



STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE

Members present:

Mr CG Whiting MP—Chair
Mr JJ McDonald MP
Mr MJ Hart MP
Mr RI Katter MP (virtual)
Mr JE Madden MP
Mr TJ Smith MP

Staff present:

Ms S Galbraith—Committee Secretary
Mr B Smith—Assistant Committee Secretary

PUBLIC HEARING—INQUIRY INTO THE LOCAL GOVERNMENT ELECTORAL AND OTHER LEGISLATION (EXPENDITURE CAPS) AMENDMENT BILL 2022

TRANSCRIPT OF PROCEEDINGS

TUESDAY, 31 JANUARY 2023

Brisbane

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The committee met at 10.30 am.

CHAIR: I declare open this public hearing for the committee's inquiry into the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022. My name is Chris Whiting. I am the member for Bancroft and the chair of the committee. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past, present and emerging. We are very fortunate to live in a country with two of the oldest continuing cultures in Aboriginal and Torres Strait Islander people, whose lands, winds and waters we all share.

With me here today are Mr Jim McDonald, member for Lockyer and deputy chair; Mr Jim Madden, member for Ipswich West; Mr Michael Hart, member for Burleigh; and Mr Tom Smith, member for Bundaberg. We will be joined by Mr Robbie Katter, member for Traeger, by teleconference.

This hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. Only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee is a serious offence. I also remind members of the public that they may be excluded from the hearing at the discretion of the committee.

These proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and the chair's direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Could you please turn your mobile phones off or to silent mode.

RUHLE, Mr Nathan, Lead—Intergovernmental Relations, Local Government Association of Queensland

SMITH, Ms Alison, Chief Executive Officer, Local Government Association of Queensland

CHAIR: Good morning. I invite you to make an opening statement, after which we will have some questions for you.

Ms Smith: Good morning and thank you very much for inviting the LGAQ to come and speak to you today as part of your public hearing into the amendment bill. I, too, would like to acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. My name is Alison Smith. I am the CEO of the Local Government Association. Joining me here today is Nathan Ruhle, lead intergovernmental officer at LGAQ.

As you know, the LGAQ is the peak body for all of the 77 councils across Queensland. We were brought together in 1896 and our job is to provide trusted advice and support and to represent councils and their communities. On behalf of our member councils, I want to thank you for this opportunity today to undertake this inquiry and for the consultation that has occurred up until this point. We are really pleased to have this opportunity to speak to you about the submission we have lodged and to take your questions.

There has certainly been a lot of consultation up to this point that we have been pleased to take part in. There have been two discussion papers, one back in March 2019 and one in April of last year. There has also been the parliamentary inquiry into the feasibility of introducing the expenditure caps in Queensland in local government elections, which then provided a final report in September 2020. Then, of course, there was all the consultation in the lead-up to this draft legislation before it was introduced as a bill into parliament.

For us, a headline comment is that we generally support the overall policy framework settings adopted in the bill, but we want to acknowledge that this is a new scheme. Because it is a new scheme, we want to particularly draw attention to the need to prevent loopholes and unintended consequences. We know that that is challenging. That is why identifying and embedding safeguards before it becomes law is so important.

Queenslanders expect local government elections to be fair and democratic and without any undue influence. If there are to be changes to the way that local government election campaigns are run, then we believe that those changes need to ensure fairness, transparency and accountability. What we do not want to see are changes that could expose the opportunity for potential distortion by candidates, third parties or other influencers. The LGAQ's position is that we support the introduction of expenditure caps so long as they are workable and so long as they enhance the democratic process. That takes me to our recommendations.

We urge this committee and the state government to consider any potential unintended consequences or loopholes in the new framework and to, therefore, factor in safeguards and preventions where possible. In our submission we have raised a number of issues that need to be closely regulated to ensure a level playing field and to an extent they are already covered off in the legislation. They include group campaign expenditure cap pooling; the determination of caps for different local government areas including divided and undivided; and the length of the capped period, which is aligned with the state election electoral expenditure caps scheme.

We have suggested in our submission that this bill has a statutory review so that the legislation is reviewed within the first 12 months after the 2024 local government elections. The April 2022 discussion paper asked back then whether there was any support for an ongoing review mechanism and, if so, what format? Our view is that a statutory review of a reform of legislation is the best way to do this. A statutory review should be put in place and we believe that that review should be conducted by a parliamentary committee. Our belief is that a statutory review would provide a level of comfort to all candidates in the next local government election as it would help ensure that any concerns or issues that could be experienced with the changes are, therefore, looked at as part of a formal review. With those brief opening remarks, we are more than happy to take your questions.

CHAIR: Your recommendation 2 is that the capped expenditure period be extended to the full quadrennial term. I see exactly where you are going with that. That would obviously kick in after the 2024 election. Have I got that correct?

Ms Smith: Our position is that we do not support the length of the capped expenditure scheme as proposed. We believe that it should take place after the 2024 elections.

CHAIR: One of the things that has been brought up in some of the other submissions is concern over resourcing to implement and oversee this scheme. Would that not increase the demands on the ECQ or the local government department when you have such a length of time in which to be aware of who is declared and who is actually running for that next election? Would that not have an impact perhaps on resourcing for the department and the ECQ?

Ms Smith: I might start and then throw to Nathan to join me in response to this one. We have made a couple of points in relation to the role of the ECQ and I am happy to go into those in detail. Some of them relate to some of the issues within this bill including, for example, communication materials. At the end of the day I go back to my opening comments—that is, this bill is about change, and change is something that needs to be safeguarded up-front to ensure there are no potential loopholes or unintended consequences. Therefore, there is a serious requirement to have ECQ and others involved to ensure that the settings are right and that those issues have been ironed out in advance.

Mr Ruhle: In response to your issue around resourcing, particularly for the ECQ, who will be monitoring compliance with the legislation, it will potentially put an extra requirement upon them to obviously extend the period in which they are ensuring candidates are lodging returns. We would stipulate that that is outweighed by the benefits in ensuring that a barrier to someone being a candidate for election is not how much money they have or can fundraise.

To provide further background to this issue for the committee, it was first raised as a recommendation or a suggestion in the March 2019 discussion paper. This issue has been looked at for a number of years, as you would appreciate. Our members came together following that discussion paper and passed a number of motions in relation to these issues, not just specifically the length of the capped period but also a number of issues that we were looking at as part of the policy settings for this bill. One of those issues was in relation to the length of the capped period. To provide some more context, that was prior to the introduction of the state scheme that has now been put in place. We recognise that in this bill the department has sought to align the policy settings with both elections so that there is consistency for candidates and there is also consistency for the ECQ in ensuring compliance.

As we have said, though, we believe that this measure will ensure that elections are potentially free from undue influence, recognising that particularly in local government the ability to fundraise is not as organised and structured as potentially other elections such as state and federal elections.

Predominantly across Queensland, most candidates are either individuals—there are obviously examples of group campaigns that run in some local government areas. Obviously the Brisbane City Council is a prime example of where political parties are more involved. We would suggest that because of that level of involvement they are a more organised structure to help candidates in fundraising.

In going back to the original question, more resourcing could potentially be required but, again, we would suggest that is outweighed by the benefits of ensuring that candidates could take part in elections and they were not discounted based on their ability to fundraise and participate in the process.

CHAIR: I would not normally bring up issues of resourcing, but I notice in a lot of submissions in recent inquiries the government departments have been very specifically addressing that issue. I want to say that the consultative process for this bill has been long and thorough. I would not say exhaustive—maybe I should—but it has certainly been one that has been developed for a long time and there has been extensive liaison, negotiation and discussions with the majority of stakeholders. Have I got that right?

Ms Smith: We would like to acknowledge that the consultation has been extensive. I made references in my opening remarks to the various different milestones that we have been able to participate in. We have certainly had individual members participate in those rounds of consultation. I want to thank you for the opportunity we have had each and every time to put forward our members' views.

Mr McDONALD: My question is in regard to cost. Are your member councils concerned about the costs of implementing this scheme?

Ms Smith: We have had a lot of engagement with members on this particular issue. It now dates back some years since the issue has been on the agenda and we have therefore had a long-running discussion with members. The most important feedback they have given us all the way through is that any changes are ones that can only lead to a fair, democratic and transparent process. That is why we have already raised issues around making sure this is a process that does front-foot any potential challenges, disruptions or unintended consequences.

In relation to cap levels, obviously this is something that has been extensively consulted on. We appreciate there is a balancing act with where that cap should be. If you had caps too high, then that would render them meaningless. In relation to the general expenditure cap that this legislation outlines, we do not see it as being an issue that is necessarily going to affect every councillor. Many of them will not go anywhere near the level that is being proposed in this legislation. The biggest issue is going to be around compliance.

Mr Ruhle: In relation to cap levels, I think the department has done a pretty extensive job in ensuring that the caps are generous. Looking back at the experience of previous elections, obviously the last election is a little bit difficult in that respect given the impact of the pandemic. When that occurred, literally the peak of the first wave was on that weekend of the local government elections in 2020. You may remember that time when there were not people handing out how-to-vote cards; people were scanning QR codes. It was a very different experience. We have encouraged them throughout the process to consider the experience of previous elections before that as well. Obviously there are different circumstances in every occasion because it will depend on who is running, who are the different players in each field, the experience of the candidates and the nature of the teams.

It is one of those issues that we have suggested could be looked at as part of a statutory review which, as Alison mentioned, is one of our recommendations. This is a new scheme, and I think it will benefit from the experience of running through an election to test the scheme and the legislation—having a review after to make sure it is working well and as it should and, as Alison mentioned, there are no unintended consequences but there is, importantly, a level playing field for anyone who wants to be a candidate in any local government area.

Mr McDONALD: You raised a really good point about the impacts of COVID. Since 2018 we had the Belcarra recommendations, there was consultation on the discussion paper in 2019, but since then we have had changes to OIA reporting and definitions of misconduct and inappropriate behaviour. There has been a lot of complexity and challenges facing local government. Do you think this legislation will assist attracting good community members to local government, or will it make it more difficult for them given their complexity?

Ms Smith: That is a really good question because as the peak body, the support representatives for local government, the impact on our members is our No. 1 concern. We are always conscious too of the need to attract and retain good people in local government. It is the level of Brisbane

government closest to the community. We need to ensure communities are well represented and people are encouraged to put their hands up for civic duty. At this stage we do not have any evidence as such from our members about this impacting their desire to run.

I would say that, in addition to our submission here as LGAQ to your inquiry, there are a number of other current councillors who have put forward their own submissions. A few of those include Mayor Jenny Hill, Councillor Darren Grimwade, Councillor Jacob Heremaia, Councillor Wendy Boglary, Councillor Murray Elliot and the Redland City Council. Notwithstanding some of the well-made points or contributions in those submissions or the recommended changes we have suggested in our submission, there is certainly general support for the changes that this legislation is proposing. I just wish that I could say the same of our members when it comes to matters such as the OIA. As a committee you have certainly heard about how some of those issues are major deterrents to our members. That is not evidence that is new to you; however, as I say, we have not had precise feedback around any impacts this legislation would have.

Mr McDONALD: My final question for now concerns the issue of caps for groups of candidates. It was not until I read the details following the public inquiry with the government that I understood there is a limit. If you have a mayor and four councillors in a council election—this is for electorates with under 20,000 electors—there is a maximum of \$90,000 for that mayor and four councillors. If they were to be joined by a fifth councillor or even a sixth, the cap level does not increase. It seems counterintuitive to me that we would have a simple system yet it stops the multiple. If it is the fact that \$15,000 is enough, maybe \$15,000 is wrong. Do you have any thoughts or comments around that?

Ms Smith: This question does go to the heart of one of the six recommendations in our submission. I would like to counter with an opposing view to that, and that is around the pooling of caps for group members. One of the other issues that this legislation needs to be incredibly mindful of is the potential to distort the process when candidates are given an unfair advantage in their division if there are other candidates in a group who potentially run dead or a ghost candidate is put up. That could potentially distort the outcome. When you talked about compliance earlier and what this legislation can mean, that does point to one of the challenges that will face the ECQ. How will they be able to identify these types of political tactics that may potentially occur?

As I said in my opening remarks, we believe that the imperative that comes with putting in place a new system is to try to front-foot and iron out, identify and prevent these sorts of issues. The ability for the system to be manipulated therefore has to be one of the considerations, as both Nathan and I have discussed. That is why we are so strong on the need for statutory review within 12 months, so it can look at those matters. On one hand, you do not want to have candidates who are disadvantaged; you also do not want to have candidates who are advantaged. This should be about putting in place a level playing field.

An interesting aside we would like to point out is the emergence in last year's federal election of aligned individuals running under a very similar banner but not in a registered group—that being the Teals. We acknowledge that scenario is something that is already addressed under the Local Government Electoral Act.

Mr Ruhle: To your point around the level of where group caps apply and to ensure the capping provision is as fair as possible, we have not had any feedback at this stage from any members that the caps are disproportionate to people's expectations. As Alison mentioned, I think it is one of those things that will benefit from the lived experience of actually going through a campaign. Obviously the legislation will provide the rules of the game for all candidates. Group campaigning is a legitimately recognised, registered and regulated ability for candidates if they wish to participate in a group in a local government area election, as opposed to individual candidates or members of political parties, for example.

In terms of assessing whether the levels are right—and that includes issues around divided and undivided councils as well—I think all of that would benefit from the lived experience of going through a campaign and having a thorough review afterwards, given this is a new scheme being proposed, to ensure that the levels are right and that people are comfortable with those levels and that they are as intended in the bill.

Mr McDONALD: Did your members recognise any other distorting influences? I note your submission includes a couple of areas, including compulsory preferential voting. Were there any other matters you would like the committee to know about?

Ms Smith: We did include the matter of compulsory preferential voting, not because it sits within this bill but certainly because in the lead-up to this bill and in the consultation it was raised by others. It is a really important issue for our members and I would like to explain why we have

mentioned it. As I said at the beginning, Queenslanders expect to have free, fair and transparent local government elections. If there was to be a change to the voting system—and I know it does not sit in this bill—for our members it feels like a political reason for change without there actually being a policy reason for change. As our submission outlines, neither the CCC when it did its Operation Belcarra report or indeed the 2016 local government review that was commissioned by the state government supported a change to the voting system. In fact, the 2016 review considered CPV and rejected it in favour of the status quo. The LGAQ firmly believes that the introduction of compulsory preferential voting at local governments could lead to the politicisation of those elections.

As Nathan has touched on, it is largely not how local government elections are run. They are usually individuals standing to represent their communities. Our members reject this outright. There is quite a lot of history to this. They first outlined their opposition to it back in 2019 and it became a sector-wide campaign that was run. Most recently at last year's annual conference in Cairns in October our policy executive which sits over the LGAQ achieved a re-endorsement of that motion on the floor from conference which, as you know, becomes a binding motion by our members. It was unanimous. They said, 'LGAQ calls on the state government to retain the current voting system for local government elections, respecting the views of Queenslanders, Queensland councils and the recommendations of the state commission report into local government elections.' Just as an aside, I would also like to say that in addition to those reports the Electoral and Administrative Review Commission, which was established by the original Fitzgerald report some 30 years ago, also recommended in favour of optional preferential voting for local government elections. We are very pleased that it does not sit in this bill, but each time it is mentioned by others you will hear our members mentioning why they are opposed to it.

CHAIR: I am pleased to say this bill does not deal with CPV. That would be a whole other show that would go on the road. I am conscious of the time. We have about 15 minutes for this session.

Mr MADDEN: Thank you for coming in today. It is an excellent submission and very thorough. My question relates to recommendation 2. You recommend that the cap period be extended for the full quadrennial term and that it commence the day after the local government election. As a former councillor, I do not know too many councillors who actively campaign to vote for that person for the full four years, but I would like to give you both the opportunity to outline why your recommendation is an important recommendation.

Ms Smith: At the end of the day, our response on this comes from where our starting position is: it needs to be free, it needs to be fair, it needs to be transparent and free from undue influence. The reality is that for the majority of our members it takes time to fundraise as individuals.

Mr Ruhle: This is a question we anticipated, being one of our recommendations. As Alison said, it takes time for individuals to fundraise, and over a longer time it gives them that ability to do so. As we have outlined a number of times here today, generally speaking across the 77 local governments and 578 elected representatives in local government in Queensland—I do not have the statistics in front of me, but I would say the majority are individual candidates who run under their own steam. They have the obligations to ensure they comply with any regulation that is put in place, but at the same time they have the responsibility to ensure they raise their own funds to contribute to their election campaign.

As I mentioned earlier, this goes back to a couple of years ago when this was put forward as a suggestion in the original discussion paper, acknowledging that that was prior to the introduction of this scheme at a state election level in 2020. There was a suggestion around that being the recommended capped period, which was endorsed by our members then in 2019. We have maintained that as a consistent policy position since that time.

Mr MADDEN: I will keep it at that to allow other members to ask questions.

Mr HART: Alison, the department gave us a list of councils with indicative numbers where the expenditure cap would apply. Having a look at some of these, there are some councils with 300 or 400 electors that have \$15,000 they can spend. Where I am from on the Gold Coast, there are 27,000 voters and they have a cap of around \$21,000. I would think most of this cap would be communicating with electors. Is it reasonable to have some councils that can communicate with voters 40 or 50 times whereas others can communicate only once?

Mr Ruhle: That is a good question because it is something we have looked at about whether the caps are at the right levels depending on the different local government areas. As I mentioned earlier, we have a large variance. Some areas in Queensland are very large in their geographic size with a very small number of people, compared to some of the larger metropolitan areas which are the opposite—that is, they are a small geographic area with a significant number of people living in them.

When looking at this issue, we have considered the cost. As you would appreciate, for any candidate in an election who is running in rural and remote communities, there is often a more significant cost in terms of candidates trying to get their message out to potential voters, whether that is postage costs or even the availability in some areas to use other forms of distribution like unaddressed mail, junk mail et cetera.

To your point around that disparity in terms of where the cap levels are, as I mentioned earlier the department has done a fair bit of work in looking at making sure the cap levels are generous in the experience of previous elections—notwithstanding the 2020 election and the circumstances of that election. Again, I think this is one of those issues that would benefit from the statutory review we have mentioned to make sure the cap levels are right and the candidates have the ability to communicate to their voters and that is not impacted by the cap levels.

Mr HART: In relation to the groups, from memory, in a lot of council elections I have watched there have been groups of candidates that have campaigned together and it is obvious to everyone except the ECQ that these people are groups. Are we likely to see in the future more hidden groups or people attempting to hide as a group because of these caps being put in place?

Mr Ruhle: I think it goes to the point Alison mentioned earlier around the regulation. For example, if we had the Teals running as a group in Queensland, section 183 of the Local Government Electoral Act already deals with the ability for the ECQ to regulate groups which are not registered as a group but for all intents and purposes campaign as a group. That includes things like their policy positions, their slogans, how they generate funding and how they are supported by fundraising efforts. We believe that this scheme will actually make it a more level playing field. We have some numbers in our submission, and if you look back at the experience in Townsville at the last local government election there was one group which was able to spend around four times more than another group. That was in an unregulated expenditure environment. We think this will make it a more level playing field so that groups with deeper pockets cannot necessarily outcampaign other groups because of that expenditure cap.

Mr HART: The government has not included any fundraising caps in this legislation; it is all expenditure caps. During the briefing the department gave the committee, they said that funding caps do not necessarily work as well as expenditure caps, yet we have funding caps at a state level. Do you have any fear that there may be funding caps in the future? Do you agree with the department's statement that funding caps are not necessary?

Mr Ruhle: Are you referring to donation caps that have come in place now at a state level?

Mr HART: Yes.

Mr Ruhle: That question picks up on the points Alison made in relation to other issues that have been considered in the past—for example, compulsory preferential voting or proportional representation. There are no policy recommendations at this stage that have recommended that that change be introduced at a local government election level. We have certainly had no indication from the department that it is under consideration. These reforms were the genesis of the recommendation that came out of the Operation Belcarra report from the CCC which then went to a parliamentary committee for an inquiry in 2020. That is the policy setting we are dealing with as part of this scheme. There has been no suggestion of any further changes beyond that at this point.

Mr SMITH: I am going to present some scenarios with a question around the definition of material for electoral expenditure. The idea in this bill is that there will be a definition of 'electoral expenditure' in the Electoral Act at section 109A, which states that electoral expenditure is expenditure 'incurred for a campaign purpose', and one of those is 'to promote or oppose the election of a candidate'. With that in context, I might frame a scenario between Councillor X, which is a name provided in your recommendation, and a community member called John Smith. Councillor X puts out material that says 'Councillor X needs your vote'. John Smith puts out material that says 'Vote 1 John Smith'. That is obviously a campaign purpose. Do we agree?

Mr Ruhle: Yes.

Mr SMITH: In a second scenario, pamphlets go out that say 'Councillor X for a steady hand' and 'John Smith for council'. Would we consider they are both for campaign purposes?

Mr Ruhle: Yes.

Mr SMITH: Next: 'Councillor X secures funding for the road', which is an example you used, and 'John Smith: good community member'. Is that for a campaign purpose?

Ms Smith: Can I go into a bit of detail with this one?

Mr SMITH: Yes.

Ms Smith: As you would know from our submission, this is a key point that we wanted to touch on. It has been a key issue that has been raised by members. The overarching issue is clarity. We would like to see this scheme successful, and its success is going to come down to the clarity and not having grey areas such as definitions. At the moment, 'campaign purpose' is not clearly defined and we would like to see that made absolutely black and white. At the moment, the definition is if material is produced expressly that promotes a candidate. We have put in our submission an example of what we see would be clearly for campaign purpose and one that would be clearly operational.

It is a really important point because, as you know, councils need to be communicating all the time to their communities—road closures, changes to services, all types of operational issues. We feel that if there was some clarity within the definition in the act this would prevent the regular operational council communication from being captured by this act, which would absolutely be the wrong intention, and we understand that. Providing clear examples could instead capture what is intended—that is, the 'Vote 1 for so-and-so' definite campaign focus communications.

As I said, this issue was raised by almost every member as we were doing our consultation. It certainly was raised at the public briefing that was held in December last year. The department said at the time that it recognised this was something that needed to be clarified, so our recommendation is that the best way to get that clarity is to have a statutory definition to explain it. We think a statutory definition is going to give the clarity, not just for all candidates but also for the ECQ, who are the ones who are going to have to monitor how this is in practice, as well as for the broader community so they still get the operational communications they need and are not unintentionally captured by this act. To be really clear and to remove any doubts from the greyness of this act, we believe there should be a statutory change to expressly state that council operational communications which are funded by ratepayers and needed in those communities are not captured by this expenditure cap scheme.

Mr SMITH: The reason I raised that last one of 'John Smith: good community member' is that if that flyer goes out a year out your member in their division is going to come to you and more than likely suggest that there is campaign material out there in the community. Would that be a fair comment that your members would come and question that?

Ms Smith: Quite potentially.

Mr SMITH: On the other hand, if council media continues to run positive stories about sitting councillors during the period of the election after nominations have been called, has a candidate got a fair argument to say that is council ratepayer money being used to promote an incumbent councillor during an election, even though it is not explicitly asking for a vote? Should there perhaps be a blanket ban on councillor stories through councillor media during an election period?

Ms Smith: I disagree. Councillors sit as chairs of committees that look after particular community interests and councillors have individual responsibilities that are operational. If you were to take that away from the communities, you would be creating a black hole where communities may miss out on important information. We would absolutely not support that.

Mr SMITH: So if there is a four-week campaign, councillors can still have positive stories written using ratepayers' funding in council media, and the LGAQ is happy to support that?

Ms Smith: Just to clarify, it could be a positive and negative story but it is a story about an operational issue. That is our point around getting the clarity, because even in your question there is some greyness in that and that is why we need the black-and-white clarity. That is why we are suggesting that it is not only a statutory clarification but it should include some examples to make it really clear.

Mr Ruhle: To add to that, it comes around this premise of advocating for a vote. I think that is where there is some greyness now in the legislation. I understand that the intent from the government is to align the policy settings between the state and local schemes and that stands for a number of reasons. However, they are not exactly the same obviously. There are some different variables in local government elections, as there are in state elections. It comes down to that point and that wording, and we think that particular definition under 'campaign purpose' could be clarified further to provide more certainty around that issue for everyone.

CHAIR: Thank you. The time for this session has expired. Thank you for contributing and thank you for your submission.

HANDLEY, Ms Elizabeth, President, Brisbane Residents United

HOBSON, Ms Melva, President, Organisation Sunshine Coast Association of Residents

WALKER, Mr Chris, President, SEQ Community Alliance

CHAIR: I now welcome representatives from the community organisations panel. Good morning. Thank you for coming along. I invite you to make opening statements and then we will have questions for you.

Mr Walker: Our organisation supports the proposed legislation in general. We recognise that there are a few choices that have been made and maybe slightly different choices could have been made about some matters, but overall we think the proposed legislation is a big step forward in making elections a little bit fairer.

The caps appear to be reasonable. Some members would probably like to see some of the caps a little smaller. Ms Handley will talk about Brisbane City Council in particular. The penalties make the point that this is serious stuff, that there is a very clear expectation that people will comply with the legislation. The time periods are an issue that is arguable, and we have heard some of the arguments already in this committee hearing. My view is that the seven-month time period for monitoring the expenditure is a reasonable compromise, but I could just as easily see 12 months being an appropriate period. I note that it is not unheard of for candidates to be campaigning for longer than 12 months to win election, particularly as a mayor; in fact, we have one candidate already running now as mayor for 2024.

There were a couple of issues I was fairly clear about in the submission. One of them is the need to make sure that people have a clear understanding of our associated entities and third parties because I can see the potential for members of the community to get quite excited and upset about whether such and such an entity is a third party or is an associated entity. I think that is best explored with some discussion of scenarios as to whether this entity that is having a say in the election is clearly associated with a candidate or is just a third party having a say about an issue.

On the subject of third parties, there are some choices to be made about whether this third party is having a say about the election or just expressing a view about a matter that is important to them. Again, there will likely be some examples where people get quite confused or upset about whether the legislation is clear enough on that matter.

I think it is good to get all the data handed in to ECQ, but I would like to see ECQ obliged to produce a report a certain period after the election so that it is black and white as to what each candidate spent. That would make it easier for the community to monitor what has happened during the election and potentially to identify any possible discrepancies between what a candidate reported and what community members, using common sense, might have thought might have really happened.

Finally, we have suggested that the legislation does need to be reviewed because there are a number of choices that have been made. I think the review should start fairly soon after the election and be completed in very good time before the next election so that the rules, if they are reset, are clearly known to everybody participating. They are the key points.

Ms Hobson: Thank you for the opportunity to be here. I am the president of the Organisation Sunshine Coast Association of Residents, called OSCAR. We are a peak body umbrella group of some 33 active grassroots community groups between Pumicestone Passage and Noosa and the coast and the hinterland. We work on a very democratic basis. This are the organisation of OSCAR. We do a lot of work in collaboration with them and in support of them, particularly in relation to strategic issues and issues of regional significance. They cover the areas of many of those communities, particularly transparency in terms of local government, and in terms of respect for, for example, planning schemes, and activities, taking in their cultural and natural heritage—all of those areas. We have a wide coverage but we are a very democratic organisation. Members from those groups meet every month.

We congratulate the committee on the length of time taken and the reports. We have also been in it for the long haul. We congratulate you on the way the committee has listened—previously under the Economics and Governance Committee and currently under the State Development and Regional Industries Committee—and for the manner in which you have approached the committee

presentations, the promptness which has followed the closing of submissions and the very supportive manner of the secretary of the committee in contacting people—very approachable. I personally would like to have that conveyed to the secretary and the people working for the secretariat.

CHAIR: She is right here. It is good to see them complimented.

Ms Hobson: It made it far less intimidating or nerve-racking. Thank you to those people. On the whole OSCAR supports the bill, but there are a number of glaring matters and some that we can tolerate. I will raise them without going into a lot of detail. There are two that are not in our submission which we would like to add. The clear one we are very concerned about is the exclusion of campaign office accommodation and staff. That is a significant issue for us. We are concerned about the mayoral caps because we are conscious that one of the policy objectives of the bill is to ensure and reinforce the equitable conduct of Queensland local government elections including by minimising the risk of unequal participation in the electoral process, including uneven financial competition. We have no issue with the councillor caps, but we do have an issue with the mayoral caps in that one basically has to be wealthy or have done a lot of fundraising or taken a lot of donations, particularly if you look in my area on the Sunshine Coast where you are looking at a cap of in excess of \$200,000. That is way beyond the average person who may wish to run for the position of mayor. The other one is the timing and the application of caps. I will say something briefly on that.

The two additional issues we would like to draw attention to and have already are the issue of the unregistered or third parties—I will make reference to that in a moment—and the newsletters which, it is interesting, you just queried LGAQ on. We disagree.

Mr MADDEN: Oh, do you?

Ms Hobson: Yes. I can give you a very recent example of where that has already started to be used. Coming back to the exclusion of office accommodation, I think we made it quite clear that by not including it it has the potential to increase the difficulty or make it less available for people to run. Generally, that provision is not common in local government, to have office accommodation and paid staff. They generally work out of their house and use their mates and friends.

There is also the potential for circumventing the donation caps. I made reference to where it is not declared; it could be given as a gift. If it is a gift, obviously it is there, but it could be a minimal fee of a dollar or it could be half a commercial rent—whatever—in a commercial instance. The example I quoted was one going back some years where the candidate had an office in a shopping centre for 12 months. That amount was never declared. The community asked, but they were never told what the arrangements were. We heard from one dollar to certainly not commercial rent. That certainly is a limiting factor for someone who does not have that sort of influence or capability to do that. We would like to see that included. It is an unusual activity; therefore, it should be included to keep that balance and make it fairer for all people concerned. It is about transparency. I know this act is looking at transparency. That clearly has to be transparent. It is different from state government. I appreciate the need to try and bring the two processes in line, but it is a very different thing when you have political parties and you have people in the back shed versus people who perhaps have paid accommodation.

With regard to the mayoral caps, I made a comment about those who are wealthy. It would be off-putting to a person who may be a well-qualified candidate but is not able to raise that sort of money who is also working a full-time job or perhaps, in some instances, a parent who has a young family. That figure, for example, of in excess of \$175,000 is a significant constraint, I think, on the average person running for those positions.

With regard to the timing of the application caps, we have always maintained that it should be the four-year period for the reason that sometimes people have to buy corflutes earlier than the period of election time because of the sheer availability, and that is understood. In some respects, the bill addresses that by including that it becomes an expenditure the minute the item is used in that expenditure cap; it is accounted for there. However, we wonder if there could be a compromise. It is a compromise given that we want to see this process undertaken in the 2024 election. Obviously it is not reasonable to have that full-time. Would a compromise be that for the 2024 election it be a bit of a hybrid—that the seven months which you apply applies to this election but then for subsequent elections it goes the full four-year term? We place that as an option. I am not sure whether that is allowed or available under the legislation, but it would pick up the 2024 election and then have the wider scope.

The other topics are about the third parties. We would be concerned, as OSCAR becomes involved in that. We do not support election candidates but we support wide information. Would anyone like to clarify that? We certainly do not have \$6,000 to spend. It is that lack of clarity, I think, Brisbane

about what it makes. I think the Law Society's paper and comment on that is excellent. I would refer to the Law Society where they talk about grassroots communities; they are well placed and well informed and have community debate on policy issues. Should they be picked up? For example, we do a questionnaire to all candidates. We publish those questionnaires. We hold forums where all candidates are invited. We would like clarity on that.

The last issue is that of newsletters. We do not support the LGAQ's stance and I will give you a very recent example. Council produced a newsletter about an operational process—and that is what council does because the councillors are supposed to be looking at the strategic issues—to say, 'This is what's happening in this park.' Everyone received one, either to the resident or their email address if they were the ratepayer. Lo and behold, another one was received. This one had some modifications so the councillor's message was enlarged; the font was larger. At the bottom it had 'personally delivered by'—the councillor. It was duplication. I checked with a resident and a landowner. It was duplication and everyone who saw that said, 'There's an election coming up.' How do you discriminate between that? I know Chris has some comments he would make on that issue so I will leave it at that. I have gone over my time.

Ms Handley: I was wondering if I could table a couple of documents.

CHAIR: Our secretariat will bring that up and we will have a look at that. Generally we decide it is okay if it does not breach any standing orders. Would you like to refer to those?

Ms Handley: Yes, I would like to. I would like to thank you for this opportunity to present to you and to your committee. My name is Elizabeth Handley and I represent Brisbane Residents United, Brisbane's peak body for community resident action groups. I have been involved in local community groups for over 20 years. Democracy is a construct built upon the mutual trust between our people and their government. That trust has eroded through the inappropriate use of political influence and the access it buys. We welcome the regulation of political donations and the introduction of expenditure caps at the local government level.

Our major concerns with the proposed legislation are as follows. The capped expenditure available to the Brisbane City Council is excessive. A Brisbane city councillor with \$55,000 has over double the cap available to councillors with similar sized wards in other local government areas. The Brisbane City Council Lord Mayor has almost five times that available to the mayor of the next largest local government area with only double the voter numbers. It is a huge advantage to one of the few party political local government organisations in the state and adds considerably to the benefits already enjoyed by the major parties and the local government incumbents. These include access to fully staffed and equipped council ward offices and/or the Lord Mayor office; council political staff employed at public expense; Brisbane city councillors and the Lord Mayor are very well paid in most people's consideration; access to the Brisbane City Council's extensive resources and the creation of a constant stream of in-house professional marketing materials; and marketing materials produced with branding suspiciously similar to one political party's electoral material.

The ability to bundle capped amounts for use by political groups or political parties makes it excessively easy to rort the system by running 'dead' candidates that are not expected to win but do increase the operation's overall electoral spending. It is party political advertising supposedly for use at one level of government while being able to be used at the state level as well for cross-promotion. This works particularly well when the local government elections are held in March and the state one in October. It would be very difficult to differentiate when one lot of advertising finished and the next lot started. The level of advantage afforded to political parties by these measures does not increase the fairness of our system and it does not provide good value for public expenditure. It increases the difficulties of getting elected experienced Independents and smaller political parties.

Marketing materials or signs produced by local government authorities in their local area resembling party or candidate electoral material must be included in their capped electoral funding. The total costs of any paid political council staff member should also be included. Expenditure caps should run from the conclusion of one election to the beginning of the next with the exception of the 2024 election. All marketing materials for local government areas should be banned from using what are clearly major party political colours. Schools and other clearly public buildings should not be used for political advertising.

The third-party caps are too high, particularly in Brisbane with the proposed cap of \$1.3 million for the Lord Mayor and \$55,000 per councillor. These cap amounts fail to control political think tanks and industry associations, the very organisations that have used their power to influence political decisions. We do not want to go down the US path where third parties have very inappropriate influence over elections.

As the LGAQ said in their submission, this legislation does nothing to prevent the potential distorting influence of electoral expenditure by third parties with aligned interests. All legislation is only as good as the compliance procedures and funding provided to ensure these procedures are followed. We would like to see a statutory review of this legislation regularly. Expenditure figures must be publicly provided in a timely and transparent manner. Then the public can be assured that there is full compliance with the legislation.

We call on the Queensland government to seriously consider our concerns. Queensland needs a system of state and local government that inspires confidence and certainty from all stakeholders, empowering our communities to participate fully in all levels of government.

CHAIR: Mr Walker, one of the issues you have talked about—and this has obviously engaged people on this particular bill—is the fact that where there are groups of people or associated entities we need to ensure they are able to participate in local government processes, for example commenting on a local issue, but not be caught up with the definitions that say they are advocating a vote. For example, there might be an industrial estate where the business owners are saying, ‘The planning is outdated. We need a new planning scheme or regulations. Whoever is in the next council needs to act on this.’ That is one example where we could ask: are they an associated entity or a third party? Are they advocating a vote for that? That is an example of how the LGAQ will have to be extra vigilant in acting in those situations. I understand you are saying there need to be some more examples, material or definitions to ensure everyone knows where they stand on that. Would that be correct?

Mr Walker: That is correct. If we think about the timing of all of this, it gets really exciting about four weeks before the election. Then suddenly it is like everything is happening and the ECQ is probably getting a huge increase in complaints, questions and referrals. The more clarity that can be laid down well in advance, the less likelihood there is of that sort of issue becoming a vexing problem in the middle of the election campaign.

CHAIR: I think that is a very good point.

Mr Walker: There are other examples that I can throw out there. For example, the zip-line issue was quite a big one in Brisbane a little while ago. There was quite a strong community campaign opposing the zip-line. Is that participation in the election campaign if that was happening around the same time as an election or is it just people who are not very happy with a zip-line? There are plenty of other single-issue type scenarios we could talk about. That is where that clarity is needed. I will leave it at that.

CHAIR: Ms Hobson, you talked about the example of supplied office accommodation and we have not seen a specific example of that. Could you provide some specific information in an email later to the committee about that? We have read about it and we would like to see a specific example of where that has been an issue. I dare say that is about a candidate a year out from the election getting shop space at a shopping centre, whether it is paid or not. If you could communicate more information to the committee, that would be appreciated.

Ms Hobson: Absolutely. Thank you for the opportunity. There are at least two other people in this part of the presentation and discussion who also can attest to exactly that.

CHAIR: If any of you have specific examples of that, we would very much appreciate receiving that.

Mr McDONALD: Thank you for participating in the group chat. Each of your organisations represents other groups. Did you consult with those other groups before doing the submission? How did that work?

Ms Handley: Yes.

Ms Hobson: Yes, we did. Some of our issues are ongoing and we have had regular discussion throughout the last few years.

Mr McDONALD: I note in your submission—and this is something the committee have asked the department, and you heard LGAQ speak—you recommend a maximum figure for Brisbane of \$200,000. Brisbane City Council is a very big electorate. If it was \$200,000, I would suggest the only way the candidates would be able to engage with the community would be via social media. That would not even allow for an address mail service. Have you given some more consideration to that number?

Ms Hobson: That was our initial assessment. We think the \$1.3 million is absolutely over the top. We do not have anything to do with Brisbane City Council. Our concern was really about the other levels of council. A factor that has not been raised, which I think is interesting—and some Brisbane

councils have the advantage of it and others do not—is media, particularly the electronic media. For example, Gold Coast and Sunshine Coast have their own commercial and ABC television and radio stations; Redlands and some of those smaller councils do not. Regional councils possibly do. There is quite an impact that can be had through those that have access to their own media people within their division. I think that counters some of those caps in areas such as Gold Coast and Sunshine Coast because there is immediacy of media available which is not available to others.

We were looking at what we thought was reasonable and we would support the fact that maybe there is a difference. We did also think that in excess of \$200,000 eliminates some people. The other key difference is that Brisbane City Council is party aligned. The community does not want to see party aligned local government in our areas, be it regional areas or urban areas, and that is a key difference.

Mr McDONALD: That is a point well made.

Mr MADDEN: I noticed that Ms Hobson and Mr Walker both suggested that the Electoral Commission Queensland prepare a report, presumably within 12 months of a local government election. I presume that you would want that report to include expenditures made by all members, but would you require that report to report on other things? Have you given that any thought?

Mr Walker: No. It just seemed to me that a lot of information has been chucked into a big bin, which is the ECQ's electronic disclosure system. It is not the easiest thing to navigate. It would be helpful for the community and for media to see a document that basically went through that, just like the way the ECQ reports on the actual votes in the election by local government area and then by candidate, so basically follow that same structure and say that for XYZ council candidate 123 spent \$100,000—it might have been the mayoral candidate—so then it is black and white. You know that the ECQ have been through the numbers, they have identified discrepancies, they have sorted all that out and that is the final tally, if you like, of what was spent. Once you get that, then you can do a reasonableness check and say, 'Did that look about right or not?'

Mr MADDEN: I presume you would like those details to include a breakdown with associated entities and with political groups?

Mr Walker: That happens with donations already, so you report on the candidates' donations and then the other parties, so we have been able to find that. It is a bit harder to have to pull it out of the EDS but, yes, we would like to see any party that had to make a report have those numbers put out in one report.

Mr MADDEN: I note that the LGAQ made a similar recommendation, but they recommended that there be a statutory review by the state government, possibly by our committee. Do you think it would be a better approach that the report be done by the Electoral Commission rather than a statutory review?

Mr Walker: I thought they were talking about a review of the actual legislation itself whereas what I am talking about is a report. I agree with that, but I am also asking for a report just saying who spent what by any party caught up in the legislation and I would think it should be happening around about six months after the election is concluded, give or take a couple of months. The ECQ would need to have enough time to do the review carefully, but it should be as soon as possible after that.

Mr MADDEN: Thanks very much. I just wanted to clarify what you were seeking with your comments.

Ms Hobson: If I could just add what we think with the statutory review, you would come back to reconvene in a period of time—six to eight months—to review the legislation and how it has functioned. We would just assume that that would happen as a matter of fact and that would be important, so there are the two components to it.

Mr MADDEN: So you are in agreement with the LGAQ with regard to that—all three of you?

Ms Hobson: Yes.

Mr HART: There are just a couple of things that popped into my mind as I listened to your submissions. I just want to work out in a practical sense how some of your suggestions might work, in particular the staffing for income and councillors and maybe their officers. I would suggest that if that was taken into account their expenditure cap would be spent immediately, without anything else. How would that work in a practical sense?

Ms Handley: What I was actually pointing out there was the fact that an incumbent has an incredible advantage on somebody new coming in to try and run as a candidate and that advantage was recently added to because we presented at that committee as well where political staffers were Brisbane

now regulated, but they are still political staffers. They are still people who are working for the entire four years for a political purpose. They are not working for a council purpose; they are working for a political purpose, and the reason you did the legislation was to point that out very clearly that they were political employees but they were paid for by the councils. I think if you are looking at doing caps, you very definitely have to consider people that you have appointed to support somebody in a political fashion for that period of time.

Mr HART: I am not sure that is right, but I will move on from that. Chris, with regard to your point about groups being dragged in as a third party, community groups in particular, I am seeing lots of community groups starting to put out electronic newsletters, Facebook posts and other social media. How would that be costed and how should we deal with perhaps one of those members deciding to run for council at a later date as far as their costing or their expenditure cap as part of that organisation originally? How would you see that happening?

Mr Walker: Let us try and start with the actual community groups. Community groups have a range of issues that they are advocating about. They might be opposed to or supporting particular things. Community groups typically will not be spending a lot of money, but they could purchase a newspaper advertisement, they could be advertising on social media, they could be hiring venues to conduct meetings—that is, those things that groups that I am involved with do. They are unlikely to spend a lot more than \$6,000 doing those kinds of things. If you got more active, you could produce flyers and hand out flyers at an election. That would be starting to spend a little bit more money. You could put corflutes out, so that is the kind of stuff a community group could be doing as a third party to draw attention to particular issues rather than being a one-for-one advocate for a particular councillor or group of councillors. Does that answer that part of the question?

Mr HART: Do you see those community groups being infiltrated by people who eventually want to run for a position and they are using the community groups to hide behind?

Mr Walker: I think it is possible that somebody is in a community group and then decides to run. That is quite possible. It depends on how the community group conducts itself and what kind of governance it has. Typically, a well-run group would have a principle that says, 'You're either a community group member or you're a council candidate. If you're going to become a council candidate, off you go. You're no longer in the group.' I think it is all about how the community group conducts itself. If the group did not clarify that then, yes, the community group would risk being dragged into being an associated entity of that particular candidate.

Mr HART: Would community groups typically have the resources to respond to the ECQ for the sort of information that would be required?

Mr Walker: Some of them will do. Some of them will probably struggle to understand the legislation in the first place if they are only just starting out, so that is why I think it is very important for the ECQ to put out very clear communication about the rules well before the election. Yes, groups are all different, so some will and some will not.

Ms Hobson: For example, our role as a peak body is to support our member groups through some of those issues and to assist them to make it quite clear. We also provide education for our members with workshops, and that is an important fact. SEQCA is also a peak body so that we can support people with that role.

Ms Handley: We actually had that happen from one of the members of our group. She moved away from the group and she made sure that there was a period of time that she was no longer associated with us before she began to run, and we were very respectful of that. Despite the fact that I did present a party political document, it was only to show where you could see the correlation, but we are also very bipartisan. We do not support one. In fact, it is probably a curse on all their houses as that is the best way to describe it. What I am saying is that if we see one group doing the wrong thing we will talk about that and if we see the other side doing something wrong we will talk about that, but we try and be very even-handed about what we are doing. It is not about being party political, because that way lies madness and you just lose members.

Mr HART: I noticed one of those flyers is a federal candidate flyer.

Ms Handley: Yes, it is.

Mr HART: How is that relevant to this inquiry?

Ms Handley: What I am trying to show with that documentation is that I would receive as a ratepayer of Brisbane something like that documentation probably every two weeks. I could have brought documentation going back years that showed you how over a period of time the Brisbane City Council marketing material has become closer and closer to the actual coloured way of the LNP Brisbane

material, and that concerns me greatly. If I saw it happening in the Labor department or the Greens, I would be equally disappointed because the thing about this type of documentation is that it is water on stone. What I mean by that is that it just drops into your letterbox with monotonous regularity until it becomes that that is who you see as the natural person who should be doing that type of activity. I think that is a very corrosive thing that you do to your democracy when you allow that sort of thing to continue.

Mr HART: Good explanation.

Mr SMITH: I also note that there is a tinge of green on that LNP one as well that is almost a little bit teal like.

Ms Handley: I am sorry. Please believe me: it was not political; it was just what I thought was a clear example.

CHAIR: We understand. As there are no further questions, Ms Hobson, Mr Walker and Ms Handley, thank you very much for your time. As I said, if you could email us those examples regarding accommodation, that would be greatly appreciated.

Ms Hobson: Yes.

CHAIR: Thank you very much.

BERRIDGE, Ms Adelia, Councillor, Redland City Council

BOGLARY, Ms Wendy, Councillor, Redland City Council

GRIMWADE, Mr Darren, Councillor, Moreton Bay Regional Council

CHAIR: We will now go on to hear from the councillors who are in the room.

Mr HART: Welcome back, Darren.

Mr Grimwade: It is good to be here. Thank you.

CHAIR: Good morning. I now welcome members of our councillors panel. As the member for Burleigh said, welcome back to Councillor Darren Grimwade, who was a member of this parliament for three years. What committee were you on when you served?

Mr Grimwade: Local government committee, housing and transport.

CHAIR: We know that we do not need to explain to you how we operate. I invite you to make an opening statement, after which the committee will have some questions. We will start with Councillor Boglary.

Ms Boglary: I am a councillor at Redland City Council representing division 1, Ormiston and Wellington Point, and I have had the honour to be in this role since 2008. I thank you for allowing councillors to have input today and I would also like to acknowledge the traditional custodians of the land that we are meeting upon.

Without implementing further reforms in this and other areas, the trust in governments of all levels by the community will continue to dwindle. All levels of government need to work on improving transparency and accountability to build this trust. The purpose of my submission was to provide general support for the bill to establish an electoral expenditure cap system and to provide additional considerations to specifically support and strengthen the objects of the bill. Due to my past experiences with several election campaigns, I know and understand only too well the need for greater transparency, accountability and disciplinary action for those who manipulate the existing processes. I have seen outcomes of elections due to obscenely large expense marketing campaigns totally overshadowing very valid and decent candidates.

I appreciate this current work and the previous reforms implemented due to Operation Belcarra where the CCC identified six key issues, including that there is uneven competition between candidates in Queensland council elections. I support the change in the definition of 'electoral expenditure' to align with the Electoral Act 1992. I would also like to suggest further inclusions, that being that I strongly support the inclusion of any expense regarding a campaign office or campaign staff. It is my understanding that at this stage it is not included, yet to be able to have a campaign office and staff certainly gives a candidate an unfair advantage and should be included for transparency as an election campaign expense. Having witnessed such example, full disclosure of the cost is still required to be given to the community. Whether it was a gift from the landlord or from centre management, full transparency is required so that we know these details.

Further clarity is also required for the use of council publications in the capped period. I disagree with the local government submission example of election material not including councillor newsletters. I support no newsletter, magazine or non-urgent council material promoting a specific councillor, area, mayor or project being allowed within this capped time. The example given from the LGAQ I thought was actually a good example for my argument where it could be that the mayor and councillors could manipulate the release of information to coincide with the last newsletter before the election to give an unfair advantage to the incumbent. While supporting the cap, I would support that the commencement of a new council term is also the commencement of a capped expenditure period. At present the capped period is seven months, and I note the LGAQ also supported in their submission a full-term capped expenditure.

I would seek clarification also with regard to expenses on re-used election material because that will not be bought in that specific term or capped. For example, I have corflute signs that I will be using, so I am seeking clarification on that. Even if it is a seven-month capped period, how do we account for that past expense?

Further clarification is required with regard to groups of candidates and the pooling of resources as I have concerns this may lead to a disadvantage to individual candidates. I do not support that if one candidate uses their pooled expenses to support another candidate the expense is solely on the initial candidate's expense. To be cautious, the benefit to all candidates should be proven so it is

equal to show they are seriously running candidates and not candidates placing their names into a group simply to allow increased funding for that group. The pooling of funds would certainly need to be more accountable and transparent than what I have seen in the past from various groups.

This section also mentions registered political parties. I do not support political parties being involved in local government elections. I note that pooling of third-party funding has been removed, and I support this exclusion. I agree that groups of candidates cannot be larger than the number of candidates for a certain area to prevent dummy, ghost or, as I have heard them referred to today, dead candidates, which is a bit sad—simply running for others to get their extra \$15,000 or whatever it is. I would wish to see an equal playing field between groups and individuals.

I support the reforms to promote transparency and accountability to do with third parties. As I have previously said, I believe political party donations should be banned from all local government elections except for Brisbane City Council. If it is allowed, then all donations and gifts should be required to be fully transparent immediately when received at any stage of an incumbent's or a candidate's election campaign, including for incumbents throughout their term of office.

The Queensland Law Society submission raises valid points, and I like their point on page 2 of their submission—that is, being able to separate when a third party is expressing a certain position on a policy or another issue and that expressing is promoting or opposing a candidate. I do think there needs to be clarification with regard to this, because that point then rolls into campaign influence and the need for third parties to meet the criteria in the bill to register if it spends more than \$6,000 on electoral expenditure. We have already discussed that today and I think that point of clarification has been made.

While I support strong penalties as an incentive for councillors to voluntarily comply, may I just say that, for the sake of integrity, put the fear of God into people. My concern is the lack of resources to investigate and follow up, as shown clearly in past elections. The draft bill did not provide sufficient illumination of the need to provide these sufficient resources and I see that the ECQ submission also states this, saying that the committee will need to reinforce the need for appropriate enforcement and resourcing to ensure these changes in deliberations, and I support their statement. Another example where a penalty is required I feel is for unauthorised material. When that goes out at any time during an incumbent's term or at an election, it is usually extremely vexatious, which is why they do not have their name on it. I have been the victim of several of these vexatious unauthorised materials and I would like huge penalties to be very clearly written up on those.

With regard to penalties, the bill mentions integrity offences disqualifying a person from being a councillor for four years or seven years. The Redland City Council submission mentions this and is seeking clarity on the process details with regard to integrity offences so that there is not an undue cost on a local council if someone is found after the election to have one of these disqualification actions and then we have to do a by-election. I note their submission is asking for clarity on this.

I have already stated the importance of increased resources needed to be available which require additional funding. I was trying to think up a solution and I was wondering if to raise funds for the Electoral Commission perhaps a percentage of the large donations could be levied to fund such operations. Perhaps 10 per cent of every contribution over \$5,000 could go back to the Electoral Commission so they can have money to investigate them. Penalties need to be sufficient to deter wrongful actions; therefore, I totally support increased tougher changes to penalties.

Any legislative changes proposed are limited by how well they are implemented. Awareness, education and access to resources and enforcement are essential; otherwise, changes proposed are weak and can be distorted and manipulated and become ineffective. The 2020 election saw a change in recording of campaign details, although the website was rather confusing and some changes could be made there. I did want to state and take the opportunity to advise how helpful the people at the end of the phone were whenever I rang up when I could not get things to come through. They did note some errors—typo errors—and they were very gracious in their time given to me to rectify things in the appropriate time. I do think, though, the majority of councillors do not have assistance with the administrative side of an election, so that proposed education and awareness is vital.

In summary, I do support the purpose and intent of the LGEA and I reject that there is any limit or restrictions on human rights by implementing election expenditure caps. While not subject to this bill, I would also support ongoing reforms to election processes, including reducing external influences by a total ban on donations or gifts from foreign entities. As the local government submission included, I too am opposed to compulsory preferential voting as true Independents do not want to have to give preferences.

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Due to the necessity through COVID it was highlighted that a minimal presence of both candidates and paper is sufficient at pre-poll and on election day. I would strongly support no handing out at either but simply supply sufficient posters within the centres. This would be a win for the environment and a win for our mental health, believe me!

With regard to recommendations 2, 3 and 4 regarding caps on campaign spending, I support the electoral expenditure caps for local government to ensure suitable candidates are not prevented from running for office due to financial challenges. Perhaps to assist, there could be some sort of grants system, because you are not allowed to use Mastercards et cetera. I do not know how, but there are a lot of damn good people out there who are prevented from running simply because they do not have the money. I would rather they have the integrity than the money.

Due to the importance of the nature of the reforms and the need for scrutiny and community input, I do not support as it currently stands amendments to the definition of 'electoral expenditure' in that I believe it can be changed by just regulation. I acknowledge the work of the draft bill and fully support the intent. I am, however, very mindful that there will always be some who will try and play the system, but the bill certainly is another step in the right direction and I am grateful for the opportunity to speak today.

CHAIR: Thank you, Councillor Boglary.

Ms Boglary: Did I get in my three minutes?

CHAIR: You might need to talk to your colleagues either side because I think you have stolen some time from them.

Ms Berridge: Thank you very much. I will forgive Councillor Boglary because she has covered a few of the points I was going to raise, so it will speed me up. Firstly, I want to thank you for the opportunity to resubmit my submission to you late yesterday. I feel very privileged for that opportunity.

We need to change how we spend our money. We have to do that in government. We have to do it during the elections. We have all been told that there has to be a cap now on how we spend money. As councillors we are now working the same as you off digital marketing and digital information, so to me it seems ineffective for us to be going out there and spending a tonne of money on how-to-vote cards and electioneering material through letterbox drops. However, this is a tool that is predominantly used.

In terms of the cap on marketing and the cap on waste, waste is a considerable factor we have to look at now. Our landfill is no longer an option. We now have to look at how we reduce, re-use and recycle instead of throw and go. We also have to put a cap on spending that will change the behaviour and uneven competition. I do not agree with anything that the LGAQ commented on to the member for Bundaberg with regard to changing how we send operational newsletters during election periods. If that was the case, why do we have the councillors' faces on each newsletter which is a personal marketing brand? Also, why are we not only talking about general across the city? Why are we isolating it per councillor? It is definitely a marketing tool and it is an unfair advantage for those who are not sitting councillors and mayors.

I want to read something that I said in my submission because it taps on to what Councillor Boglary said. This is where I think we need to pull a tight ring around third-party political interference. Redlands is a non-party council of individuals, as you would all know, and that is what we want you to believe. I will read you this now and see if you still agree with that statement. It states—

Expenditure caps are necessary but need to be transparent which was clearly not the case in the 2020 elections.

I was a new councillor in 2020, so that was my first introduction to political interference. It continues—

Interference from third party support groups that were clearly part of a political alliance caused confusion for the voters and frustration for those not in the alliances. It was clear to see but impossible to prove and with no rules or regulations from third party interference and what defines interference, the candidates were powerless to act.

In Redland City we had letter box drops, phone calls, door knockers, surveys, and people requesting signage for candidates that were supported by political association, but campaigning as independents. Publications in the disguise of surveys were leaflet dropped by a political party with ... no consequences or questioning. This was not disclosed by any candidates either in financial benefit or in kind donations. This was clear interference and the ECQ and the QPS were ... powerless to control the situation even though it was clearly political interference.

There was a test case in 2005 that was brought to my attention and in that case the judge ruled that it was considered fair play so I could do nothing. In my case I had to go to ABC Radio and I asked the prime minister of the day to please look at this as it was clearly political interference and there was no action. I will continue—

I strongly support a cap on expenditure and think the amount would be better set at \$1 per voter/per division and the same for the Mayor. The reason being the amount of spending on a wall of signage and trailers across our city was not only embarrassing and uncompetitive for anyone who wanted to see dignity, but was visually polluting and distracting to motorists.

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When we saw the graffiti on the signage we realised that the situation had got out of control. To continue, we are—

... supposed to be all independents so a cap of \$1/per voter would be in line with true independents and would put a halt to the amount of in kind services that are not disclosed.

I will not go on because you do have it there to read. There is quite a bit. I have my doubts how the cap could be regulated or monitored as some candidates have seen the change coming and have taken the initiative to start campaigning this month. I personally have been invited to a mayoral campaign breakfast. I received that invitation last week so the campaign has started.

I thank you for the opportunity to democratically exercise my right to have my say through this forum. My opinion is based purely on my experience and my views and not that of my fellow councillors or Redland City Council.

CHAIR: Thank you, Councillor Berridge. I appreciate that. Councillor Grimwade, you have a specific issue that we have been paying a lot of attention to. Over to you and doubtless we will have some questions for you, too.

Mr Grimwade: Thanks very much for the opportunity to participate. It is great to see some familiar faces on the opposite side of the table—faces that I have been familiar with from past experience being here in parliament. I start by saying that, in principle, I fully support the intent of the legislation, in conjunction with other Belcarra and local government electoral reforms, to make contesting local government elections fairer and more equitable and remove the bias of rich individual candidates buying an election as such. Today I want to address two separate things. One is a specific fundraising issue that sits outside this legislation but will need to be rectified before the 2024 elections. The other one is the cap period being the seven-month period. I will address that one first because it was not in my submission.

With regard to the seven-month cap period, I do not actually see how the legislation has come about with that in it. In fact, most of the consultation via councillors, the LGAQ and other stakeholders has indicated, just about wholly and solely, 100 per cent support for a full term of quadrennial election periods so I am not sure how the seven months actually came about. I would also support the full quadrennial election period for that.

We have heard here today from some of the participants. I guess some clarification may be needed for candidates who are out there at the moment fundraising, because there are some. They are raising money at the moment. I guess the intent of the legislation is to capture the expenditure closer to the election, but there are people out there now who are raising, for example, \$30,000 worth of funds. If they use those funds now to buy campaign shirts, corflutes and materials specifically for the election, is that actually going to be captured in the seven months prior to the election? I know that one of the previous submitters mentioned that the actual definition captures that because it is when you actually use that material, but I think that needs to be clarified because for the general people out there—and a lot of the submissions indicate—there is not actual clarity around people who will be fundraising and then expending before that seven months begins. That is one we looked at.

The other one that I wanted to address is in regard to fundraising. As we all know, local government is widely known as the government that is closest to the people. I am sure we have heard that a few times throughout submissions today. It is the level of government that is more often contested by mums and dads, if you like, who feel strongly enough about their community to put their hands up and contest the election by putting forward their ideas and plans. It is with this in mind that I fully support the piece of legislation that aims to cut the expenditure of candidates to a level that allows participation by all on a level playing field.

It is noted that a lot of the reforms previously brought in around the Belcarra recommendations and the other electoral laws, including the prohibited donor legislation, aim to remove the ability for individuals to provide large donations to candidates that may be perceived as someone trying to influence the outcome of an election for their own financial benefit. By introducing expenditure caps, this also lessens the chance of the need to seek large, one-off donations and I fully support that. It is with this in mind that I have made my submission.

I started to investigate what fundraising opportunities local government councillors would be able to undertake to engage with their family, friends and supporters at a more grassroots level. The obvious fundraising with the least amount of risk and that supports the aims of the various pieces of legislation as outlined earlier would be the traditional raffle at an event. Of course, it is widely accepted and plenty of candidates have previously engaged in fundraising activities that involve raffles, such as tearing off the butts of raffle tickets at a campaign gathering and raffling off small items such as bottles of wine or holding a chook raffle.

You could imagine my surprise when I decided to cross my t's and dot my i's by checking that this sort of fundraising activity was, in fact, lawful by councillors only to find that it is not. The ability to lawfully run a raffle rests under the Charitable and Non-Profit Gaming Act 1999 and stipulates the various levels of categories and requirements depending on the amount of proceeds you expect to make from the fundraising activity. However, I discovered that these lawful raffles only covered certain not-for-profit organisations and also schools, P&Cs and, interestingly enough, political parties. However, it does not cover individuals who are not members of political parties, noting that 95 per cent of local government elections in Queensland are not fought on political grounds with endorsed candidates. This basically means that the grassroots-style campaign fundraiser is actually unlawful for independent candidates. After contacting the local government department and seeking clarity on this, I was advised that my research was in fact correct and these fundraising activities are indeed unlawful unless you meet the requirements under the Charitable and Non-Profit Gaming Act 1999.

I know it sits outside, but I have raised it in this debate and while the consultation is taking place regarding this bill due to the tight time frames between now and the next local government election, scheduled for around March 2024. I urge the committee to make a recommendation to the minister to have this issue addressed and correct this during the finalisation of this piece of legislation, as other legislation, to provide candidates considering contesting the next local government elections in March 2024 the opportunity to undertake some of these low-risk, grassroots fundraising ideas with their family, friends and supporters. I thank you for your time today.

CHAIR: Thank you very much, Councillor Grimwade. I will go straight to this issue with you. You have discovered that, as a candidate, you are not an eligible organisation. You said that you have talked to the local government department and you have correspondence from them. Where else did you do your research? Did you talk to the charities organisation?

Mr Grimwade: No. I started off by doing some online googling research and came across the Charitable and Non-Profit Gaming Act and regulation. After reading through that I thought this may be something different; it might be related to a totally different area. I noted that the act itself makes provision that says there are a number of gaming regulations, like the Lotteries Act for example, that sits outside of that. I thought it must be the same with local government, that it must be that this is not part of anything to do with candidates running a basic \$500 raffle with their family and friends. It must be something more specific.

I then took that up with the LGAQ and have had correspondence with them. I wrote to the local government department as well to seek clarity on that. Their initial response was that they did not see any provision that would restrict a local government candidate from running a basic, small raffle. However, after a couple of hours of research themselves, they wrote back to me and said, 'Hold the phone. Actually, you're right. This is a problem because it does not allow for an independent candidate or a councillor to run a basic event with people around for a barbecue at home and raffle off a bottle of wine and raise a couple of hundred bucks. It is actually an unlawful act.' Of course, there would be thousands of scenarios where that has happened over time. Certainly there will be thousands more in the upcoming election.

I have included a couple of examples in my submission. There are probably brighter and smarter people than me who write this legislation. I would say that by incorporating, under the other legislation, a provision that allows for a gaming or a fundraising raffle to be held and then specifically write back and note in the Charitable and Non-Profit Gaming Act, 'Please refer to: gaming does not incorporate this specific legislation in the expenditure caps act.' I think by mirroring those two together and allowing it under this act, obviously people will be able to undertake those sorts of fundraising activities, which I think is, again, what this legislation is aiming to do, which is to have low-risk, easy, grassroots fundraising opportunities rather than big corporate donors coming in and giving one-off donations.

CHAIR: Thank you for that and for your research. Would it be possible to get a copy—and we will check with the local government department—of your correspondence from the local government department on that particular issue, once they have confirmed that? That would be most useful to us.

Mr Grimwade: Yes, no problem.

Mr McDONALD: Councillor Grimwade, that was my question as well. I appreciate you bringing clarity to that. I am sure we will be able to do some more work in that space. Ladies, I ask you collectively: we are grappling with the issue of caps and the amounts. Between yourselves there is quite a disparity as well. Have you had other thoughts after listening to the witnesses here today that might be able to assist us?

Ms Boglary: I have gone through four elections now and I have spent between \$12,000 and \$15,000 at each one, not because I wanted to but because of the excessive amount that the candidates against me have. I know that in one term one of the ladies, who is a consistent candidate against me, spent apparently up to \$35,000. I would be more than happy and I believe I could run a sufficient campaign for my area with \$6,000 to \$10,000. I also believe that some of the mayoral campaigns have been obscene. That is the only word for some of the amounts of money spent in previous ones compared to what other candidates had to spend. I also believe the cap for the mayoral one in Redlands at the moment is more than enough. I would say \$80,000 to \$100,000 would be more than sufficient for the Redlands mayoral.

Ms Berridge: I suggested a \$1 cap because in our area we have an average of 11,000 voters per councillor. It is not that great and gives us only \$11,000. If you cannot campaign to 11,000 people on \$11,000 then there is something wrong. I did it and I have one trailer. That was appreciated, I think, by the constituents. You have to remember that they move through the city and they are sick to death of seeing 16 trailers all over the place, and then they move further south and there are another 16 trailers. They are done and dusted. There were many complaints. There were complaints to council on the size of the trailers, whether they constituted trucks, whether they were parked illegally and many had to be moved. There were also complaints that they block intersections. We cannot limit the amount of advertising material, per se, in quantity, but if we limit the cap it restricts how they move their billboards—which is effectively what they are—and posters around the shopping centres, around the streets and around the intersections. It is bedlam.

On the other side of it you have the sea of corflutes. If you are a third-time candidate, you already have two elections behind you. You have an unfair advantage on the number of corflutes. There were complaints to the media that people were sick to death of seeing it. There was a huge amount of graffiti, particularly in the Birkdale area and the Ormiston area. There was graffiti because people were trying to show they wanted the signs gone. This was their way of getting that message across. The graffiti was shameful, but it is what it is. It was sexually explicit in some places. It was atrocious and photos were taken, but it did not stop them. We also had residents who refused to put up signs that had been targeted because they felt their property was also targeted and they wanted nothing to do with it.

I would like to see a ban on all corflutes personally. I think if you cannot get out and doorknock and meet your people, you have a problem. If you know a year out that you are going to be the candidate for a division, you have plenty of time to join your groups, get into the media, do your publicity, do your letterbox drops, keep it clean, keep it civil and not have to compete with people who either are only there for a popularity contest or have unlimited funds through political alliances but are not declaring that. How on earth do you get 16 trailers? I could not do that.

Mr SMITH: Thank you all for being here and especially, ladies, for the courage in highlighting what you believe are unfair advantages, which I believe was the word used against yourselves as incumbents. Obviously I very much respect the courage in doing that. I have a couple of questions around the newsletters. On the subject of the Redland City Council newsletters, I am seeing that every councillor has a newsletter. Could you take me through the process of that? Do you write that out? Is there a template that you have to follow? Is it edited by someone at council? Can you talk to some of the process around creating those newsletters, please?

Ms Boglary: We do get a lot of say as to what goes into the newsletter. However, if you disagree with something that is going on in council at the time you have to word it really carefully to get it approved to go into the newsletter. There is a staff member who does the editing and formatting of the photos and articles we send through and then the mayor's office has to sign off on everything before it can be approved.

In relation to my comment in disagreeing with the LGAQ submission, say as a councillor—although it certainly will not be happening with me, I can tell you that—the month before I put out a newsletter saying I got a \$1.2 million project, that is definitely politicking. If you are on a council that has a certain number of councillors working together, it could be that each one of them right before the election has some brilliant announcement in their newsletters and the other councillors would not. That is an advantage to them and a disadvantage to those on the outside. I disagree.

They also have YouTube stations now as well as television, magazine and Facebook. Council Facebook pages can have certain articles on different areas to boost certain councillors. If it was just the disaster management and the necessary literature going out during that seven-month period, I would be fine with that.

Ms Berridge: We have a choice. We can participate in the council magazine or the newsletter, or we can leave it to staff to write the whole thing and glorify it for us. As long as we make council look good, that is all that is required. There is something that I feel I need to mention; that is, if I want to set up a discussion time or a drop-in drop-out exercise in a community hall, I can advertise that through my councillor newsletter. I could be advertising it right now, and our next newsletter is being put together this month. I could be starting now to use council resources—this is not costing me anything—and pretend that there is no advantage to me and that I am doing this as a community benefit. It is rubbish. It is absolute rubbish. We would not be doing this unless there was a benefit to ourselves.

Mr SMITH: Having a look at the consistency, it seems over the last two years there has only been one newsletter each and then before that there were two or three. Is there a strict number of publications of newsletters each year?

Ms Boglary: It changed when we had the magazine as well. The number of newsletters was cut back because we all got a page in the magazine.

Mr SMITH: Referring to LGAQ, the suggestion was put forward that during the election period it may be important for council media publications to put forward operational matters. In that caretaker period, what are your roles and responsibilities with regard to operational matters? As an extension of that, do you see there needs to be an individual councillor highlighted in that caretaker mode in the council publication?

Ms Boglary: No, and from memory when we came close to the election previously the CEO actually became the spokesperson for council to have that higher level of governance. Councillors should not be making the decisions on operational matters anyway; we are more about strategy and policy. I disagreed with their comment. If it is disaster management, we have a disaster management officer. They are more than qualified than councillors to speak on such matters.

Mr HART: Redlands has indicative spending of \$15,000 for councillors and Darren has \$19,000. As individual councillors, do you have access to an office and staff?

Ms Boglary: No.

Mr HART: If you do, would it fall under that cap?

Ms Berridge: We do not, no.

Ms Boglary: We have an office in the main chamber building but residents cannot go there.

Mr HART: Should that be declared?

Ms Berridge: No, not for us personally.

Ms Boglary: They are certainly not allowed to do anything related to a campaign. It is very strict. It is business as usual only. I am not allowed to use my email or any office equipment, photocopying or my staff. I have to use a private email address and my home study.

Mr HART: You then proposed that offices should be part of the cap, but you do not think the main office in council should be?

Ms Boglary: No, because that is only business as usual to do with council and I do have to continue doing that work during campaigning. It is when a councillor or a candidate running in an election sets up a totally separate office in a shopping centre. We are talking about a different thing.

Mr Grimwade: We have the same process and protocols around ours. It is very much that when caretaker mode kicks in there are very strict protocols around your office, to the point where you cannot even store boxes of campaign material; you cannot even be in your office in a campaign shirt. There are very strict protocols around the resources that you could use. That would definitely be outside the scope.

Having said that, also on the issue of newsletters, we are a little bit different in our council. It might pay, if there is going to be some discussion around that, to look at the various models around the place. Our newsletters come out bimonthly, so six a year. We do not have any provision for them to be used during the caretaker period. Having a March election generally means that the caretaker period rolls into January anyway, and we do not have a December or January period of distribution. Generally, the last newsletter or communication from our offices comes towards November or December the year before an election and shuts out for a three-month period.

Mr HART: Do you have an office?

Mr Grimwade: Yes.

Mr HART: In a seven-month period would it cost more than \$19,000?

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Mr Grimwade: I would not be able to tell you what an office would hire at or what the going commercial rate is for an office in our area.

Mr HART: Have a guess. Yes or no, over \$19,000?

Mr Grimwade: I do not guess.

CHAIR: You will get it wrong.

Mr Grimwade: I have certainly been around in the political sphere long enough to know not to have a guess at something I am not sure of.

CHAIR: Thank you, everyone. We have gone over time a little bit. We will come back at ten past one and reconvene to hear the Queensland Law Society. Thank you very much. It has been good to have councillors in here commenting on the situation.

Proceedings suspended from 12.39 pm to 1.09 pm.

DEVINE, Ms Wendy, Principal Policy Solicitor, Queensland Law Society

DUNN, Mr Matt, General Manager—Advocacy, Governance and Guidance, Queensland Law Society

KOPILOVIC, Ms Chloe, President, Queensland Law Society

CHAIR: I want to thank you all for your detailed, extensive and well-researched submission. I welcome you to our hearing and I invite you to make a statement, after which we will have some questions.

Ms Kopilovic: Thank you for inviting us today to appear at this public hearing in relation to the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill. In opening, we would like to acknowledge and recognise the traditional owners of the land upon which this meeting is taking place, Meanjin, Brisbane, and recognise country north and south of the Brisbane River, both the Turrbal and Yagara nations, and pay deep respects to elders past, present and future.

The Law Society, as you may know, is a peak professional body. We represent over 14,000 of the state's legal practitioners and represent, educate and support. We are an independent, apolitical representative body upon which the government and parliament can rely to provide advice in relation to good, evidence based law and policy.

Today we are raising some concerns in relation to the effect of this bill on public interest advocacy. QLS is also concerned about the broad regulation-making power with respect to the definition of 'electoral expenditure'. QLS considers that charities and not-for-profits have a significant role in encouraging debate and development of social policy and good law. However, the uncertainties in the drafting of this bill will discourage these entities from participating in the process due to the compliance costs of the framework and the risk of unintentionally breaching their compliance obligations.

This bill introduces electoral expenditure caps for participants in local government elections. The expenditure threshold is calculated over a period of about seven months prior to when a local government election is held. The framework requires third parties who will incur electoral expenditure as defined in the bill to register with the Electoral Commission and then meet a range of compliance obligations as a result of their electoral expenditure.

There are two critical concepts in this bill which underpin the compliance regime, being the concepts of 'electoral expenditure' in proposed section 109A and 'campaign purpose' in proposed section 109B. In essence, the bill defines 'electoral expenditure' as expenditure incurred for a campaign purpose. However, as we have identified in our submission, the drafting of the bill defining these two concepts is unclear. As a result some third parties, including charities and not-for-profits, will likely decide that it is too difficult and risky to participate in advocacy or debate in the seven months prior to the local government election. If a third party breaches its expenditure compliance obligations it is exposed to financial penalties. Individuals are likely to be exposed to a penalty of up to 10 years imprisonment.

These risks are significant for both charities and not-for-profits, many of whom are run by volunteers. The legislation could, therefore, result in the loss of legitimate and expert voices in the discourse and debate on key social issues connected with the organisation's mission and purpose. We have suggested some drafting clarifications in our submission to address these uncertainties.

At present, the legislation lacks a sufficient nexus between the expenditure incurred and the promotion or otherwise of a political party or candidate. We have also recommended exemptions in the third-party registration framework be introduced for certain charities and not-for-profit entities and for legal practitioners, and the reasons are outlined in the submission.

A further issue we would like to raise is the regulation-making power in the bill. It does not have proper regard to the institution of parliament. The regulation-making power in the bill currently allows for the definition of 'electoral expenditure' be amended by way of regulation. Electoral expenditure, in our view, is a critical concept in the framework being introduced by this bill, and the definition of electoral expenditure determines whether or not a party has met its compliance obligations in the electoral caps framework. We consider that electoral expenditure is too important a concept to be amended by way of a regulation. Any amendments to the definition of electoral expenditure should be in the primary legislation and subject to the close scrutiny of the parliament.

I am joined today by Matt Dunn and Wendy Devine. We would welcome any questions that the committee may have.

CHAIR: Thank you very much. We appreciate that. Looking at the second page of your submission, you recommend removing proposed section 109B(1)(c). My initial question was: what do you replace it with? However, you submit that you achieve that already by the proposed sections 109B(1)(a) and (b). So you are saying that if this section is removed the intent is covered by other clauses of the bill; is that correct?

Ms Devine: Yes, that is correct. The purpose of this framework appears to be to ensure that where a third party is promoting or opposing a political candidate or a political party that is the activity that should be regulated. Our concern with subsection (c) is that the phrase ‘to otherwise influence voting at an election’ is broad. It is not connected to expressly or impliedly promoting or opposing a candidate; it is simply a standalone subsection. That phrase on its own is difficult to interpret. If I was a small third-party organisation thinking about publishing some pamphlets, I would look at that and say, ‘What does that mean? Does that mean I am going to fall within the ambit of this framework? Does that mean I can manage the costs of compliance? Am I willing to expose myself to the risks involved in breaching unintentionally these provisions?’ We believe that is an unclear statement and, given subparagraphs (a) and (b) in that provision, we believe (c) can be removed and the intention achieved in (a) and (b).

CHAIR: I note that in the first dot point you submit that there needs to be some clarification of ‘the operation of the dominant purpose test’. My initial reaction was to ask if that is something you can do in regulation, but you have also made a point about the regulation-making power of the act and having due regard to parliament. Can you give more information on how you would clarify the operation of the dominant purpose test?

Ms Devine: Certainly. There is one example in the legislation already which I think we have recognised. That is very helpful to have an example like that. In preparing for the hearing, we also looked at the Commonwealth guidance which is published by the Commonwealth Electoral Commission. They publish a pamphlet for third parties, and they have a range of examples in that pamphlet which I found very helpful, but they do qualify it with a paragraph saying, ‘These are simply examples. You will still need to obtain legal advice about whether your activities meet that dominant purpose test.’ I understand completely why an agency would make that statement in their guidance. It brings me to the point that examples like that, to be effective, likely need to sit in the legislation. It is best a question for the Office of Parliamentary Counsel, I suppose, but for confidence of those seeking to engage in advocacy it seems that the only clear way to provide some guidance that cannot then be questioned about the implication of it is for that guidance to sit in the primary legislation.

Mr McDONALD: Thank you very much for being here today and for the detailed submission. There is a lot of information there. Chloe, you mentioned the impact on the public sector and the not-for-profit sector in terms of the compliance. Were there any other concerns or was it just around the compliance aspect and how they might be caught up in this if they do enter into public debate?

Ms Kopilovic: I will defer to Wendy or Matt to go into a bit more detail for you.

Ms Devine: Certainly the compliance obligations are a very significant consideration for third parties. Some charities and not-for-profits are very sophisticated. They have many resources and they are busy in this space, and we understand that they are likely to be able to interpret this legislation and understand where the boundaries are. Some organisations are not. I think there are tens of thousands of not-for-profits in Queensland that are volunteer run, who have no paid employees, and so those organisations are really quite exposed to a framework like this. We have spent obviously quite a bit of time working through what ‘electoral expenditure’ means and what ‘campaign purpose’ means. If you have a volunteer organisation on the ground trying to understand these provisions—and the threshold of \$6,000 some would say is quite low, but it could be a threshold that they cross over quite easily and then suddenly they find themselves, possibly unknowingly, within the ambit of this framework and subject to those compliance obligations. They involve appointing an agent to report to the Electoral Commission, having a separate dedicated bank account, doing summary expenditure returns, registering with the Electoral Commission and record keeping, and then, if they breach those obligations, being exposed to penalties and potentially imprisonment if they are a registered third party. They are all quite significant for some organisations. Some of them will question the wisdom of seeking to engage in advocacy and, given the definitional issues we have identified, whether they could unintentionally, in good faith, breach those provisions.

Mr Dunn: To add to that, there is also the perspective that those organisations may be very well placed to come up with policy solutions to particular community problems that we are seeing. Because they are on the ground offering services in the community, they may be able to come up with a killer of a policy idea or otherwise. In a situation where organisations can ultimately perhaps fall into the gamut of these definitions, because they are very broad, if they come up with a policy

solution, they float that as a solution from their organisation or as a policy position. If those policy positions are subsequently adopted by political parties who then champion those particular provisions in an electoral process, then you might find unintentionally those organisations suddenly become caught, which means they then may be disinclined to promote those solutions in the future.

I think the difficulty with this legislation is, like with every legislation, finding the right balance, and that is always the hard job. Thankfully, that is the hard job that you folk have. It is really trying to find the balance between ensuring that our elections are really those contests of ideas, are a place where we have a community debate about some of our problems, we have policy positions and we have a discussion, and at the same time ensuring that those elections are free, they are fair and they are not influenced by actors who are pretending to be less than they really are. It is about finding the appropriate mechanism to do that. The compliance costs that Wendy has talked about are very important and there is also perhaps the slightly broader perspective about wanting to engender debate in a positive way, especially from those actors who are on the ground in communities and seeing issues.

Mr McDONALD: For sure. I guess we are relying on legislation and then the interpretation of that legislation as it is going to be applied. Correct me if I am wrong—I am sorry if I did not pick it up—but the LGAQ have recommended a statutory review after 12 months following the election. Did you recommend that as well?

Ms Devine: We have not recommended that, but I think that is a very sensible recommendation for anything that is new on the legislative books. I appreciate that a similar framework is in place for the state elections, but they are slightly different formats. They have different nuances. I think a review after 12 months would be very sensible.

Mr McDONALD: As the CEO of LGAQ, Ms Smith, said, they do not want any loopholes or unintended consequences from this. I can see how a community group could put out a quite extensive newsletter at a big cost to the community and then have photos in that that could be caught in this. I guess it has to be an interpretive process that we are relying on. In regard to your other very good point in terms of influencing electors, I recall your example of directing votes and some interpretation and clarity around that. Could you expand on that for us?

Ms Devine: Certainly. Our concern with the word 'influence' is: what exactly does it mean in this context? Looking to paragraphs (a) and (b) in that section, the concept of expressly or impliedly supporting or promoting an individual or a party is quite clear. You might impliedly introduce a bit of a subjective element, and people may differ, but at least there is that connection with a particular party or a particular candidate or a group of candidates.

In relation to subsection (c), because it simply uses the phrase 'otherwise influence'—and the word 'otherwise' itself is quite a broad word so that seems to broaden it even more from the concept of simply 'influence'—our suggestion was the word 'direct' or some of the other words that we suggested in our submission, just to bring it back again to have that connection to the campaign of a party, a candidate or a group of candidates to ensure that the expenditure and the material that we are considering and assessing does have some connection to the electoral process that is underway and is not simply misinterpreted or misunderstood as seeking to influence.

I think the other element that is not really clear from that subparagraph is that the word 'intent' is not used. There is no intent to influence. That is not part of the test as currently drafted, and that might be that could be considered as a way of narrowing the potential scope so that it does not have those unintended consequences.

Mr Dunn: To add to that, the concept of influencing voting at the election is itself a reasonably broad one that is there for the purpose of the fact that a heap of things could come up that we will not know about. We want to try and stick something in that will catch a lot of things in the future that might be an issue. Where it might cause an issue in relation to what I was talking about before, in relation to paragraph 109B(2)(c), is in respect of the ones where we are talking about adopting a position on a particular issue, whether that is a position of a political party or candidate, whether or not the party or candidate is mentioned. There will be some circumstances where that is very clear and there is astroturfed electioneering going on. There will also be other situations where potentially an organisation might come up with a great policy position with respect to the housing crisis and increasing housing supply. That might be a position that both parties decide they want to jump in on, but that might be then the situation where, because that is now live and both parties are discussing the policy position of that organisation, that is now affecting voting at the election, which is not the purpose of releasing that policy position in the first place, rather to solve the issue. That is where the expansive drafting that I think we are talking about there, which tries to cover every situation in broad language, then also means that it becomes a little bit less certain and less clear. That is also a difficulty

for our members, who then have to give legal advice on what is the dominant purpose of this particular scenario and how this legislation would be interpreted in the circumstances, and that might be a very difficult call for a lawyer in a lot of circumstances to give that legal advice because the legislation itself is very broad. That is where the examples and other material that can be published to try to give the proper interpretation and intention of that are good, but there is always that tension between trying to have the drafting as broad as possible to cover as many situations as possible and losing the specificity and also hitting those unintended consequences.

Mr MADDEN: Thank you for coming in today and for your very comprehensive submission. My question relates to the capped reporting period. Under the legislation it is seven months. It has been suggested that it should be for the full four years. What is your opinion as to the pluses and minuses of extending it for the full four years as opposed to the seven months prior to the election?

Ms Devine: It is fair to say that it is not something we have actually discussed or formed a view on, so I preface my comments with that. The same issues that we have raised would arise. I am not sure that amending the cap period would alter the views that we have expressed in our submission. If that was to be progressed, you would then need to very carefully look, may I suggest, at what is considered to be electoral expenditure and what is a campaign purpose because if we have concerns now that a seven-month period could give rise to third parties choosing not to participate and if you were to expand that capped period essentially to every day of the week then that raises further concerns.

Mr MADDEN: The problem that you mentioned about third parties is expanded from seven months to four years?

Ms Devine: It could be, yes.

Mr MADDEN: They may wish to withdraw support for fear that they will be entrapped as a third party. I think that has covered it.

Mr Dunn: Especially with the inclusion of the policy positions as being one of the relevant triggers. The issues that we discussed before around endorsing candidates and proposing or opposing particular parties or candidates is quite clear-cut, but if as an organisation you have to be very careful about releasing any policy positions for the entirety of four years, you really ask the question: do you want to be going into policy advocacy to fix community problems in the first place? I think that definition, going that little bit further into policy positions over a four-year period, becomes a very difficult aspect.

Mr McDONALD: It sounds like somebody wanting to get a councillor!

Mr SMITH: I am grappling with the word 'otherwise', and I think we all seem to be at the moment. At election time, what material from a third party is published but not for campaign purposes? What material is a third party publishing at election time that is not in some way trying to influence the way people vote, even if it is a 'be sure to get out and vote' flyer?

Ms Kopilovic: I am sure you touched on that earlier.

Mr Dunn: Certainly, given the definitions that are there, say, for example, there is a published position or a policy position that an organisation has come to on a particular issue: 'We have this community problem and this is what we think would be a solution for that particular problem.' Some organisations will launch a policy position into the universe to say, 'This is what we think the solution is for that particular problem.' That might involve glossy flyers or television ads or whatever else. It is not necessarily directed towards any particular party or candidate but it is directed towards their solution for a particular problem. That is certainly one of those things.

It is also not uncommon for a number of organisations, in the lead-up to an election, to issue a call-to-party statement where they will outline the particular concerns or issues that exist in a particular sector, industry or otherwise and say, 'These are the particular problems' and then give all the political parties and candidates that statement and say, 'What are your responses to these particular issues?' Membership associations then sometimes publish those statements and the responses to their members so that their members can see, 'These are the issues or concerns that we have and this is what each particular party might say,' or something like that. Those are documents that might be produced in connection with an election that are not there to particularly drive votes to or from any particular party but simply to educate people about issues and particular parties' positions on particular issues.

Mr SMITH: I suppose with education then comes influence, ultimately, because it does influence the decision of a vote. It might not be calling on but it will eventually influence. In a legal sense, where is the difficulty in all of those groups understanding that they have a limited expenditure

during that seven months? Where is the issue there, as every third party knows that within seven months, if they are going to put anything out that is related to the election, they know what their budget is? Where is the difficulty in that?

CHAIR: I am not sure where we are going to go with that one.

Mr Dunn: If we were to produce flyers for a particular call-to-party document or something like that, I guess the interesting thing is that we would need to be very careful about whether we did that in the first place. If we did, we would need to know a very good quote from a printer to find out exactly how much was on that quote in order to then go, 'No, don't print that' or 'We aren't going to print 1,000; we're only going to print 500 because that's the cap and our purpose is not to affect the election and our purpose is not to affect particular candidates.' The difficulty with picking a particular number in these circumstances is that there is always the opportunity for unintentional clipping over, and somebody gets to \$6,001 and suddenly an entire regime kicks in and it was never their intention to actually be a political activist or a particular person directing a particular outcome at an election.

Education is certainly an important thing that you mentioned, member. It is a very important thing. I think that is something that you want in an electoral process. You want parties and you want voters educated. You want people understanding and discussing the issues in the debate. If you can engender that without necessarily stopping people from being able to raise issues and policy positions, I think that gets you to the point that you are after. I think it is the distinction between those direct campaigning for or against candidates or parties and dealing with political policy issues.

Mr SMITH: I suppose you could increase the cap on those who fall into that subsection (c) under regulation, couldn't you?

Mr Dunn: That would be a potential, yes.

CHAIR: There being no more questions, I thank you very much, Ms Devine, Ms Kopilovic and Mr Dunn, for participating today and for your submission earlier today.

LEWIS, Mr Wade, Assistant Electoral Commissioner, Electoral Commission of Queensland

THURLBY, Mr Matthew, Acting Director, Funding, Disclosure and Compliance, Electoral Commission of Queensland

CHAIR: I do not think I need to remind committee members that the ECQ is here to provide factual and technical information. Any questions about government or opposition policy should be directed to the relevant person on the floor of the House. Mr Lewis, I invite you to make an opening statement and then we will have some questions for you.

Mr Lewis: Thank you very much to the committee for having us today. My name is Wade Lewis and I am the Assistant Electoral Commissioner at the ECQ. For the committee's information, I have line management responsibility for our election event management team, which is the service delivery arm of ECQ, as well as the Funding, Disclosure and Compliance team, which is the regulator side of our business. I start by acknowledging the traditional owners of the land on which we are meeting today and pay our respects to elders past, present and emerging.

I thank the committee for the invitation to attend the hearing into the Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill. Members of the committee will have reviewed the ECQ's submission to the bill so I do not intend to restate that in detail, although, of course, we are happy to answer any questions that the committee might have on that. However, I would like to reiterate some of the key points of the submission.

Firstly, the ECQ's role is to independently and impartially administer the legislation passed by the parliament, including by acting as the regulator of election participants at both state and local government elections. The proposed introduction of an expenditure cap framework for local government elections will require the ECQ to expand both its educational and awareness-raising activities to ensure that electoral participants are aware of the new obligations and how to comply with those obligations as well as its regulatory activities at all phases of the electoral cycle.

As regulator, the ECQ's approach is to proactively engage stakeholders to provide information, education and reasonable support in meeting obligations. This provides the foundation for compliance, supported by the measured and proportionate use of powers and enforcement tools where necessary. This has been a successful approach that the ECQ has adopted when implementing the other regulatory responsibilities that the ECQ has been charged with over the past four years including prohibited donor laws, political donation caps and electoral expenditure caps for state elections as well as real-time disclosure.

The ECQ was consulted by the Department of State Development, Infrastructure, Local Government and Planning during the drafting of the bill, and I would like to reiterate our thanks for that consultation. The department's consultation with the ECQ was particularly important given the implementation time frames outlined in the bill, in addition to the election planning activities that the ECQ is currently undertaking for the 2024 election year. This consultation has ensured that ECQ staff have a good understanding of the bill's requirements and will be able to include the proposed changes as part of its election delivery projects, as well as develop and deploy the necessary functionality in the ECQ's election systems in a timely way. Acknowledging the suggestion in the LGAQ submission regarding a mobile phone application to track electoral expenditure, I want to make clear that, for a variety of reasons, it is not the ECQ's intention to develop such an application at this time.

The proposed laws will also likely heighten stakeholder expectations of the ECQ and its ability to enforce the laws as well as increase the obligations on those stakeholders, for example, the requirement for third parties to register for an election. The ECQ is currently considering how it is going to appropriately resource and manage its compliance workload during the election in light of these proposed changes.

The bill proposes to align, to the extent possible, with the expenditure cap framework contained in the Electoral Act 1992. While this presents the ECQ with opportunities to leverage existing practices and processes, it is not possible to merely copy those practices and processes without some adoption of unique elements of the local government elections such as the existence of local government groups, the large and diverse nature of local government candidates, differing expenditure caps across different local government areas and real-time disclosure of expenditure.

In closing, I thank the committee for the opportunity to provide input to this bill. We are happy to answer any questions from committee members about the bill, our submission or other matters that I have mentioned here today.

CHAIR: Thank you for your submission. I think for all of us the number that jumps out is 369 fines for electoral participants failing to comply with obligations. That was from the 2020 local government elections. I think that was quite a revelation in itself. That brings us to something that other submitters have talked about, which is making sure that you have the equipment and resources—there are different ways of saying it—to actually deal with what is obviously a much higher level of activity by the ECQ. I think that point is well made. That would be on the mind of all our submitters—that is, making sure you can do that. You are at the pointy end of this as you have to interpret the legislation as a basis of action. Can you give us an example of what happens if you get a complaint about someone who perhaps is not detailing all of their expenditure? What would be the process? What would need to be proved?

Mr Lewis: I will make a couple of comments and then hand over to Matthew. Complaints usually come to us during the conduct of elections and sometimes after election events, through a number of different channels. Sometimes that is one candidate complaining about another candidate or political parties complaining about each other during the conduct of elections. It might be an elector who is concerned about a candidate's behaviour. Sometimes that comes through directly to our Funding, Disclosure and Compliance team. Other times it might come through to our phone number or our general email address. Obviously we triage any of those complaints that come through and make sure they are allocated to the appropriate compliance officer within ECQ to deal with that. I will hand over to Matthew to talk about that.

Mr Thurlby: The ECQ's authorised officers do have quite wide-ranging powers under the Electoral Act. They include: monitoring and enforcement of the funding and disclosure provisions in the Local Government Electoral Act; the power to compel information or documents from a candidate or another electoral participant or any other person we think may have that information; and the ability to enter premises or seize property if we feel there is a reasonable belief of an offence having been committed. As to your specific point about what happens once we receive a complaint, it will differ depending on what phase of the election cycle we are made aware of that potential noncompliance. If it is early enough in the cycle that it can be addressed with perhaps some direct contact with the candidate and we ask them to rectify it, then that would be our preferred approach. It saves a lot of effort for the candidate and for us in the long run. Sometimes we will not get intelligence of that until after the election is finished, in which case we may need to take a different route.

There are a few safeguards built into existing law which do help candidates to rectify potential noncompliance, albeit perhaps a bit too late in accordance with the deadlines but they can fix it. For example, they do have to lodge an election summary return after the event and outline every piece of expenditure if they are above the threshold. That gives them an opportunity to do a bit of a reconciliation against their own bank statements. They also have to provide us with their dedicated account statement after the election, which really expedites our compliance activities as well.

Mr Lewis: I might add to that. Our general approach to compliance and enforcement for funding and disclosure obligations is available on our website as well. We have a policy about that which the committee may have seen or may be familiar with. If not, I am very happy to provide a link to that as well. We very much focus on assisting people to comply. That is our first step and our first port of call both at a local government level and at state elections. Then obviously the response can ramp up depending on the nature of the compliance issues that we are dealing with.

CHAIR: Something that has been talked about today is reporting after an election period, and I know that the ECQ does that. Could you give us an outline of the process for you once there has been that quadrennial election for state or local government?

Mr Lewis: We do a couple of things after a major election event. The first thing we usually do is an evaluation of the election where we gauge voter satisfaction and stakeholder satisfaction with our services in the election. We examine each part of the electoral cycle, if you like, and look at business improvements that might eventuate after the conduct of that election. We then prepare a report based on both that evaluation and other feedback from stakeholders and we usually release that publicly. It does cover the gamut of the electoral process, from the very start of the electoral process right through to the conclusion of the election and then sometimes after.

You were talking before about some of the compliance outcomes that have happened from the 2020 election. Sometimes those compliance actions happen quite some time after the conduct of the election. Some of those investigations are quite complex and take some time to conclude. Some things are dealt with on the spot, as Matthew was alluding to before. Others take more time and effort to investigate. The reports usually focus on that as well.

Mr McDONALD: We appreciate your advice and detailed submission. I had a number of lines of inquiry around costs and I appreciate you addressing some of those and it being a work in progress. Can you tell us how far the conversations you have had with the department regarding the implementation of this have progressed?

Mr Lewis: They have been excellent over a long time. Again, I would like to thank the department in its various iterations for that consultation as well. A lot of that has been about the operational practical implications of some of the legislation: how the ECQ might go about implementing the legislation in practice; how we might work together, including through things like mandatory candidate training; and its design and delivery and so forth. Those are live discussions at the moment with the department. Indeed, towards the end of this year we will be looking in more detail at the delivery of that mandatory candidate training, which is obviously a critical component of implementing this scheme and in general supporting candidates in the local government election.

The other way we have been engaging with government is around the resourcing aspect, which the chair referred to earlier. Obviously, there are two components to that. The first component is the immediate implementation resourcing costs for the ECQ with this, and we are resourced to implement the scheme as it is proposed. Then there are the matters that have been raised in a number of submissions and that were talked about earlier today around how well we are resourced to actually deal with those matters in the conduct of an election. That is obviously a separate funding source for us. We have an overarching election budget, if you like, for a quadrennial election, and consideration of our compliance resources would form a core part of that election budget as well.

To reiterate that, there are two components. The first part is about implementing the scheme in the next three to six months and then there is the delivery of the election and the support for candidates in the delivery of the compliance aspects of that as well as part of an election budget.

Mr McDONALD: Do you know off the top of your head what the 2020 election cost and what the likely cost is going to be for the 2024 election, given the additional requirements?

Mr Lewis: I do not have that figure to hand but I am happy to take that on notice and get back to you about that.

CHAIR: Maybe someone who is listening from your unit could send that through to you during this session.

Mr McDONALD: You mentioned that ECQ takes an educative approach to a lot of these things. Did you hear the evidence from the LGAQ this morning where I outlined my concerns about the additional complexities affecting councillors and mayors—whether it be the OIA, different definitions and now these requirements—being a disincentive to them to stand in an election? Do you know how many candidates you had in the 2016 election and the 2020 election? Has there been a reduction in that number?

Mr Lewis: I do not know the number for the 2016 election. I think there were over 1,500 candidates in the 2020 local government election. I am not certain of whether the trend is there. We talk extensively to the local government sector, to LGAQ and to individual councils. We are engaged in a process of talking to all 77 local governments at the moment in advance of next year's elections. It is one of those matters that comes up particularly when we are talking to the sitting councillors as well—that is, the complexity around being a candidate in the elections at this time.

Our view on that is that the parliament has asked candidates to adhere to certain obligations as part of that candidacy and we are there to support people through that process. That might be through the nomination process or through the actual funding and disclosure obligation side of things as well. We have a team that is well resourced to support candidates in these elections. We are not particularly concerned about the number of candidates but we are certainly there to assist candidates to discharge their obligations.

Mr McDONALD: We all understand when council elections occur that sometimes there are people who are presenting very similar but saying they are not groups. How will the ECQ resolve those issues if something is brought to your attention? You have deeming provisions that you can rely on to say they are a group or make a decision about that. Can you tell us how that would work under the new legislation?

Mr Thurlby: This bill, as far as I understand it, does not change the existing group provisions as they are. I think section 183 is the relevant section. The way the law works at the moment is, as you said, if there are candidates who appear to be engaging in certain behaviour which would indicate they are intentionally coordinating then they should be registered as a group, and we only step in if

they are not registered but still engaging in that behaviour. We have investigated instances of that before and they are quite complex investigations. We have to be able to establish that the candidates are acting in an intentionally coordinated manner and still meeting those behaviours that are listed as being prohibited unless you are registered.

As for what specific investigative tools we may use, it could be anything from contacting suppliers from electoral expenditure to see if they have been contacted by the same people, looking at bank statements to identify common sources of funding and anything like that. Then of course there are traditional witness statements, interviews and all of that evidentiary collection process. That is an intensive process, and I think it is fair to say we cannot commit to resolving those before election day given the length of time they require.

Mr McDONALD: They were my feelings towards what you were answering—that it was really going down the enforcement pathway. Has there been enforcement action taken by ECQ against people who have done that behaviour?

Mr Thurlby: Not that I can recall in the sense of a prosecution, which is our only real enforcement action. I can say that we have issued some warning letters to candidates who are dealing at the very low level of noncompliance in that space.

Mr McDONALD: Coming back to my original question, if people are using the same or similar slogans, policies, brands, colours et cetera, does the ECQ have the power before the election day to say, 'You are a group and you need to be registered'?

Mr Thurlby: We cannot compel registration. If we have that information and we think they should be registered, we would certainly make that recommendation to those candidates. Whether they take that up or not is of course a matter for them. If they do not, we would be looking at those stronger enforcement actions a bit later.

CHAIR: Member for Traeger, do you have a question?

Mr KATTER: I do not have a question. I am happy to listen.

Mr MADDEN: You may have heard me ask previous witnesses a question with regard to the proposal in this legislation for a seven-month capped expenditure period. As an example, the LGAQ recommended that be the full four years. I am not asking about policy; I am just asking about the practicality of that. Your role would be to officiate in that regard. Would that be an onerous exercise for you? Can you comment on what that would entail as far as personnel and that sort of thing?

Mr Lewis: I am not sure if 'onerous' is the word I would use, but obviously it is a different scale compared to the seven-month period proposed in the bill as it is. Naturally, we would be looking at what the modelled peaks of demand for our regulatory services might be during that four-year period. It gets more intense as it gets closer to an election event. That is usually how we would approach that—that is, thinking about when the most intensive period is likely to be.

A longer capped expenditure period would most definitely have a greater resourcing implication from our point of view from a real-time monitoring perspective, from a compliance response perspective and from a candidate support perspective. Our experience is that a lot of candidates in local government elections do not show their hand for a little while until they are closer to the election event, so it is sometimes hard for us to provide that support unless people engage with us directly or obviously if we have information in the public realm about this scheme to help people, which we do quite extensively.

Mr Thurlby: I will reiterate the point Wade made. The underlying disclosure laws are not being changed by this bill in the sense that candidates and councillors currently are required to disclose expenditure that they incur regardless of how close they are to an election. That underlying workload is not changing at the moment. What will change is our data analysis capacity and capabilities to actively monitor that consistently, as opposed to being able to ramp up that monitoring ability closer to the election event.

Mr MADDEN: The practical situation as far as the Electoral Commission goes would be for candidates to record donations and at the end they would do their list of expenditure. Am I correct in that regard?

Mr Thurlby: That is the current provision in the Electoral Act. In the Local Government Electoral Act, expenditure has to be disclosed within seven business days once they hit that \$500 threshold.

Mr MADDEN: Thanks for clarifying that.

Mr HART: I want to dig further into the questions the member for Lockyer put forward with regard to these groups. This legislation puts specific expenditure caps on groups, but I think you just told us that you cannot force people to say they are a group. How will this be enforced during the election campaign?

Mr Thurlby: In order to access the ability to pool the expenditure cap as a group, you have to voluntarily register as a group. When that does not happen, each candidate is still subject to their own individual caps.

Mr HART: Isn't that a higher amount?

Mr Thurlby: The individual caps?

Mr HART: If you add them all together? If there is a big group and they say, 'I'm not a group' but they are a group, do they get to spend more money then?

Mr Thurlby: That is not my understanding, because the pooled cap for groups is just the sum of individual candidates; there is no additional benefit one way or the other.

Mr HART: Every candidate can spend \$15,000 and they say, 'We're not a group, but there's 20 of us,' so can they all spend \$15,000?

Mr Thurlby: They can, but they cannot be using that to support another candidate. They can only use that in support of themselves because once they use that to support another candidate they infringe on the preregistration provision that says you cannot do that activity unless you are registered.

Mr HART: They can still be a group if they decide not to declare themselves a group?

Mr Thurlby: No, they cannot engage in group campaign activity unless they are registered as a group.

Mr HART: But you cannot force them to?

Mr Thurlby: No, but there are offence—

Mr HART: Is there a loophole there?

Mr Lewis: I would not say there is a loophole, but the point Matthew was trying to make earlier is that we cannot force people to register as a group. We can certainly take compliance enforcement action against a group of candidates who are an unregistered group if they meet that definition under the act and so forth.

Mr Thurlby: I should also add that my understanding is that is an existing integrity or a serious integrity offence—so any person who was successfully convicted of that would essentially be removed from office or at least suspended during the trial process.

Mr HART: Right. Do we not want to gild this during the campaign and not afterwards, in hindsight? Anyway, that is a rhetorical question. Can you talk about the dominant purpose test under section 109 and how you intend to apply that?

Mr Thurlby: Sure. We are still formulating our exact positions on a lot of these provisions, subject to final passage through parliament. What I can say is: where the term 'dominant purpose' has been used in other instances in both the Electoral Act and the Local Government Electoral Act, the ECQ's view is that a pure mathematical approach should not be adopted and that it needs to look at the whole context, timing, nature of whatever the particular material is. I am not too familiar with what 109 specifically deals with, but as a general approach I do not see us changing that position about a mathematical approach and not adopting a purely 51 per cent rule.

Mr HART: Is there a definition in the legislation for 'dominant purpose'?

Mr Thurlby: I do not believe there is, but I stand to be corrected.

Mr McDONALD: It is 109A.

Mr HART: In terms of expenditure caps, has the ECQ seen any issues with other elections that it controls—state elections—that may cause a problem here on local government elections with people saying they are volunteers but they are actually being paid by somebody else? Have there been any instances of that that we may need to look out for at a local government level?

Mr Thurlby: Not that I can recall. The definition of 'electoral expenditure' does expressly exclude the employment of staff as being an expenditure item that would count towards the caps, and that exists in the Electoral Act as well, and because of that it is not really an issue we have had to examine because there is no reasonable belief that we could find an offence, even if that were to have occurred.

Mr HART: So those laws already apply at a state level?

Mr Thurlby: That is correct.

Mr HART: And you have not found anybody who was volunteering who was being paid by a third party?

Mr Thurlby: Again, I am not sure to say that we have not found them as opposed to it is not an offence under the Electoral Act for someone to be paid to do work at an election.

Mr HART: Right, so how are you going to capture that at a local government level if someone is being paid to be a volunteer in somebody's campaign?

Mr Thurlby: If we are looking at it from the electoral expenditure perspective, because the definition of 'electoral expenditure' excludes employing of staff then that is not an issue we can examine there.

Mr HART: So it is not a gift or anything like that?

Mr Thurlby: It could be a gift, but that is different to electoral expenditure. If a volunteer is being paid on behalf of the candidate, as long as the candidate discloses that amount—if it is above the threshold, that is—then there is nothing wrong with that, as long as it is disclosed.

Mr HART: So with \$15,000 limits, if somebody had a paid volunteer working for them that would disappear pretty quickly, wouldn't it?

CHAIR: That would be an employee, yes.

Mr HART: As an employee, yes.

Mr McDONALD: A union organiser.

Mr HART: You know where I am going with this, don't you?

CHAIR: We think so, but it is really hard to say, 'No, I'm on leave and here's the official emails,' and so on.

Mr HART: What additional resources do you anticipate needing for the next local government election?

CHAIR: Just be careful with that one.

Mr Thurlby: Thank you. We have improved our compliance capacity since the 2020 election, so we do now have a dedicated compliance team which we did not have in March 2020. We established that in June 2020, so that is already an additional resource that will be able to deal with any issues that may arise. We are turning our minds now to what additional capacity that may need. That does not necessarily mean it is more investigators who are out in the field interviewing people; it could be additional data analysis capabilities, system improvements and things like that that automate a lot of those activities.

Mr HART: Did you have additional funding last budget for this?

Mr Lewis: We have been resourced for implementation of this new scheme, yes.

Mr HART: Do you know how much that was?

Mr Lewis: Not off the top of my head but, again, I can take that on notice and get back to the committee.

CHAIR: You may be able to get that information to us beforehand.

Mr SMITH: I want to go back to what the member for Burleigh was touching on around 109B, the meaning of 'campaign purpose', and it is in relation to the Queensland Law Society. I am not sure if you have seen or read their submission?

Mr Thurlby: Yes, but that was a while ago.

Mr SMITH: That is all right, so I will just go through it a little bit. It is with regard to third parties and the expenditure for material and whether or not it meets campaign purpose. The Law Society is saying that 109B(1)(c) states 'to otherwise influence voting at an election', so their concern is around the word 'otherwise'; to me, I focus more on the word 'influence'. Obviously if a third party puts out something that says to vote for a candidate that is in (a), but what if they were to say, 'This election, vote for candidates who like koalas,' for instance? Under the bill, would that be promoting the election of a candidate even though it is not a specific candidate but is around a policy ideal that they might attach to? How would the ECQ determine a piece of material like that?

Mr Thurlby: I think part of our consideration on that, particularly in relation to third parties, is actually in the definition of 'electoral expenditure' itself in that there is a dominant purpose test to be applied specifically for third parties and only third parties. That is, if the material is being produced—and I cannot recall the exact wording but it is something along the lines of this—for a purpose of Brisbane

promoting an issue of public policy and that is the dominant purpose, then it will not be electoral expenditure even if it is also for a campaign purpose. Without getting into the specifics of any particular content, because we will need to decide that on a case-by-case basis, it would be my view that that is a very high threshold to reach because you need to prove that not only is it the dominant purpose but also the campaign purpose is not significant enough to override that. In that particular example, without seeing specifics, I would suggest it is probably not electoral expenditure.

Mr SMITH: You have really clarified that, because if they were to put out something saying, 'This election, support the environment or support candidates who support the environment,' everyone could claim that they support the environment so therefore it is quite a blanket statement that any candidate could attach themselves to, but it is not actually a candidate policy or a candidate position.

Mr HART: What if they said, 'Don't vote for somebody because of that'?

CHAIR: Through the chair.

Mr SMITH: If they said, 'Vote against'—

CHAIR: No.

Mr SMITH: Would you like to take that question? I am actually quite satisfied with your response and I think it makes it very clear. I do hope that the Queensland Law Society have watched this section of the hearing. Thank you.

Mr HART: What happens if you advocated for someone not to be voted for because of that? Would that be a—

CHAIR: We are doing a lot of hypotheticals here today.

Mr HART: We really need to clarify what 'dominant purpose' is.

CHAIR: I know, but I will allow that question.

Mr Thurlby: As a general response, again without seeing the specifics of any particular material, I think if a candidate was specifically named that is a very different type of material as opposed to, 'This is an issue you should consider when voting,' so that would have to factor into it.

CHAIR: As there are no further questions, thank you very much. We had some questions on notice, so we will quickly go through those: cost of the elections.

Mr McDONALD: Yes, 2020 and then 2024. The 2016 and 2020 elections were the number of candidates. I believe it was about 1,800 for 2016 and I have not found the 2020 ones.

CHAIR: So you are after the cost of the election in 2020?

Mr McDONALD: And then the expected—

CHAIR: Projected costs for 2024.

Mr McDONALD:—for 2024.

Mr Lewis: Chair, we are still working that figure out. I can probably provide a rough estimate once I have talked to our chief finance officer.

Mr McDONALD: No, that is fine.

CHAIR: No, just the 2020 one in that case then.

Mr McDONALD: In that case, the question should then be: was there an allocation of funds to assist you in this process additional to your 2020 election?

Mr HART: That is on notice already.

CHAIR: Yes: was there any additional money in the budget for the 2020 election?

Mr McDONALD: I am just being thorough.

CHAIR: Just going through them: from the deputy chair, what was the cost of the election in 2020; and from the member for Burleigh, were there any additional funds allocated in the lead-up to 2020?

Mr HART: The last budget, to assist in this process.

CHAIR: In the last budget.

Mr Lewis: Thank you.

CHAIR: They are the only two. If we could have that by the close of business on 8 February, that would be very much appreciated.

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Mr Lewis: No problem. Thank you, Chair.

CHAIR: Thank you, Mr Lewis and Mr Thurlby. That concludes this hearing. Thank you to everyone who has participated today. Thank you to our Hansard reporters and to the secretariat, who got some well-deserved recognition today. A transcript of these proceedings will be available on the committee's webpage in due course. I declare this public hearing closed. Thank you.

The committee adjourned at 2.12 pm.