

Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022

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Committee Secretary
State Development & Regional Industries Committee
Parliament House
George Street
Brisbane Qld 4000

By email to: SDRIC@parliament.qld.gov.au

Dear Chair and Committee Members

We welcome the opportunity to make submissions on the Inquiry into Local Government Electoral And Other Legislation (Expenditure Caps) Amendment Bill 2022.

This submission is made on behalf of Brisbane Residents United (BRU), Brisbane's peak body for community resident actions groups. Whose purpose is to:

- Represent Brisbane and surrounding district residents and provide them with a united voice Governments on matters pertaining to urban planning and development.
- Act as a resource centre, facilitating information sharing across established and start-up local resident associations.

General comments

BRU supports the introduction of expenditure caps in principle and we note that they are already in place at local and State government level in New South Wales and the Australian Capital Territory.

This is a complex issue and we welcome the opportunity to be able to make a submission to this inquiry. As a peak group representing many electors through our member organisations we are keen to engage in this consultative process in the hope that specific recommendations can come out of this process, ones that are in accord with the interests of the broader community.

We believe the growing reliance on private donors to finance campaign spending requirements has created the potential for real or perceived influence on decision making in government which is eroding public confidence in the integrity of the political process at all levels.

We hope this inquiry can occur in a non-partisan environment, one that reflects the fact (a positive in BRU view) that most Queensland councils do not operate on party lines and nor should they. Recommendations that come out of this inquiry and the resulting legislation should not be influenced by the self-interest of political parties or their representatives in State or local government.

We believe the Issues Paper released by the Economics and Governance Committee (EGC) articulates well some of the key points which we strongly endorse. These include:

- Equity in elections is a fundamental principle of Australia's democratic system of government.
- It is also recognised that all voters should have a fair opportunity to participate in elections, including a fair and equal chance of nomination and election as a candidate.

We share the view that there is growing concerns about the lack of restrictions on electoral campaign funding and spending. We are also concerned about the trend of increasing campaign expenditure by political parties and other election participants.

While it may be argued that donations or electoral spending are recognised as a form of political participation and can be seen as an expression of 'democratic will' we are very concerned that increasingly only the wealthy or those supported by special interest groups are the only ones that benefit from this so called "expression of democratic will".

We note that the Issues Paper points out that

"The CCC, in its Operation Belcarra Report, highlighted the findings of various previous inquiries into local government, that 'even relatively modest amounts of funding can allow candidates to swamp their opponents in terms of media exposure and other promotional activities' ".

"... the CCC concluded that prospective candidates can be deterred from running for council in the first instance, and even if they do contest, may be unable to properly compete with well-funded candidates. This can limit the diversity and quality of candidates who contest local government elections."

BRU finds the benefits of implementing caps on electoral expenditure which include reducing the costs of elections, waste minimisation, enabling candidates with fewer financial resources to stand for election on a more equal footing, reducing the demand for campaign funds and the consequent scope for undue influence by donors to be compelling reasons for expenditure caps.

However, we have serious concerns with the way in which this Bill regulates third parties. We believe the Bill will do little to govern enormous election spends by industry associations and corporations. As a result, the Bill risks causing greater political inequality between the State's wealthiest people and ordinary Queenslanders.

BRU supports public funding of local government elections in order to be consistent with funding arrangements for State and Federal elections. Increasingly and even with the proposed caps on expenditure, contesting a local government election is for the well-off and out of the reach of the majority of residents, particularly for those supporting school-age children and young families. The current system also disadvantages women who are not working or working limited hours owing to family or other responsibilities.

We reject the argument that expenditure caps limit the freedom of political communication. On the contrary, the growing costs associated with standing for election, which excludes many in the community “putting up their hand for election”, is a far greater cause of concern.

Our ideal scenario would be that political donations at all levels of government were replaced by a system where the only election materials allowed are those publicly funded for each candidate. The candidates would be provided with a certain number of flyers, a certain number of TV, social media and radio spots and an article in the local paper explaining their platform and policies. They could door knock and stand on street corners or participate in their local communities as much as they wish.

This system would actually prove less expensive for the taxpayer than the current system of electoral funding at all levels of government. Too many political decisions are only explicable by how they favour large donor interests. A case that is easily proved if you consider both the opportunity cost and the true cost of some of the appalling political decisions that have been made and no doubt will be made in the future, as a result of the undue influence of political donors. It is distorting our democracy and so the system must change.

In our opinion politicians have proved repeatedly that political donations have a profound and obviously distorting effect on their moral compass. This does not lead to good outcomes for the people of Australia who are actually paying them to act in the populations best interests. Big political donations are intended to have political influence and access to decision makers. They don't make business sense otherwise.

Further, the ever-increasing cost of election campaigns puts pressure on politicians to keep big donors happy. Nationally as well as in Queensland, the current political system ensures the needs of the very rich are given priority. Donations to politicians should not only be transparent, but limited, so that wealth cannot translate into political influence.

Caps on election campaign spending are also crucial, in order to relieve the pressure on politicians to appeal to big donors, and to ensure the rich cannot drown out the voices of everyone else by making big election spends. Effective reforms should help to restore people's trust in our democracy.

There are many examples of our politicians, from all parties, and at all levels of government, being rewarded with positions on company boards and favourable government and diplomatic posts on retirement or tactically timed resignation. We have seen this scenario

play out repeatedly where, for example, a politician will leave parliament to be hired by a major beneficiary of a decision in under a year. This is in direct contravention of the politically self-imposed code of conduct where politicians are not supposed to take up this type of position in under eighteen months

Removing the influence of big money in politics is an important goal in Queensland and across Australia. However, this Bill is problematic insofar as it will not severely limit donations to campaigns by third parties. Indeed there is nothing to prevent several third party organisations supporting the same party, candidate or group of candidates for any council election.

The primary reason for limiting donations to third parties is to ensure that would-be donors to political parties do not attempt to circumvent the donation cap on political parties by setting up third parties that will campaign on their behalf. Companies and industry associations will be free to rely on revenue and membership fees to spend up to \$1.3 million each (in the case of mayoral elections in Brisbane) on election campaigns, even campaigning directly for politicians and parties.

BRU wish to voice our very strong support for the original proposal to cap donations. This is a crucial and valuable improvement to help increase the chances that elections will be won by the best candidates rather than by the candidates who spend the most money. We would not like to see a repeat of the recent Clive Palmer debacle played out at the Local Government level.

This important and essential reform will make a great deal of difference in providing a more level playing field for candidates in 2024 and encourage a greater diversity of candidates. The cost of elections to candidates is a substantial disincentive to potential candidates.

A sitting candidate has opportunities to leverage support from backers that is unavailable to less wealthy and influential candidates. The purpose of the cap was to open the field to worthy candidates, not simply those who can amass the largest campaign funds and to prevent vested interests from unduly influencing the make-up of Councils.

CCC Recommendation 1 (p. 47)

That an appropriate Parliamentary Committee review the feasibility of introducing expenditure caps for Queensland local government elections. Without limiting the scope of the review, the review should consider:

- A. expenditure caps for candidates, groups of candidates, third parties, political parties and associated entities
- B. the merit of having different expenditure caps for incumbent versus new candidates
- C. practices in other jurisdictions.

Local government is the tier of government closest to the community and most impactful on the amenity of citizens. We should be encouraging “grass-roots” campaigning in council elections characterised by attendance at community meetings, door-knocking, letterboxing and building a team of volunteers etc; none of this requires significant financial resources and should not be overwhelmed by extensive media campaigns and direct mail which are costly to fund. However, we recognise that extensive grass-roots campaigns for candidates with existing full-time employment may be difficult to manage from a time perspective.

We also reject the argument that because it may be difficult to set realistic caps due to the changing costs of electioneering techniques, inflation, and potential exploitation of administrative loopholes and that caps can be hard to enforce that expenditure caps should not be introduced. BRU has consistently argued against the opinion that reform cannot occur because it would be “too difficult to enforce”. If this view prevailed we would never achieve reform and we would need to question why we have legislation and regulation in relation to anything!

We agree that the success of any system of expenditure caps for Queensland local government elections will depend on the design and features of the model implemented, and the extent to which they effectively balance freedom of political communication with the need to ensure a fair process that is free from perceptions of undue influence, and which ensures standing for office is not restricted to those with personal wealth or access to funding from interest groups.

This will effectively stop the constant hunt for donations to support election promotional work and for donors to find ways around the rules. This would lead to a fairer electoral process that would not be restricted to the financially well off. This is in place in NSW and the ACT currently. Recent QLD CCC investigations, including Operation Belcarra, have shown that corruption risk at a local government level is high.

In summary, reforms are vital to:

1. Improve democracy: Without limits on political donations and election spends, election debates can be dominated by those with the biggest bank balance who can afford large advertising spends, not those with the best ideas.
2. Restore equality: Limits on political donations and election spends will create a more level playing field and help to realise a foundational principle of the Australian Constitution: that Australians should have equality of opportunity to participate in the political process.
3. Focus politicians on serving the public interest: Limits on political donations will help to focus politicians on serving the interests of the communities they represent, not the interests of large corporate and private donors. Increased public election

funding and limits on election spending will reduce the need for politicians to seek donations to build ever larger war-chests and will consequently reduce the risk of those politicians being influenced to serve the needs of those donors instead of the public interest.

Issues for consideration

1. The Caps are too High

The caps are too high particularly those set for the Brisbane City Council (BCC). The BCC seems to have been given an excessive cap for both Mayoral and councillor candidates. When you look at most of the councils their cap is essentially around \$1 for each voter. BCC's is much higher at a proposed \$1.3 million for Mayoral candidates with 788,000 enrolled voters.

The highest band outside Brisbane applies to areas with more than 200,000 electors, allowing a cap of \$175,000 plus an additional 25 cents per elector over that 200,000 mark, so mayoral candidates at Sunshine Coast Regional Council, Moreton Bay Regional Council and Gold Coast City council will have indicative caps ranging from approximately \$182,000 to \$221,000.

In other councils up to a maximum cap of \$30,000 for areas or divisions with 40,000 electors or more such as Toowoomba Regional Council. For Brisbane City Council the cap is \$55,000 per division despite the fact that these divisions often have less than 40,000 electors.

This seems to be an excessive difference particularly in a council that is one of the most party political in the state and where members are paid a full time wage for their participation. BCC also provides an excessive amount of support materials to incumbents with their newsletters, local signage on schools etc and their local ward office and its resources.

The \$1.3 million for mayoral elections in Brisbane are unaffordable for most potential candidates and therefore increasingly this means only the wealthy or the very well-funded will be able to contest mayoral elections with any prospect of success.

An obviously intended consequence of this will be more party aligned candidates standing for mayoral positions to take advantage of financial support from their political party and this is something BRU is very opposed to as we believe local government should be free of party endorsed/funded candidates in the majority of councils in Queensland where this is not already the case.

Note: We acknowledge that incumbent councillors and mayors have a decided advantage in elections as do new candidates who already enjoy a high profile in the community (eg sportspeople) so we do believe expenditure caps for incumbents should be lower than for new candidates.

Candidates from a party enjoy party as well as individual support in many ways. Caps on independent candidates need to be higher.

We have documented the increase in the cap as it has developed through the legislative process. This is very disappointing from a community point of view in what has been an otherwise well received process.

In a March 2019 Discussion Paper on Local Government Reforms the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) proposed the following basis for determining the quantum of electoral expenditure caps in local government elections:

- Mayoral candidate in Local Government areas:
 - with fewer than 60,000 electors - \$30,000;
 - with more than 60,000 electors – a sliding cap of 50¢ per elector;
 - with 200,000 electors or more - \$100,000.
- Councillor candidates in local government areas/divisions:
 - with fewer than 20,000 electors - \$10,000;
 - with 20,000 electors or more – sliding cap of 50¢ per elector;
 - with 40,000 electors or more - \$20,000.
- Third parties: same cap that applies for Mayoral candidates.
- Groups of candidates and political parties that endorse candidates: sum of individual members expenditure caps up to the maximum for positions to be filled in lieu of candidate caps.
- Caps are per four-year term.
- Aggregation and collaboration limits on candidates and groups of candidates using third parties to exceed expenditure caps.

At the time BRU was in general agreement with what was being proposed by the Department and felt that their cap formula was worthy of discussion for council and mayoral candidates – ie a lower threshold of \$10,000 for councillor candidates and \$30,000 for mayoral candidates irrespective of the number of electors under 20,000 and then a sliding scale of \$0.50 per elector up to \$20,000 for councillors and \$100,000 for mayors.

In the Local government electoral expenditure caps Discussion paper. Page 13

The proposed levels were substantially increased particularly for larger councils

PROPOSAL

> Mayoral candidate electoral expenditure caps:

- \$30,000 for areas with fewer than 30,000 electors
- a sliding amount of 1 dollar per elector for areas with 30,000 to 150,000 electors
- a sliding amount of \$150,000 plus an additional 50 cents per elector for each additional elector over 150,000 for areas with up to 200,000 electors

- a sliding amount of \$175,000 plus an additional 25 cents per elector for each additional elector over 200,000 for areas with more than 200,000 electors up to a maximum of \$250,000.

> Councillor candidate electoral expenditure caps:

- \$15,000 for areas/divisions with fewer than 20,000 electors
- a sliding cap of 75 cents per elector for areas/divisions with 20,000 to 40,000 electors
- \$30,000 for areas/divisions with more than 40,000 electors.

In the Proposed Local Government Electoral Expenditure Caps - Local Government Electoral and Other Legislation (Expenditure Caps) Amendment Bill 2022 they have been substantially increased again and now the Brisbane City Council is being treated as a very special case.

Mayoral candidate expenditure caps:

Band 1 (not more than 30,000 electors) = \$30,000.

Band 2 (more than 30,000 to not more than 150,000 electors) = \$1 per elector.

Band 3 (more than 150,000 to not more than 200,000 electors) = \$150,000 plus an additional 50c per elector for each additional elector over 150,000 electors.

Band 4 (more than 200,000 electors) = \$175,000 plus an additional 25c per elector for each additional elector over 200,000 electors.

for Brisbane City Council, \$1,300,000.

Councillor candidate expenditure caps.

Band 1 (not more than 20,000 electors in an LGA or division) = \$15,000.

Band 2 (more than 20,000 to less than 40,000 electors in an LGA or division) = 75c per elector.

Band 3 (40,000 or more electors in an LGA or division) = \$30,000 for Brisbane City Council, \$55,000 per ward.

2: Rethink how to regulate industry associations and corporations

The current Bill does little to regulate the biggest players in Queensland's elections. More research would inform a more nuanced policy solution, perhaps looking into ways in which corporate income to be used on electoral expenditure could be restricted or, at the very least, disclosed transparently. In addition, differential spending caps could be designed to take account of the inequality that arises because those with vast personal wealth may spend the same amount as those who pool small contributions.

We have serious concerns about the role of third-parties and the caps that apply. Do these provisions mean that in a large council with over 200,000 electors, you could have a situation where one or more third parties could undertake media campaigns costing up to \$100,000 each to further their cause or to run a negative campaign against a particular candidate or group of candidates?

BRU supports increasing the threshold of electoral expenditure for registering as a third-party campaigner to \$6000 so as not to prohibit small community groups from participating in public interest advocacy activities around elections.

3. Definition of Electoral Spending

Coverage of staff, membership fees, industry peak bodies and corporations. BRU is concerned that the definitions of electoral expenditure, political donation and third party disclosures in the bill are too narrow. As it currently stands, the bill will not cover expenditure on campaign staff or consultants, income from large party membership fees or fundraising events. Income received by industry peak bodies, wealthy individuals or corporations through membership/affiliation fees, private wealth, and private business activity is not currently covered by the bill. This means that large third parties potentially attempting to influence elections such as the Resources Council, Property Council, Crown Casino or wealthy individuals such as Clive Palmer will not be restricted in how they raise money for electoral expenditure, and the source of this electoral expenditure will not be disclosed to the public. There must be appropriate powers and financial support for the ECQ to manage complaints relating to expenditure cap breaches.

We believe it would be necessary to provide some or all of online training, information papers, factsheets and Q & As on the websites of both the DSDILGP and the ECQ; both organisations have shown they are capable of doing these things well.

It would also be useful to establish a dedicated “hot line” where candidates or third parties can seek advice on matters relating to expenditure caps.

The requirements around expenditure caps should also form part of the content of future mandatory candidate training that is now required before council elections and by-elections.

We note there is still no legislation to address the revolving door between industry and government, which can lead to inside relationships being used to the benefit of the private sector without due regard being given to the public interest. While Queensland has comparatively strong restrictions around when a senior public servant/Minister can work as a lobbyist, our framework could be further strengthened by:

- improving the definition of ‘lobbyist’, for example to include acting for even non-profit entities that represent private industry, such as the Queensland Resource Council; and
- better enforcing existing limitations on lobbyists moving between government and the private sector. So my organisation may spend money in an election year to influence votes. Under this Bill, what would we then have to do?

We welcome the Government’s response to Operation Belcarra Report and its timely response to the most important issues raised by that report. We look forward to further legislation to deal with the remaining outstanding recommendations. All legislation is only as

good as its compliance procedures and the funding provided to ensure that these procedures are followed. We are heartened by the progress towards good governance that this legislation indicates.

Should you require any further information I can be contacted on [REDACTED].

We would appreciate the opportunity to appear before the Committee at any Public Hearings to be held on this Inquiry. To expedite the Committee's procedures we are happy to be included in a combined community presentation to the Committee that we are aware the SEQ Alliance (SEQA) is requesting on behalf of the broader community as represented by organisations such as BRU.

Yours sincerely

Elizabeth Handley

President

The Brisbane Residents United Inc steering group