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Submission 065

21 July 2010

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

Dear Sir/Madam

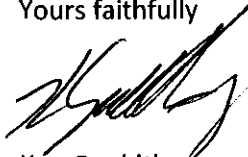
A New Local Government Electoral Act

Please find attached Council's submission to the Law, Justice and Safety Committee's Issues Paper on 'A new Local Government Electoral Act: Review of the Local Government Electoral System (excluding BCC)'.

This submission is being made on behalf of the Toowoomba Regional Council. If you have any queries in relation to this submission, I ask that you contact the Manager, Governance and Administration, Mr Norm Garsden on 4688 6964 or at norm.garsden@toowoombaRC.qld.gov.au.

Thank you for the opportunity to participate in the development of the Local Government's electoral system.

Yours faithfully



Ken Gouldthorp
Chief Executive Officer

This is the response from Toowoomba Regional Council to the Issues Paper provided by the Law, Justice and Safety Committee titled: A New Local Government Electoral Act: Review Of The Local Government Electoral System (Excluding BCC).

This response takes a similar format to the Issues paper.

Divisions

The Toowoomba Regional Council (TRC) favours:

- the continuance of the TRC area being undivided;
- Local governments having the discretion to choose to be divided or not for electoral purposes, subject to the provisions of Division 2, Part 3, Chapter 2 of the *Local Government Act 2010*.

Council has considered the advantages and disadvantages of being divided or undivided (see below) and believe that the reform agenda for Councils and the *Local Government Act 2009* focuses on strengthening the capacity of Councillors to operate at a strategic level by developing policies that benefit the whole of the area while accommodating the distinctive needs of the various communities within that jurisdiction. Council believes that this can best be achieved by not having electoral divisions. If however, electoral divisions were mandated, Council would favour a single member division to reflect distinct communities of interest.

Advantages of a divided Council are:

- Councillors are more aware of the local implications of decisions;
- Stronger relationships are possible with businesses and individuals in that division;
- Residents can easily identify and contact their local representative; and
- Where by-elections are required, the cost of those elections would be less than the cost of an election on an undivided basis.

Disadvantages of a divided Council:

- Council would need to regularly review the electoral divisions each term to ensure that the relevant electoral quotas are maintained within a set tolerance. This is likely to result in regular divisional changes as pockets of growth are distributed unevenly throughout the Council area, resulting in uncertainty and confusion over the electoral division and representative; and
- It is possible that alliances could be developed that result in certain divisions being favoured over others when allocating resources.

Advantages of an undivided Council:

- Councillors represent the interests of the entire Council area, promoting a 'whole of area focus', rather than just part of it; and
- Residents have the opportunity to raise issues of concern with any or all Councillors rather than just one Councillor.

Disadvantages of an undivided Council:

- Residents may feel remote and alienated from their representatives, especially in large regional Councils, such as Toowoomba, even though a deal of effort is devoted in making Councillors more accessible to residents. In this matter, it is noted that the number of Councillors servicing the area has been reduced from 68 prior to amalgamation to 11.

- 1) Are the procedures for the division of councils adequate? **Yes**
- 2) If the procedures for the division of councils are not adequate, what changes are required? **N/a**
- 3) Are the error margins of 10% in local government areas with more than 10,000 electors and 20% in all other cases sufficient? **Yes**
- 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? **Yes, Councils should retain the discretion to decide to become divided or undivided.**
- 5) Are there other matters the Committee should consider in regard to local government divisions? **Councils should also determine if divisions should have a single or multiple members.**

Conduct of Elections

The 2008 Local Government Elections were conducted by the Electoral Commission of Queensland (ECQ), whereas the 2008 by-election was conducted by the Council in-house.

The ECQ has recommended that they should continue to conduct the quadrennial elections (but not by-elections) for local governments in Queensland to ensure that the elections are administered with absolute impartiality and integrity. Whilst it is not believed that there has been any widespread concern about the integrity of past local government elections, it is the Council's view that if the ECQ were responsible for the conduct of the Quadrennial elections, then they should also accept responsibility for Council by-elections, as the same impartiality and integrity issues would equally apply to these elections.

Concerns are held that if Councils were responsible to conduct of the by-elections only, that the corporate expertise in conducting elections would be quickly lost and increase the risk of errors being made. Costs of the respective elections mentioned above were \$621,000 (ECQ) and \$320,742 (TRC). Although costs are not directly comparable, it is believed that Council could conduct local government elections at significantly less costs than the ECQ. Nonetheless, the perceived conflict of interest where a CEO acts as Returning Officer is acknowledged and Council agree that it would be appropriate for the ECQ to conduct the all future local government elections (quadrennial and any by-election).

Elections need tight control to ensure the integrity of the process and result, no matter who runs the election, however, some flexibility in the design of the forms would have made the conduct of the 2008 TRC by-election more efficient (esp. Form 30 (declaration envelope) to facilitate mailing house overprinting and insertion into outer envelopes, and Form 32 (Instructions on casting a declaration vote) to downplay the \$1500 fine for obscure and other unlikely offences and to highlight the much lower failure to vote fine of \$75.

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? **Yes and if the ECQ conduct the quadrennial election, then they should also conduct any by-elections.**

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? **More flexibility is required with the design and printing of forms, but this would apply equally whether Council or the ECQ conducted the election.**

8) Is the time for the close of the rolls and the date of the elections appropriate? **Yes.**

9) What changes, if any, should be made to the timing of local government elections? Candidates – requirements and conduct. **Consideration should be given to conducting the quadrennial election in October to enable the new Council to influence the next budget and avoid school and public holidays.**

Requirements and Conduct of Candidates

Although there appear to be few impediments to anyone not being bankrupt or imprisoned nominating for Council, cultural diversity, young people and women are generally under-represented (e.g. women currently hold 11 (15.1%) of the 73 mayoral positions and 170 (35.4%) of the 480 councillors positions in Queensland.

Candidates should live in the Council area and only be able to stand in one election, Mayor or Councillor. Having regard to the roles, responsibilities, obligations and powers of a Mayor under the *Local Government Act 2010*, the position should be elected by the entire body of electors, so that the position is not de-stabilised by internal politics changing the Mayor at a Council meeting.

10) Is the nomination process adequate? Why? **Yes, any elector who is not disqualified is eligible to nominate.**

11) Does the current system encourage a diverse range of candidates to stand? **Yes, the current system does not discourage any particular type of potential candidate.**

12) Should a candidate be required to live in the local government area in which they stand for election? **Yes.**

13) Should a councillor be required to live in the local government area for their whole four year term? **Yes, unless extenuating circumstances apply.**

14) Should a person be able to stand as a dual candidate for both mayor and councillor? **No.**

15) Should the new Act allow mayors to be appointed by their fellow councillors? **No,**

Campaign funding and disclosures

Council generally believes that the current requirements regarding disclosure of election contributions are too onerous and the current threshold for reporting too low. Further, it is believed that the reporting requirements should apply to all candidates, not just the successful ones.

16) Are the requirements for disclosure of campaign funding sufficient? **Yes, if anything they are too onerous.**

17) Should candidates make disclosures before, progressively during, and after an election period? **Council believes that it would be impractical to update disclosures progressively throughout the election period.**

18) Should all disclosure requirements, such as values, disclosure periods and who must comply, be standardised? **Yes.**

19) Should particular fundraising activities for local government elections be prohibited? **No, provided it is not illegal.**

Electoral signage and advertising material

With respect to the issue of electoral signage and advertising material, having regard to the variety of media used for electoral purposes, including twitter and facebook, focussing control on the traditional means of advertising appears increasingly irrelevant and archaic. Objectionable or excessive advertising material will likely lead to a voter backlash.

20) Should how-to-vote cards be free from promotional content? **Yes.**

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? **No.**

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?

There should be some restrictions on the amount of promotional material at any polling booth.

23) Should the placement and amount of election campaign material be standard across all local government areas? **Yes and the same rules should be applied to State and Federal elections.**

24) Should a 'media blackout' period apply for local government elections? Why? For how long? **No.**

Voting

Although there appears to be few impediments to anyone not being bankrupt or imprisoned to nominate for Council, young people and women are generally under-represented in local government (e.g. women currently hold 11 (15.1%) of the 73 mayoral positions and 170 (35.4%) of the 480 councillors positions in Queensland. It is considered that candidates should live in the Council area and only be able to stand in one election, Mayor or Councillor.

It is believed that voting should remain compulsory, and the opportunity to conduct a poll by a full postal ballot should be an option for Councils of all sizes. Having regard to the roles, responsibilities, obligations and powers of a Mayor under the *Local Government Act 2010*, this position should be elected by the entire body of electors, so that it is not de-stabilised by internal politics i.e. changing the Mayor at a Council meeting.

The voting system used should reflect the circumstances of the electorate, i.e. single or multi member divisions. Should TRC prefer that the Council area remain undivided, then First past the Post voting is the best option. Opposition to the introduction of proportional representation is recommended, as it is better suited to areas where party politics is established, rather than a non-party area.

25) Should voting remain compulsory for local government elections in Queensland? **Yes.**

26) Should the option of a postal vote be extended to all voters in every area? **Yes.**

27) Should a full postal ballot be automatic for some local government areas? If so, why and for which areas? **Yes, at the discretion of the Council, whether they are urban or rural.**

28) Should the criteria for pre-polling and postal voting be abolished? **Yes.**

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? **Yes, if elections were undertaken by a full postal ballot, there would be no impact, if the election was conducted as an ordinary poll, arrangements similar to those in place for State and Federal elections would need to be put into place.**

30) Should the new Act allow absent voting? If so, should this be restricted to absent voting within a local government area only? **Yes, but within the Council area only.**

Property franchise

A resident's (adult) right to vote where living in an electorate is fundamental to Australia's concept of democracy and voting rights should not be extended to non-residents or multi-national companies.

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? **No.**

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)? **No.**

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)? **No.**

34) Should people, based on the number of properties they own, be entitled to more than one vote per division? **No.**

35) Who should be responsible for the creation, verification and maintenance of a non-residents' electoral roll? **State Government.**

Voting systems

The voting system used must reflect the circumstances of the electorate, i.e. single or multi member divisions. The TRC prefers that the Council area remains undivided and as such First past the Post voting is the best option. Council opposes the introduction of proportional representation, as it is better suited to areas where party politics is established, rather than a non-party area.

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? **The TRC prefers that the Council area remains undivided and as such First past the Post voting is the best option.**

37) Would different voting systems work better for different sized local governments? Why? **Voting systems need to be matched to the way the electorate is established (single member / multi member; divided / undivided, etc), rather than the Council's size.**

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?

No.

Other

Council believes that the development of an electronic counting system should be facilitated where

- candidate names could be Barcoded for later scanning, or
- optical reading equipment, like the equipment used by the TAB could be developed to speed up the counting process and reduce error.

Council notes that development of this type of technology would be beyond that of individual councils.

39) What other issues should the Committee consider in relation to this inquiry?
Development of an electronic counting system.

CONCLUSION

Toowoomba Regional Council believes that:

- Each Council should be allowed to determine if it should be divided for electoral purposes or conduct a full postal vote.
- Proportional voting should not be introduced.
- Mayors should continue to be elected by the voters at large.
- Voting should be compulsory and not be extended to non-resident property owners (based on their property holdings).
- Elections and by-elections should be conducted by the Electoral Commission of Queensland.
- Elections should be held in March or October/November.