

The issues paper sets forth a series of questions:

- 1) *Are the procedures for the division of councils adequate?*
- 2) *If the procedures for the division of councils are not adequate, what changes are required?*
- 3) *Are the error margins of 10% in local government areas with more than 10,000 electors and 20% in all other cases sufficient?*
- 4) *Should the mix of divided and undivided councils remain? If so, should the decision to divide a local government area remain with individual councils?*
- 5) *Are there other matters the Committee should consider in regard to local government divisions?*

Council would submit :

- 1. That the existing model contained within the legislation involving the division of the local government area into electoral divisions with one member being elected for each division is the most effective model for dividing a local government area into electoral divisions.**

It enhances the responsibility and accountability of elected representatives and provides a fair spread of representation across the local government area, provides that the workload of elected members is more evenly shared and is capable of more fairly identifying the community of interest across the Local Government area.

Further Council would advocate that all Local Governments having been assessed by the Local Government Reform Commission as requiring 10 members + mayor and above be considered to be of sufficient size, capacity and ability to demonstrably warrant the management of the affairs under their jurisdiction by internal divisions.

- 2. That the error margins of 10% in local government areas with more than 10,000 electors and 20% in all other cases are acceptable and workable.**
- 3. That the decision to divide a local government area should remain with the local government as the local government is best placed to propose the electoral boundary arrangement that best suits the democratic and representative needs and aspirations of their local community**

Conduct of Elections.

The issues paper again sets out a series of questions to elicit response:

- 6) Should the Electoral Commission of Queensland be responsible for the administration of the quadrennial local government elections or should this responsibility remain with Council CEOs?*
- 7) If the ECQ is to be responsible for local government elections should the new Act allow more flexibility in regard to the conduct of the quadrennial elections than the current Act does? If so, how?*
- 8) Is the time for the close of the rolls and the date of the elections appropriate?*
- 9) What changes, if any, should be made to the timing of local government elections?*

Council would submit:

- 1. That the responsibility for the conduct of local government quadrennial elections should remain with the Local Government for the following reasons:**
 - Cost – the cost incurred by the Rockhampton regional council by virtue of the ECQ conducting the 2008 Quadrennial election far exceeded the cumulative cost incurred by the four (4) pre-amalgamated Councils in conducting elections.**
 - Administrative discrepancy – the inability and unwillingness of the ECQ to provide returning Officer's reports on the Conduct of the 2008 quadrennial election. This information being invaluable from both a transparency and future planning perspective.**
 - Choice – the existing legislation already provides for a local government to either conduct the election utilizing it's own resources or contract those services as an arrangement most appropriate to its circumstances. Exclusivity granted to ECQ would deny this choice and potentially be anti-competitive.**
- 2. No opinion in relation to the timing of local government elections so consequently the matter regarding the close of rolls remains moot.**

Candidature.

The series of questions cited for this issue are in three parts:

- Nomination
- Campaign funding & disclosures
- Electoral signage & advertising material

Nomination

Nomination questions are as follows:

- 10) *Is the nomination process adequate? Why?*
- 11) *Does the current system encourage a diverse range of candidates to stand?*
- 12) *Should a candidate be required to live in the local government area in which they stand for election?*
- 13) *Should a councillor be required to live in the local government area for their whole four year term?*
- 14) *Should a person be able to stand as a dual candidate for both mayor and councillor?*
- 15) *Should the new Act allow mayors to be appointed by their fellow councillors?*

The Principal issues for Council devolve to:

- (a) residency,
- (b) dual candidature and
- (c) mayoral election.

(a) Residency

Council would submit:

1. That a local government area is defined in s 8(2) LGA 2009 as:

(2) A part of Queensland that is governed by a local government is called a local government area.

Consequently given that the arguments for Council representation on a divisional or non-divisional basis devolve to effective representation of the entire area although under differing administrative arrangements and the fact that s12(1) and (6) LGA 2009 mandate:

(1) A councillor must represent the current and future interests of the residents of the local government area.

(6) When performing a responsibility, a councillor must serve the overall public interest of the whole local government area.

the issue is really about accessibility to the elected representative/s it is almost impossible to conceive a circumstance acceptable to the electorate whereby the necessary community interaction based on inclusiveness and commonality of community of interest considerations could be established and maintained at a local representational level if the representative does not reside in the local government area.

2. The corollary to this being that once an elected representative ceases to reside in a local government area he/she ceases to be able to represent that local government area - be it after one year, two years or three years in office.

3. **Some consideration should be given to defining residency as “principal place of residence” in the legislation and a distinction noted here is the reference to area rather than division.**

(b) Dual Candidature.

Dual candidature for Mayor and Councillor has until the present time been prohibited and the issues paper is in essence “sounding the electorate” for what would be a significant and marked change in relation to the mayoralty and is directly linked to (c) Mayoral election in that if the Members of Council elect the Mayor the issue of dual candidature does not arise.

In relation to dual candidature Council would submit:

1. **That Council strongly opposes Dual Candidature for the following reasons**

- **The administrative problems involved running the election and in obtaining a result.**
- **The confusion it creates within the electorate**
- **The perception of “double dipping” and “lack of conviction”.**

And cite the finding of EARC as a correct and germane summation of the issue

“The present system (single candidature) seems to produce effective representation. The Commission considers that the complications that would result in permitting dual candidature outweigh any marginal advantages that accrue to dual candidature”

(c) Mayoral Election

Whilst currently all Mayors are elected by all voters in the Local Government area, historically Queensland has engaged in both direct and indirect Mayoral election processes with indirect election most notable in Brisbane 1972 -1984 and Logan and Gold Coast 1978 -1984.

Council would submit:

1. **That direct Mayoral election be retained for the following reasons:**

- **A strong executive role is bestowed on the Mayor concomitant with an overview of Council matters.**
- **Mayors elected by popular vote are more likely to devote their time and energies to the whole Local Government area rather than to a particular division.**
- **Provides a mandate for the strategic direction espoused by the Mayor as an electoral platform.**
- **Ensures that the leader of the local government area is elected by all voters in the local government area and is ultimately answerable to the electorate as a whole.**
- **Confirms incumbency and whilst subject to administrative or judicial removal is not subject to political removal during the term of office.**

Campaign funding & disclosures

The questions raised in the issues paper are set forth below:

- 16) Are the requirements for disclosure of campaign funding sufficient?
- 17) Should candidates make disclosures before, progressively during, and after an election period?
- 18) Should all disclosure requirements, such as values, disclosure periods and who must comply, be standardised?
- 19) Should particular fundraising activities for local government elections be prohibited?

Council would submit:

- 1. That candidates for Local Government election be held to no higher level of accountability than their Federal and State counterparts**

Electoral Signage & Advertising Material.

The issues paper raises the questions set forth below:

- 20) Should how-to-vote cards be free from promotional content?
- 21) Should how-to-vote cards be standard for all candidates? If so, should these be provided in all polling booths and postal vote packs by the Electoral Commission of Queensland?
- 22) What promotional material, such as bunting (continuous signage) and coreflutes, should be allowed during the campaign period and at polling booths on election day?
- 23) Should the placement and amount of election campaign material be standard across all local government areas?
- 24) Should a 'media blackout' period apply for local government elections? Why? For how long?

Council would submit:

- 1. That the existing arrangements are satisfactory.**

Voting.

The initial question raised in this section is:

- 25) Should voting remain compulsory for local government elections in Queensland?

Council would submit:

- 1. That compulsory voting be retained as it is the best and most participatory way to ensure that a local government's community is fully involved in deciding who will be their representatives on the Council.**

Questions relative to Postal voting, pre-polling and absent voting are set forth below:

- 26) Should the option of a postal vote be extended to all voters in every area?
- 27) Should a full postal ballot be automatic for some local government areas? If so, why and for which areas?
- 28) Should the criteria for pre-polling and postal voting be abolished?
- 29) Does the restriction on voters to attend only polling booths in a division in which they are enrolled adversely affect voters? If this were altered what impact would that have on the administration of the elections in that local government?
- 30) Should the new Act allow absent voting? If so, should this be restricted to absent voting within a local government area only?

Council would submit:

- 1. That the option of postal vote be extended to all voters in every area**
- 2. That each local government be empowered to determine the method of voting within its local government area.**
- 3. That the option of unrestricted access to pre-poll and postal voting should be extended to all voters in every area**
- 4. That absentee voting be able to be offered within the local government area for any divisions of the local government area.**
- 5. That absentee voting for a local government area not be provided in other local government areas.**

The following questions are raised in relation to property franchise:

- 31) Should the right to vote in Queensland local government elections be extended to non-resident property owners within an area? If so, should this apply to overseas investors?
- 32) Should voting rights be extended to non-resident occupiers (e.g. commercial lessees such as business owners who lease premises within an area but live outside of it)?
- 33) Should multiple persons be able to claim non-resident voter eligibility for one property (e.g. two or more non-resident owners or lessees of a property)?
- 34) Should people, based on the number of properties they own, be entitled to more than one vote per division?
- 35) Who should be responsible for the creation, verification and maintenance of a non-residents' electoral roll?

Historically, Queensland was the first state to abolish the property franchise in 1932 and it is held that the concept of no taxation without representation argument has no application to voter qualifications in modern democracies which base their franchise on concepts of citizenship, residence and equal suffrage.

Consequently Council is vehemently opposed to this concept and would submit:

- 1. that a property franchise in any form should not be permitted given its administrative difficulties and departure from the principles of a modern democracy.**

and would cite the PEARC Report as the correct and germane summation of the issue

"The voting system of "universal (obligatory) adult franchise" which was first introduced in 1920 has been unchanged since 1932 in Queensland. It is widely accepted throughout the State and there has been NO pressure from the community for change. In Queensland the 'conflict between the property interests and democratic principles' occurred in the 1920's and 1930's.

The question of property interests being represented by a vote has not been advocated widely in Queensland in recent times. In Queensland, an employee on a large pastoral property has exactly the same vote 'value' as the owner, provided they both reside in the same division of a divided local authority – otherwise, the employee has the 'value of a vote, whilst the absentee owner has none. (In other, supposedly more democratic States, the employee would have one vote, and the owner, two)"

Voting Systems.

The series of questions set forth in this section are detailed below:

- 36) Which voting system is most appropriate for local government elections - Optional Preferential voting, Compulsory Preferential voting, First-Past-The-Post or Proportional Representation? Why?
- 37) Would different voting systems work better for different sized local governments? Why?
- 38) Should Proportional Representation be introduced for Queensland local government elections? If so, why and
 - (a) which model/s should be implemented?
 - (b) how would this be implemented in divided and undivided councils?
 - (c) should it apply for all councils? If not, which councils should proportional representation apply to?

Council would submit:

- 1. That "First-Past-The-Post" voting be utilised for local government elections.**