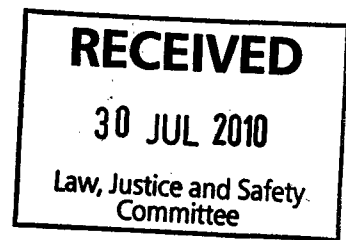


Submission 084



LOCAL GOVERNMENT
ASSOCIATION
OF QUEENSLAND LTD

LOCAL GOVERNMENT ASSOCIATION OF QUEENSLAND
LTD

SUBMISSION

TO

LAW, JUSTICE AND SAFETY COMMITTEE

ON

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

July 2010

Background

The Law, Justice and Safety Committee is conducting a review of the local government electoral system in Queensland (except for Brisbane City Council), pursuant to a referral from the Legislative Assembly dated 25 March 2010. The referral reads:

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.

Summary of resources used in preparing this submission- previous LGAQ and other commentaries

1. Office of Local Government Commissioner - Information Paper - Local Government Electoral Arrangements - December 1995
2. LGAQ Submission on Review of Local Government Electoral Arrangements in the Local Government Act 1993 - June 2000
3. LGAQ Submission - Draft Legislative Proposals - Local Government Electoral Arrangements - May 2002
4. LGAQ response to 2006 Queensland Council Elections Discussion Paper
5. LGAQ Submission - Local Government Act Review - Paper 4 - Local Government Elections - October 2007 (p17-18)
6. Australian Parliamentary Library Research Brief - Electoral Systems - Gerard Newman as revised by Scott Bennett - February 2006
7. ECQ - Evaluation Report 2008 Local Government Elections - November 2008
8. LGAQ Analysis of 2008 Election - "Facts, Figures and Analysis" April 2008
9. LGAQ Annual Conference Proceedings 2001 - 2009, 2008 - onwards
10. Workshop on Issues Paper 15 July 2010 with Mayors, Councillors, CEOs and senior Staff of some Member Councils.

Background - Current (2008) Electoral Arrangements for Queensland

The wide ranging and sweeping reforms of local government in Queensland that commenced in April 2007 radically altered the electoral landscape which was already trending towards a more streamlined and whole of community focussed approach by councils.

There are now 73 councils in Queensland local government - 37 of which are continuing councils (unchanged in terms of area) and 36 new councils (changed in area by amalgamation or boundary change) formed as a result of the State Government's Local Government Reform agenda.

The reform has resulted in fewer councils, down from 157 (including 32 Aboriginal and Torres Strait Islander Community Councils that became local governments during the last four years) to 73 (which includes 12 continuing former indigenous councils and 2 new indigenous councils). Of those 59 remaining "mainstream" local governments, 25 are continuing councils

(including Brisbane) - albeit in most cases with reduced councillor numbers, and 34 are new amalgamated councils.

Voting for the March 2008 elections for those 73 councils was either by Postal voting (27 Councils) or attendance/booth voting (46 Councils).

ISSUE PAPER HEADING - DIVISIONS

RELEVANT BACKGROUND INFORMATION

Extract from "LGAQ Analysis of 2008 Election - "Facts and Figures" April 2008"

The reform process provided that new councils would be undivided unless all the affected/amalgamating councils unanimously agreed to be divided.

The current situation sees 51 of 73 councils undivided and the balance 22 (including Brisbane) having single member electoral divisions.

The option to use multi-member divisions was not available in the 2008 election, and does not appear to be available under the provisions of the 2009 Local Government Act.

The undivided councils have "first past the post" elections for mayor and councillors while the divided councils have optional preferential elections for mayor and councillors.

Historically, for 2004 there was a continuation of the trend to abolish electoral divisions. This figure increased dramatically from 24 councils with no divisions (elected at large) to 66 councils (nearly 50%) since 1991. As a result of the recent reforms 51 (70%) are now divided.

The adoption of undivided status has occurred for two reasons. Initially, in 1991 with the introduction of one-vote-one-value, many councils chose to abolish the divisions instead of re-drawing the boundaries to comply with the new requirement.

Since then the trend has continued, mainly in regional and rural areas, because of the less parochial and more "whole of area" thinking adopted in decision-making.

Issue Paper Questions

1) Are the procedures for the division of councils adequate?

Where a council is divided, (see response to Q 4), the determination of the internal divisional boundaries should require a balance of elector numbers (within error margins), and consideration to ensure the boundaries do not divide local neighbourhoods or adjacent rural and urban areas with common

interests or interdependencies, including, for example, economic, cultural and ethnic interests or interdependencies.

It does appear that the principal consideration legislated in the *Local Government Act 2009* (LGA 2009) and the repealed *Local Government Act 1993* (LGA 1993) is the number of electors, resulting in many cases of divisional boundaries cutting across communities of interest and other relevant features.

There exists the special circumstances of the Torres Strait Island Regional Council where electoral divisions (14) are based on the island communities of the former council areas, and elector numbers do not meet the error margin of 20%.

Similarly, Redland City Council has island communities that have significant community of interest together, but are melded with a portion of the mainland community simply to meet the 10% error margin for large communities.

This would also be reflected in divisional arrangements where low density rural community areas are joined with part of an urban community, again simply to meet error margins.

Whilst the democratic principle of “one vote one value” is strongly supported, there should be some recognition of special circumstances where a case for particular community representation can be accommodated.

The LGA 1993 did have provisions that allowed the then electoral and boundaries review commissioner some discretion:

S 286(3) Also, an electoral and boundaries review commission may, if it is satisfied it is appropriate in its determination, under section 93(4) or 102(4), of a reviewable local government matter, adopt a margin of allowance, but the quota must not be departed from—

(a) for a local government area with more than 10000 electors—by more than 20%; or

(b) for another local government area—by more than 40%.

Currently, local governments are required to review divisional arrangements regarding elector numbers no later than 1 March in the year before the next quadrennial election (LGA 2009 Section 16) and give a report to the electoral commissioner and the Minister.

Normally these reviews are undertaken based on local knowledge and an element of community consultation, and as such, 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.

There have been instances in the past where several well researched and considered recommendations by local governments for alteration to electoral boundary arrangements have been rejected by the (then) Electoral Commissioner, possibly on challengeable grounds.

The Association therefore submits:

*That the recommendations regarding divisional boundary arrangements of a local government made to the electoral commissioner and the Minister in accordance with Section 16 of the LGA 2009, where supported by evidence of community support and considered deliberation by the local government, should be supported and endorsed by the Minister and electoral commission when referred to the **change commission** (Section 19(2) of LGA 2009).*

*That legislation should be amended to provide that the **change commission** may, if it is satisfied it is appropriate in its determination of a reviewable local government matter, adopt an error margin of allowance but the error margin must not be departed from—*

- (a) for a local government area with more than 10000 electors—by more than 20%; or*
- (b) for another local government area—by more than 40%.*

2) If the procedures for the division of councils are not adequate, what changes are required?

See response to Question 1.

3) Are the error margins of 10% in local government areas with more than 10,000 electors and 20% in all other cases sufficient?

See response to Question 1.

Generally, the error margins are acceptable and workable, although local governments experiencing high levels of growth do find that reviews each term result in re-drawing of electoral boundaries because the error margin is breached within the term.

Despite setting the electoral numbers at the lowest possible level (minus 10%) at the start of the term, it is found that growth takes the number of electors past the upper tolerance (plus 10%) within the term.

This results in community confusion at election time due to electors being “moved” into a different division. This becomes an issue if polling place

arrangements do not allow casting of votes for other divisions (see Questions 29 & 30)

The LGA 1993 had provisions that allowed a local government to retain divisional boundaries if less than one third of its divisions were outside the tolerances (Section 288 LGA 1993) for one further term.

There would be merit in similar provisions being legislated in the LGA 2009 or its supporting regulations.

The Association therefore submits:

That the LGA 2009 be amended to allow deferral for one term of redrawing electoral division boundaries if one-third or less of the divisions are outside the error margin.

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?

Consultation with member councils confirms that local government is firmly of the view that it should be entirely up to each local government to decide whether or not electoral divisions should be established.

Decisions of that nature are normally made in the light of community consultation and engagement processes undertaken by the local government and the move from un-divided to divided or vice versa should not be imposed on a community without consultation/engagement.

If a local government does decide that electoral divisions meet the representational needs of its community, then as proposed above in the response to Question 1, 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, and that decision should be supported by the electoral commission and the Minister.

The Association therefore submits:

That the decision to move from un-divided to divided or vice versa should remain with the local government involved following community engagement on the issue.

5) Are there other matters the Committee should consider in regard to local government divisions?

A suggestion has been made that local government electoral divisions might be named, similar to State and Federal electorates, after prominent individuals, place or cultural features.

Also the use of multi-member divisions should be considered, but on the basis of choice by the local government involved.

ISSUE PAPER HEADING - CONDUCT OF ELECTIONS

RELEVANT BACKGROUND INFORMATION

Extract from *"LGAQ Analysis of 2008 Election - "Facts and Figures" April 2008"*

Another new feature of the 2008 local government elections was that for the first time Councils did not conduct their own elections. The Local Government Reform legislation prescribed that the Electoral Commission of Queensland (ECQ) would conduct all elections, whereas up to 2004, only Brisbane City Council elections had been conducted by ECQ.

Whilst this action was aimed at clearly demonstrating electoral probity and confidence to the community, over a century of tradition and satisfactory service by local Returning Officers) has come to an end.

Issue Paper Questions

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?

Whilst the Electoral Commission of Queensland (ECQ) conducted all Local Government elections on 15 March 2008, the Association does not necessary support this arrangement continuing on a permanent basis.

The costs levied on councils by the ECQ for the 2008 elections were, on average, double the costs incurred previously when councils conducted the elections.

There were also many reports of organisational and operational failures; e.g. postal votes not being issued or the incorrect and/or multiple ballot papers being sent to electors.

Also, the location of polling places was inappropriate and there was limited or no consultation with the local governments to draw on their knowledge and experience.

The Association believes it may be appropriate that there be various arrangements for the conduct of elections. This may involve the ECQ in its own right or being contracted by councils to conduct elections on their behalf, as well as councils conducting the elections themselves or contracting other providers.

Discretion should remain with Chief Executive Officer of the local government (having advised the local government formally of the proposed method of conducting the election) to adopt the arrangements most

appropriate to their circumstances. However, if the decision is to use the ECQ, then that should be advised to the ECQ at least 12 months before the election date.

If the ECQ was to conduct council elections then it is expected that the organisation would take on all the operational and administrative roles involved, including the conduct of by-elections that might be required within the term.

The Association therefore submits:

That the proposed Local Government Electoral Act provide that the Chief Executive Officer of a local government be the Returning Officer for any of the elections required for the local government (quadrennial, by-elections and polls) and that the Returning officer can opt to

- (a) conduct the election him or her self;*
- (b) contract with the Electoral Commission Queensland to conduct the election; or*
- (c) contract with some other qualified and experienced provider for the conduct of the election.*

Further that, if it is decided that the ECQ is to conduct quadrennial elections for all local governments,

- (a) the ECQ should also be responsible for the conduct of by-elections, and*
- (b) must be required to arrange consultation with the local government about the arrangements for the election, including seeking advice about the site of polling places and other matters where local knowledge and experience should be considered, and*
- (c) must negotiate co-operatively the hand over of responsibility for post-election matters (electoral gift and donation returns, refund of nomination deposits etc) to the Chief Executive Officer of the local government.*

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?

The Association does not support the introduction of more flexibility in the conduct of elections by the ECQ, simply because the rules that currently apply to local government elections have been derived from decades of election experience and cover the (often) complex circumstances faced by Returning Officers and poll staff throughout the election period.

The legislation provides a common approach for every election official that can be relied upon, whether the election is in Gold Coast City or Diamantina Shire. Whether the election is conducted by the ECQ, the CEO or some other contractor, all election officials need to comply with the same processes throughout the election to guarantee consistency and equity.

The Association therefore submits:

That the new Act retain the rules for conduct of local government elections built up over decades of local government election experience and that these be applied consistently across all local governments.

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

At present, the LGA 2009 (Schedule 2), Section 277 provides:

277 Cut off day for voters roll

A voters roll must be compiled to 1 of the following dates—

(a) for a quadrennial election—31 January in the year of the election;

(b) for a by-election to fill a vacancy in the office of a local government councillor—at least 5 days, and not more than 7 days, after the publication in a newspaper, under section 274, of notice of the day of the by-election.

These timeframes are appropriate for quadrennial elections held on the last Saturday in March (Sections 268 and 269 of LGA 2009 Schedule 2), i.e. a period of approximately 50 to 55 days.

Should the date of the quadrennial election be moved to October (see response to Question 9 below) then the close of rolls would need to be adjusted accordingly, to retain the same relevant timeframe i.e. 50 to 55 days.

The issue of completeness and accuracy of the rolls was raised with the Association, suggesting that the ECQ (or AEC) should be more rigorous in ensuring that the enrolments are correct as at the close of rolls.

The Association therefore submits:

That the cut off periods currently applying for voters rolls for quadrennial and by-elections be retained.

9) What changes, if any, should be made to the timing of local government elections?

As regards the date of the quadrennial election, the Association at its 2008 Annual Conference resolved that:

“That the Local Government Association of Queensland make representations to the Minister for Main Roads and Local Government to amend the Local Government Act to change the date of the Local Government quadrennial elections to a date in October to take effect from 2012.”

This decision was taken after consideration of the following background comment:

“Arguments for the change are that an incoming council would have some eight months in which to review corporate plans, operational plans and policies prior to the adoption of its first budget in or about June the following year.

The arguments against the change are that the outgoing council has a greater opportunity to adopt a more “voter friendly” and less strategic budget some three months before the election and also that the incoming council would have to “live with” the budget adopted by the previous council for some eight months before it can adopt its own plans, policies and rating arrangements.

Currently Local Government elections are held in March and declarations of office for councillors are held in April; this timing allows only a couple of months to prepare and bring down Council’s budget.”

The Association therefore submits:

That the Local Government Act 2009 be amended to change the date of the Local Government quadrennial elections to a date in October to take effect from 2012.

ISSUE PAPER HEADING - CANDIDATES - REQUIREMENTS AND CONDUCT

Issue Paper Questions

10) Is the nomination process adequate? Why?

Generally there is support for the current nomination processes to be retained, with one change proposed in relation to nomination deposits.

The nomination deposit is currently prescribed as \$150, and it is suggested that this figure, which has remained unchanged for decades (certainly it has remained unchanged since at least 1994), may need to be brought up to a more relevant amount that will ensure nominations are made by serious candidates.

It is noted that the nomination deposit for state elections is \$250, and this does not appear to have changed since 1992.

At the very least, it is proposed that nomination deposits for all but Special category local governments be increased to match state or federal figures. Special category local governments are determined by the Local Government Remuneration Tribunal and are generally indigenous councils or very small remote councils.

The Association therefore submits:

That the nomination deposit for all but Special category local government elections be increased to \$250 and be aligned in the future to the nomination deposit required for candidacy for election to the Legislative Assembly.

11) Does the current system encourage a diverse range of candidates to stand?

Comment has been received that the current system does encourage a diverse range of candidates, although there is a view that the cost of campaigning, particularly in large (geographically and voter numbers) local governments may be a deterrent to some possible candidates.

This could be abated if the same rules that apply to candidates for state and federal elections regarding tax deductibility of election expenses applied to local government election candidates.

The Association's long standing policy position is for expenses incurred by candidates at Local Government elections should be tax deductible in the

same manner as are those incurred by Federal and State election candidates.

In support of the claim that the current system does support a diverse range of candidates to stand is the LGAQ analysis of the 2008 election.

Analysis of nominations received:

- *There were 1634 candidates for the 553 positions. The ratio of 2.95 candidates per position compares to 2.1 in 2000 and 2004. Interest in standing for Local Government election remained at record levels.*
- *469 women stood for election. Women candidates represented 28.7% of nominations, compared with 27% in 2004 and 26% in 2000. The increase in female nominations experienced over the past four elections has continued.*
- *Multiple mayoral challenges occurred in 68 councils with an average of 3.9 mayoral candidates, up from an average of 3.4 in 2004 and 3 mayoral candidates in 2000. There was record interest in standing for election as mayor.*
- *In 57 (out of possible 73) councils there were fields more than twice as large as the positions available, compared with 57 in 2004 and 50 councils in 2000 (out of possible 125 Councils at those dates. The size of the fields for council elections has continued to increase.*
- *In 29 (out of 73 or 40%) councils, compared with 41 (out of 125 or 33%) in 2004 and 38 (out of 125 or 30%) in 2000, very large fields for mayors and councillors nominated ranging from 20 to 90 candidates seeking election:*
 - *Brisbane City had the largest councillor field with 81 candidates.*
 - *Brisbane also had the largest mayoral field with 9 candidates.*
 - *Gympie Regional Council had the highest average field for councillors with 42 candidates for eight positions – 5.25 candidates per position*
 - *9 councils had more than 40 mayoral and councillor candidates.*

Analysis of the LGAQ Census of Councillors undertaken after the 2008 election shows a reasonable cross section of occupation and qualification distribution amongst elected councillors:-

Occupation by Gender and Age

Gender	age	Occupation													Grand Total
		Business owner/operator	Councillor	Home Duties	Manager/Administrator / Clerical	Plant & Machinery Operators & Drivers	Primary Producer	Professional	Public Servant/Teacher/Nurse etc	Retired	Salesperson / personal service worker	Tradesperson or related worker	Unemployed	NA	
F	25-34	1							1						2
	35-44	3	4	2	1		1	2	2	1	1				17
	45-54	6	12		4	1	4	2	3		1		1		34
	55-64	6	23		2		2		1	2					36
	65 & over		1	1			1						1		4
	NA		2				1								3
	Under 25									1					1
F Total		16	42	3	7	1	9	4	8	3	2		1	1	97
M	25-34	3	3		1			1				1			9
	35-44	6	11			1	3	1	1			3			26
	45-54	18	24				14	1	1			1		1	60
	55-64	11	25		1	1	10	1		5	1	1		1	57
	65 & over	2	6				2			2					12
	NA	1	1				1								3
	Under 25		1				1								2
M Total		41	71		2	2	31	4	2	7	1	6		2	169
Grand Total		57	113	3	9	3	40	8	10	10	3	6	1	3	266
% of Respondents in Occupation		21%	42%	1%	3%	1%	15%	3%	4%	4%	1%	2%	0%	1%	100%

Qualifications

Gender	age	ABS Qualification Code										Grand Total
		0	11	12	21	22	31	41	42	51	52	
F	25-34								1			1
	35-44	1				1	5	1	4	2		14
	45-54	2	1	1	2	1	5	1	5	1	1	20
	55-64	2		2	2		3		6	4		19
	65 & over						1					1
	Under 25						1					1
	NA	2				1						3
F Total		7	1	3	4	3	15	2	16	7	1	59
M	25-34						4				2	6
	35-44	3		1			4	2	1	2	3	16
	45-54	3		1	2		6	2	2	6	14	36
	55-64	13			1		6	1	1	7	5	34
	65 & over	1		1							1	3
	Under 25									1	1	2
	NA						1					1
M Total		20		3	3		21	5	4	16	26	98
Grand Total		27	1	6	7	3	36	7	20	23	27	157
% of Respondants with Qualification		17%	1%	4%	4%	2%	23%	4%	13%	15%	17%	100%

Key to ABS Qualification Codes		Grand Total	% of Respondants with Qualification
0	no formal qualification or no detail regarding qualification	27	17%
11	Doctoral Degree	1	1%
12	Master Degree	6	4%
21	Graduate Diploma	7	4%
22	Graduate Certificate	3	2%
31	Bachelor Degree	36	23%
41	Advanced Diploma	7	4%
42	Diploma	20	13%
51	Certificate III & IV	23	15%
52	Certificate I & II	27	17%

The Association therefore submits:

That expenses incurred by candidates at Local Government elections should be tax deductible in the same manner as are those incurred by Federal and State election candidates.

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

Overwhelming comment is that candidates should live within the local government area in which they stand for election.

This provides the high degree of accountability, accessibility and availability expected by community members. Local government is the sphere of government “closest to the people”. For this fundamental characteristic to be retained, councillors need to be resident in the area.

The Association therefore submits:

That a candidate should 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?

Overwhelming comment is that candidates should live within the local government area for the whole of their four year term.

This provides the high degree of accountability, accessibility and availability expected by community members. Local government is the sphere of government “closest to the people”. For this fundamental characteristic to be retained, councillors need to be resident in the area.

The Association therefore submits:

That a candidate should be required to live in the local government area for the whole of their four year term.

14) Should a person be able to stand as a dual candidate for both mayor and councillor?

This proposal is strongly opposed as being in conflict with the “strong mayor” model of local government that the current legislation (and local government system) provides.

As will be outlined in responses to later questions on voting systems, it is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidate they believe will best represent them.

The introduction of dual candidacy, whilst possible in other jurisdictions, generates confusion and results in internal conflicts within councils - thereby compromising the effective governance of the local government.

For example, an unsuccessful mayoral candidate who was elected as a councillor would more than likely bring instability and a lack of cohesion to the council chamber.

The Association therefore submits:

That the current system of separate candidacy for either mayor or councillor be retained as being matched and suited to the Queensland system of local government.

15) Should the new Act allow mayors to be appointed by their fellow councillors?

This proposal is strongly opposed as being in conflict with the “strong mayor” model of local government that the current legislation (and local government system) provides.

As will be outlined in responses to later questions on voting systems, it is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidate they believe will best lead them.

The introduction of appointment of the mayor by fellow councillors, whilst possible in other jurisdictions, generates confusion and results in internal conflicts within councils - thereby compromising the effective governance of the local government.

The election of the Mayor by all voters for the four year term truly gives the elected mayor a mandate as the leader of the community. This is a distinguishing and respected feature of Queensland Local Government.

This situation has been reinforced with the powers of the mayor as outlined in the new Local Government Act 2009.

The Association therefore submits:

That the current system of election at large of the mayor be retained as being matched and suited to the Queensland system of local government.

16) Are the requirements for disclosure of campaign funding sufficient?

The current requirements for disclosure of campaign funding are comprehensive and onerous.

Comment was received that the simplest system, and therefore the system that would derive the most probity and public confidence in election funding would be for local government requirements to be aligned with those required of candidates and other stakeholders in state and federal elections.

Particular comment was received by the Association suggesting third party disclosure and donor registers for local government election expenditure are already excessive requirements that are onerous for local government and others for compliance and management.

The Association therefore submits:

That all electoral funding disclosures for local government election be aligned with those imposed on candidates and other relevant stakeholders in state and federal elections.

That elections third party disclosure and donor registers for local government election expenditure be repealed.

17) Should candidates make disclosures before, progressively during, and after an election period?

The current requirements for disclosure of campaign funding are comprehensive and onerous.

It was suggested that there should be no change due to the rigorous nature of post election requirements, and also due to the register of Interests maintained for elected councillors.

Comment was received that the simplest system, and therefore the system that would derive the most probity and public confidence in election funding would be for local government requirements to be aligned with those required of candidates and other stakeholders in state and federal elections.

The Association therefore submits:

That all electoral funding disclosures for local government election be aligned with those imposed on candidates and other relevant stakeholders in state and federal elections.

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

Comment was received that the simplest system, and therefore the system that would derive the most probity and public confidence in election funding would be for local government requirements to be aligned with those required of candidates and other stakeholders in state and federal elections.

The Association therefore submits:

That all electoral funding disclosures for local government election be aligned with those imposed on candidates and other relevant stakeholders in state and federal elections.

19) Should particular fundraising activities for local government elections be prohibited?

Without some indication of what “particular fundraising activities” might be considered to need prohibition, it is difficult for the Association to respond.

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

It is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidates they believe will best represent them.

There have been cases where misleading how to vote material has affected the running of elections and caused confusion amongst the electors.

Consequently, such material certainly needs to be registered and approved with the returning officer well before polling day.

Comment was received that “promotion free” how to vote cards work very successfully in other jurisdictions (notably South Australia).

The Association therefore submits:

That how-to-vote cards continue to be approved/registered by the returning officer and content be regulated to ensure that no content could possibly confuse or mislead an elector.

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?

This question seems to assume that the Electoral Commission of Queensland will in fact be conducting all local government elections in Queensland, and as seen in the Association’s response to Question 6, this is not seen as the preferred outcome.

Therefore this question will be responded to as if the words “Electoral Commission of Queensland” were replaced by the words “Returning Officer”.

Comment was received that “promotion free” how to vote cards work very successfully in other jurisdictions (notably South Australia).

Standard size and design cards (approved by the returning officer) placed in the polling booths as an alternative to the cards being distributed outside polling places would have advantages, in the smooth, fair and equitable conduct of the election, and would be environmentally friendly through reduced resource (paper) wastage.

If standard cards are to be used, the cost of producing one for each candidate would probably be regarded as part of the printing and stationery required by the RO to conduct the election.

Discussion did raise some differing views - there are views that the size be standard, but the content/colour scheme etc could be proposed by the candidate for the RO’s approval. Also there was some support for retention of the current system.

There was also concern that postal vote packs might become bulky if all candidates in a large field wish to have the pack contain a how-to-vote card. It was generally felt that candidates should be responsible for their own mail costs.

The Association’s submission to Question 20 seems to be the only common view on the issue of how-to-vote cards.

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?

Comment received was somewhat varied, but it can be said that there a common view that there does need to be some mechanism for control of election signage/materials during the campaign period and at polling booths on election day.

Options provided included:

- (a) Electoral Act should specify standard rules for all local government elections.
- (b) RO police where, what and how long election material should be permitted to occur.
- (c) Retain the current system, but prohibit continuous signage/bunting.
- (d) Allow each local government to use its Local Laws to manage election signage in its area as at present.
- (e) Allow no bunting or candidate signage at polling booths (south Australian example).

Consequently, the Association makes no submission on this issue as there is no consistent view that would be acceptable across the State.

23) Should the placement and amount of election campaign material be standard across all local government areas?

See response to Question 22.

24) Should a 'media blackout' period apply for local government elections? Why? For how long?

It is considered that a media blackout really only limits candidates advertising in the radio and television media.

Advertising and comment/articles in newspapers, and modern media like web pages, web blogs, Facebook, Twitter, You Tube and the like are almost impossible to control by any authority, particularly when some damaging statement is made on the eve of the election leaving the aggrieved candidate no opportunity to clear his or her name.

The Association therefore submits:

That no "media blackout" apply to local government elections.

ISSUE PAPER HEADING - VOTING

Issue Paper Questions

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

Overwhelmingly, the response from member councils to this question is “Yes!”

The *Local Government Act 2009* embraces principles of democratic representation, social inclusion and meaningful community engagement, and compulsory voting is seen as the best and only way to ensure that a local government’s community is fully involved in deciding who will be their representatives on the Council.

The Association therefore submits:

That voting remain compulsory for local government elections in Queensland.

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

Comments received supported this proposal.

In fact, there is strong support for the system that applies in State and Federal elections to also apply to local government elections, whereby the electors who have registered for the permanent postal vote service, automatically receive a postal vote pack.

The principal view underlying most comment received about conduct of local government elections is that every opportunity to make the election process simple, easy to understand and convenient for the elector should be made available.

It is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidate they believe will best represent them.

Therefore, if a postal vote will enable an elector to exercise their democratic choice more readily and conveniently, then it should be made available.

The Association therefore submits:

That the option of a postal vote should be extended to all voters in every area, and

That the system that applies in State and Federal elections also apply to local government elections, whereby the electors who have registered for the permanent postal vote service, automatically receive a postal vote pack.

27) Should a full postal ballot be automatic for some local government areas? If so, why and for which areas?

The Association's view is that local governments are best placed to take decisions about their operations so that their communities needs are best met.

This certainly applies to decisions about how elections should be conducted in each local government area.

As such, each local government should be empowered to determine, after reasonable community consultation/engagement (a requirement entrenched in the local government principles), whether a full postal ballot, attendance voting or some mixture is best for their community.

As such this does not need to be an "automatic" determination for any area - it should be a decision of the local government, made well in advance of the election.

The Association therefore submits:

That each local government should be empowered to determine, after reasonable community consultation/engagement (a requirement entrenched in the local government principles), whether a full postal ballot, attendance voting or some mixture is best for their community.

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

Comment received supported this proposal.

The principal view underlying most comment received about conduct of local government elections is that every opportunity to make the election process simple, easy to understand and convenient for the elector should be made available.

It is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidates they believe will best represent them.

Therefore, if easy access to pre-poll and postal voting will enable an elector to exercise their democratic choice more readily and conveniently, then it should be made available.

The Association therefore submits:

That the option of unrestricted access to pre-poll and postal voting should be extended to all voters in every area.

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?

The principal view underlying most comment received about conduct of local government elections is that every opportunity to make the election process simple, easy to understand and convenient for the elector should be made available.

It is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidates they believe will best represent them.

However, there should be no restrictions on voters casting their vote within their local government area.

It was quite common in elections conducted by local government appointed ROs up to 2004 to provide the opportunity at designated polling places within the area for votes to be cast for more than one division, and normally the main polling place allowed votes for all divisions.

This is relatively easy to administer and provides an easy, convenient option for electors of the local government area.

The Association therefore submits:

That absentee voting be able to be offered within the local government area for any divisions of the local government area.

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

There are practical and administrative difficulties in any proposal that absentee votes be allowed outside of the local government area, difficulties that would be confusing, complex and difficult to understand.

The parallel can be drawn with State elections - absentee voting is allowed within the State, but cannot be arranged at polling places outside of the State.

Similarly, due to the number and complexity of elections involved in quadrennial elections (for example in 2008, there were 271 candidates for 73 mayoral positions, and 1363 candidates for 480 councillor positions), it is logistically impractical for absentee votes to be provided in other local government areas across the state.

See response to question 29 regarding absentee voting within the local government area.

The Association therefore submits:

That it is impractical for absentee votes to be provided in other local government areas across the state, and

That absentee voting be able to be offered within the local government area for any divisions of the local government area.

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?

The *Local Government Act 2009* (Section 12(1)) provides that:

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

Therefore the proposal that non-resident property owners have voting rights should be rejected completely.

This property franchise system was taken out of Queensland electoral processes decades ago for very good reasons. It is undemocratic and distorts the fair and equitable delivery of services that the community requires.

Unimaginable results would occur in “company” mining towns like Moranbah or Blackwater where “non-resident” property owners own a majority of houses in the towns, and if given a vote (somehow) for each property would

dominate the election of the council that would then have to negotiate rating and other service delivery arrangements possibly unfavourable to the company.

The Association therefore submits:

That a property based franchise be completely rejected as being undemocratic and likely to distort the fair and equitable delivery of local government services to the resident community.

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)?

See response to Question 31.

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)?

See response to Question 31.

34) Should people, based on the number of properties they own, be entitled to more than one vote per division?

See response to Question 31.

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

See response to Question 31.

ISSUE PAPER HEADING - VOTING SYSTEMS

Issue Paper Questions

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 LGA 2009 prescribes principles for the operation of the system of Local Government in Queensland, namely

- 1) transparent and effective processes and decision-making in the public interest; and*
- 2) sustainable development and management of assets and infrastructure, and delivery of effective services; and*
- 3) democratic representation, social inclusion and meaningful community engagement; and*
- 4) good governance of, and by, local government; and*
- 5) ethical and legal behaviour of councillors and local government employees.*

Of particular relevance to this review are principles 3 and 4.

Principle 3 links the requirement for democratic representation with the elements of inclusion and engagement. This seeks to secure both representative and participatory democratic outcomes.

Specifically, the LGA 2009 and regulations contain details about the requirements for a Community Engagement Policy and the use of contemporary engagement practice in the development of a Long Term Community Plan, Asset Management Plans and Financial Management forecasts and plans. In addition the legislation prescribes a suite of community engagement mechanisms to inform a council's decision making. The legislation also prescribes essential performance indicators and measures of sustainability and the public reporting of outcomes against these measures.

Principle 4 highlights the importance of good governance of and by the local government. To support the achievement of this principle LGA 2009 prescribes the roles and responsibilities of councillors. In particular, section 12(6) states - "When performing a responsibility, a councillor must serve the overall public interest of the whole local government area". The Act also includes the disciplinary procedures that apply should the roles and

responsibilities not be met. The legislation expects a collaborative model to apply to the operation of the local government.

These principles are instructive when it comes to the choice of electoral arrangements and voting systems to support the attainment of these principles. It is important that the characteristics of the voting system and the expectations of the operational arrangements contained within the Act are complimentary.

A Research Brief entitled “Electoral systems” produced by the Australian Parliamentary in 1989 and revised in 2006 identifies a number of questions as relevant to the consideration of an appropriate voting system.

These questions are:

- Is it easily understood?
- Do voters have a choice of candidates?
- Does it produce a quick result?
- Does the result reflect the electorate’s wishes?
- Does the result representing all voices?
- Is the government supported by the majority?
- Will it provide stable government?
- Does the result provide effective constituent representation?

The author of the 2006 revision of the paper, Scott Bennett¹, in an address to the LGAQ’s workshop on the Committee’s Issues Paper held in Brisbane on 15 July 2010 emphasised that no single voting system provides a positive answer to each of these questions. He explained that the different systems provided positive answers to some of the questions but not all. In many respects they are mutually exclusive.

The executive summary of the paper provides a useful oversight as to how the various systems - first past the post, preferential and proportional representation address the questions identified above. Following is an extract from the summary.

Ostensibly, the prime requirement of an electoral system is that it enables the citizens of a nation to elect their legislative members and, in many cases, the head of state. There is more to it than just that, however, with a number of important factors coming into play. Discussion of these forms the major part of this paper. They include:

- *Whether or not an electoral system is easily understood by the voters. Is the simplest of all systems, First-past-the-post, to be preferred because it is so easy for voters to comprehend? On the other hand, does it matter if a system is difficult to comprehend if it delivers a legislature whose makeup reflects the popular will?*

¹ Former Senior Lecturer in Politics and Government, ANU and Researcher, Australian Parliamentary Library

- *How much choice of candidates do voters have? Should voters have full freedom to vote for any particular candidate, or does it not matter that they may only be able to vote for a closed ticket of party representatives with no individual choice possible?*
- *Does it matter if results of an election are not known for some time? Some results are known very speedily, others can take several weeks. Many would see this as a serious weakness in an electoral system.*
- *How much does an electoral system enable the voters' wishes to be reflected? Should there be an exact replication (e.g. a 50 per cent vote for a party producing 50 per cent of the legislature's seats), or does it not matter if the leading party gains more seats than its vote would seem to justify?*
- *Does the electoral system help ensure that a wide range of views is heard in the legislature? If not, does that matter? Should electoral systems be put in place that are likely to see a wider range of representation in the parliament than previously?*
- *Did a majority of the electorate support a new or re-elected government at the time of the election? If not, does that matter? Should an electoral system be put in place that guarantees this? Some observers believe that it is more important for electoral systems to produce stable governments than necessarily a majority of votes.*
- *Single-member electoral arrangements are typically based on the representation of particular localities, with the citizen easily able to identify the local member. By contrast, in an electoral system based on multi-member electorates there can be confusion in the general population as to which MP a citizen can approach to air a grievance or to seek assistance. Does this matter?*

These questions lead naturally to the question of what is the best electoral system to use to elect members of a national legislature. The implication in this question is that a 'best' electoral system can be found. In fact, there is consensus among political scientists that there is no 'best' system – indeed, it has been acknowledged that all systems have flaws and problems. It has been claimed that the 'necessary first answer' to the question of which is 'best' becomes: 'It depends on what one thinks an electoral system is for'.

The paper goes on to say that an important factor in the choice of a voting system is location. In other words it depends on the circumstances of the locality in which the system operates. This is particularly relevant for local government elections in Queensland recognising the diversity of situations contained in the State's 73 council areas.

Having regard to factors outlined in the paper and the requirements of the LGA 2009 the conclusion can be drawn that the relevant questions to be considered in this review are:

- Is it easily understood?
- Do voters have a choice of candidates?
- Does it produce a quick result?
- Will it provide stable government?
- Does the result provide effective constituent representation?

Another factor relevant to the choice of voting systems, particularly the introduction of a new system such as proportional representation, is that this should not be looked at in isolation of the voting systems for Queensland at both state and local government levels. Local government has long sought greater alignment between state and local government electoral arrangements. A move to proportional representation for local government is at odds with this principle. Conversely, if it is to be considered at the local government level why not consider its adoption at the state level as is the case in Tasmania and for the Upper Houses in the other state parliaments?

There have been strong representations made to the Association by member councils that any form of Proportional Representation voting system is not appropriate for local government elections.

Proportional Representation voting systems have application where political parties or groups are dominant and large numbers of positions are to be elected by large numbers of electors e.g. the Senate and State Upper Houses.

Local government elections are almost totally required to elect small numbers of councillors (where the council is un-divided) and the instances of endorsed party political teams running in these elections in Queensland is almost unknown (Gold Coast City Council election 2008 is the only known instance).

Local Government is identified as the level of government closest to the people and the absence of party political activity within Queensland local government is highly regarded by the community. It is a welcomed alternative to the political and heavily adversarial nature of state and federal politics. It provides the opportunity for genuinely independent members of the community not beholden to our constrained by political party controls to seek election to represent the whole community not just those of like political persuasion. This is a strength of local government in Queensland that should not be eroded.

It is impossible to use proportional Representation for single member elections, which are the majority of local government elections - 73 mayors and all divided council elections (22).

Because of the nature and size of local government elections, it is apparent that the only options that can be considered are Optional Preferential voting, Compulsory Preferential voting and First-Past-The-Post systems.

The principal view underlying most comment received about the conduct of local government elections is that every opportunity should be made available to ensure the election process is simple, easy to understand and convenient for the elector.

It is important that the conduct of local government elections be as simple and straightforward as possible to allow the community the best chance to cast their vote for the candidates they believe will best represent them.

Optional Preferential and First-Past-The-Post systems are well known in Queensland local government elections, having been in use for decades and the electorate is comfortable with and understands these systems. Indeed there is no evidence of broad based community interest in or calls for change.

The current situation is that for single member elections, Optional Preferential elections apply.

Where undivided councils require election of (basically) multi-member divisions, the First-Past-The-Post system is used - even for the election of the Mayor, which is (in reality) a single member election.

There seems to be no “value-add” for democratic election of the community’s representatives in changing from the current voting systems.

There is no evidence that Compulsory Preferential will improve the democratic outcomes over the Optional Preferential system, and Proportional Representation systems will not be effective given the small numbers of positions to be elected, the absence of party politics, and the lack of public understanding of these complex and expensive systems.

The Association therefore submits:

That the current voting system arrangements for local government elections (First-Past-The-Post and Optional Preferential - dependent on whether the election is for multi-member or single member divisions) are the most appropriate because the other systems identified (Compulsory Preferential and Proportional Representation):

(a) do not demonstrate more democratic outcomes will be delivered;

- (b) *are more complex voting systems, particularly proportional representation, that are less likely to be understood by electors;*
- (c) *are more appropriate to and encourage party political elections, particularly proportional representation, and*
- (d) *are less complimentary to the principles and operational requirements contained within the LGA 2009.*

37) Would different voting systems work better for different sized local governments? Why?

The current situation is that, no matter the size of the local government (demographically or geographically) for single member elections, Optional Preferential elections apply.

Similarly, where undivided councils require election of (basically) multi-member divisions, the First-Past-The-Post system is used - even for the election of the Mayor, which is (in reality) a single member election.

As such, currently, the voting systems in use provide successful election outcomes for their communities.

The Association therefore submits:

That the current voting system arrangements for local government elections (First-Past-The-Post and Optional Preferential - dependent on whether the election is for multi-member or single member divisions) are the most appropriate because the other systems identified (Compulsory Preferential and Proportional Representation):

- (a) *do not demonstrate more democratic outcomes will be delivered;*
- (b) *are more complex voting systems, particularly proportional representation, that are less likely to be understood by electors;*
- (c) *are more appropriate to and encourage party political elections, particularly proportional representation, and*
- (d) *are less complimentary to the principles and operational requirements contained within the LGA 2009.*

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?**

See response to Question 36

The Association therefore submits:

That the current voting system arrangements for local government elections (First-Past-The-Post and Optional Preferential - dependent on whether the election is for multi-member or single member divisions) are the most appropriate because the other systems identified (Compulsory Preferential and Proportional Representation):

- (a) do not demonstrate more democratic outcomes will be delivered;*
- (b) are more complex voting systems, particularly proportional representation, that are less likely to be understood by electors;*
- (c) are more appropriate to and encourage party political elections, particularly proportional representation, and*
- (d) are less complimentary to the principles and operational requirements contained within the LGA 2009.*

ISSUE PAPER HEADING - OTHER

Issue Paper Questions

39) What other issues should the Committee consider in relation to this inquiry?

A number of other issues have been raised in the course of consulting with the Association's member Councils.

FULL POSTAL VOTE ELECTIONS

Comment was made that where a full postal ballot is occurring, there is no need for counting staff to wait until 6.00pm (close of poll) to commence processing and counting of postal voting papers received by close of business on the Friday preceding Election day. There will be no more postal deliveries until Monday morning.

With full postal ballot, this is an artificial delay that is not necessary.

The Association therefore submits:

That processing and counting of voting papers received as at last mail on the Friday before the Saturday election day be able to occur from 8.00am on the Saturday election day, and not be delayed until 6.00pm as at present.

RECEIPT OF POSTAL VOTES AFTER ELECTION DAY

A matter that is often raised is the acceptance of postal votes for up to 10 days after the election day, where there is not way of identifying that the papers were in fact mailed before election day, and there is the possibility that electoral fraud could be committed by holding uncompleted papers and completing them after preliminary results are known, then mailing them so that they are received within the 10 day period.

It is felt that such papers received after the election day should only be processed if there is some postal mark indicating they were in fact posted before 6.00pm on the Friday prior to election Saturday.

The Association therefore submits:

That postal ballot papers received after the election day shall only be processed and counted if the outer envelope has markings indicating that the papers were posted before 6.00pm on the Friday prior to election Saturday.

IDENTIFICATION OF ELECTORS

Comment was made that electoral fraud could be reduced if electors were required to present identification, such as driver's licence, proof of age card or letter from the ECQ to confirm their identity at a polling booth.

Similarly, cases of mis-identification of persons of the same name on the roll would be reduced if applications for pre-poll or postal votes required date of birth to be supplied.

The Association therefore submits:

That electors be required to present identification, such as driver's licence, proof of age card or letter from the ECQ to confirm their identity at a polling booth and

That applications for pre-poll or postal votes require date of birth to be supplied.

MAYORAL BALLOT COUNTED WHERE COUNCILLOR BALLOT REJECTED

The circumstance can arise where an elector believes they are enrolled for (say) Division 1, having moved recently from (say) Division 3.

The elector is issued with ballot papers for Division 1 election, including Mayoral ballot paper.

The ballot papers are completed by the elector and set aside for separate custody until the RO can get advice from ECQ as to where the elector is properly enrolled.

If it transpires that the elector was in fact not entitled to vote for the councillor in Division 1 because he/she was properly enrolled at the old address in Division 3, the papers are all set aside and not counted - despite the elector being entitled to vote for the mayoral ballot as being enrolled in Division 3.

There is a need for the procedure to allow the mayoral ballot paper to be counted despite the councillor ballot paper being ineligible.

The Association therefore submits:

That where ballot papers for both mayoral and councillor elections are set aside for separate custody and further investigation as to the elector's eligibility to vote in both elections, and it is subsequently found the elector is entitled to vote in only the mayoral election, that the Returning Officer be required to treat the Mayoral ballot paper as a properly made vote.

BY-ELECTION ABORIGINAL AND TORRES STRAIT ISLANDER COUNCILS

Flexibility with regard to the timeframes for commencement of by-election processes is required for Aboriginal and Torres Strait Islander Councils, due to the cultural sensitivities arising with publication of names of recently deceased persons.

Should a sitting councillor die, it is understood that the cultural response is normally to not write, speak or otherwise acknowledge the deceased person's name until after the funeral/burial ceremony has been completed.

In that event, allowance or discretion should be allowed to defer the commencement of by-election or replacement procedures and only "start the clock" (Section 270(2) of Schedule 2 of LGA 2009 requires the by-election be held within 10 weeks of the vacancy occurring) once it is culturally appropriate to do so.

The Association therefore submits:

That for Aboriginal or Torres Strait Islander Councils, where a vacancy arises from the death of a Councillor, allowance or discretion be allowed to defer the commencement of by-election or replacement procedures and only "start the clock" (Section 270(2) of Schedule 2 of LGA 2009 requires the by-election be held within 10 weeks of the vacancy occurring) once it is culturally appropriate to do so.