

REGIONAL COUNCIL

Lockyer Valley Regional Council

**Submission to the Parliamentary Committee - Transport, Housing and
Local Government Committee**

Local Government Legislation Amendment Bill 2014

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Summary

The Lockyer Valley Regional Council provided an initial submission before the Bill was drafted and has discussed the matter in a workshop forum with the intention to resolve at the Ordinary Meeting scheduled for 25th June 2014 on key issues to be considered in the draft Bill as presented.

The key concerns for Council are around the following changes:

- ***change voting for mayors in undivided local governments from first-past-the-post (FPTP) to optional-preferential (OPV) and simplify voting for candidates in FPTP elections***

The change to OPV from FPTP for the Mayor will only create a level of confusion by having a different method for each of the ballot papers at the election, and of the 54 undivided local governments out of the 77 Councils in Queensland, this will be a significant change.

The following extracts are from the LGAQ submission in January 2014 and present the views consistent with Council's majority position:

System of Voting – Mayors

LGAQ's 2010 submission contains a comprehensive analysis of the pros and cons of various options for voting systems for local government elections. The submission concludes that the current voting systems (optional preferential for divided and first-past-the-post for undivided councils) are the most appropriate because the other systems identified (compulsory preferential and proportional representation):

- a) do not demonstrate more democratic outcomes will be delivered;*
- b) are more complex voting systems, particularly proportional representation, that are less likely to be understood by electors;*
- c) are more appropriate to and encourage party political elections, particularly proportional representation; and*
- d) are less complementary to the local government principles contained in Section 4 of the Local Government Act 2009.*

The submission concluded that the voting systems in use provided successful election outcomes for their communities.

90.32 per cent of mayors surveyed in February 2013 agreed that there should be no change to the status quo.

The discussion paper itself acknowledges in proposal number 13 that the "First Past the Post (FPTP) voting system is used in all undivided councils because it is a more efficient method when multiple councillors are elected at one time".

Furthermore, the proposal to change the system of voting for mayors in undivided councils from FPTP to optional preferential will lead to confusion in these communities and potentially higher levels of informal voting, as the election of councillors would continue to be in accordance with FPTP.

For all of these reasons and in the absence of a compelling case for a change, LGAQ opposes the proposal to change the system of voting for mayors in undivided councils from FPTP to optional preferential.

Numbering candidates in FPTP elections

LGAQ and most council respondents are opposed to the proposal to allow voters in FPTP elections to cast as few as one vote, as it may undermine the democratic process. In undivided councils, where the FPTP system applies, it is essential that voters cast as many votes as there are councillor positions available. In practice the proposal would mimic optional preferential voting and could be expected to lead to skewed outcomes.

While there has been debate within Council on the proposal to change the method of voting for the Mayor – the majority position is opposed to the amendment to *Optional Preferential Voting* and support the retention of the current *First Past the Post* method. To make the method of voting consistent for all Mayors undermines the individuality of local governments and presents the one size fits all argument that has been so fiercely opposed throughout the 2008 local government reforms. It further introduces an inconsistency for undivided Councils of different methods of voting for Mayor and Councillor which if it is submitted will only mean more confusion for voters.

While the general alignment of the electoral provisions has been supported, this proposal has given limited consideration to practical issues associated with its implementation, and contradicts the position of simplification. Given that the current system of local government elects the position of Mayor outright, it is not consistent to present a model where the Mayor who is considered the first citizen of every community, could be elected to office without the majority of first preference votes. To date there has been limited political party involvement in local elections and this proposal essentially endorses a political model for local government, which is not warranted, especially within smaller and mostly rural and regional communities.

Under the current FPTP method, there is an efficient method for achieving a result which is often important to local communities, in understanding who the leader of their local community will be and the more complex OPV will not be as efficient an electoral process. The Local Government Act 2009, section 4(2) outlines the principles of Local Government and the proposal does not seem complimentary to these for every community in the State. There will need to be a distinction made between the Mayor and the State Government Elected Representative as these are very different roles that are supposed to complement and not compete within local communities. As larger government has been achieved from the 2008 reforms, the Mayor is often elected by a greater number of electors than a State Government member, which again counteracts the argument of OPV for all, and in a sense provides greater responsibility to the Mayor.

The proposal to simplify the voting for undivided councils electing a Councillor, simply erodes the one vote one value principle and essentially is providing the community with an inferior system that does not account for the seriousness of the election process and would lead to significantly skewed outcomes and in some cases undermine the election process. It may lead to outcomes where the majority of the community fail to clearly elect a majority of candidates and the outcome results in a minority approved group of councillors which are not representative of the community's view. If everyone only chose less than the expected number of candidates then the whole election would be skewed to an unworkable result.

Given the level of informal votes has been cited as a basis for change, there is a suggestion that it is the effectiveness of the how to vote material that requires further scrutiny not the method of voting, and the other matters that can make a vote informal. It is education of the voters that requires effective targeting, not the dumbing down of the voting system.

Background

The policy review is clearly aimed at aligning the electoral provisions with those of the State Government. A number of key amendments proposed are significant and will have a direct and real impact on the conduct of the next election.

Context

There is general support for the amendments introduced to provide closer alignment between the Local Government Electoral Act 2011, and the Electoral Act 1992, so that the governance arrangements in general are applicable to local government elections are consistent with state government. This would be consistent with the Partners in Government Agreement (PIGA) signed in July 2012.

Council provides the following comments on the key amendments and appreciates the opportunity to provide feedback for further consideration:

- *empower the chief executive officer (CEO) of a local government to be the returning officer (RO)*

While the ECQ has had responsibility for the conduct of elections since 2008, this amendment is supported in that it allows the opportunity for the CEO RO to make decisions at the local level that are appropriate to local circumstances, and should result in cost savings to Councils through better informed decisions. It is supported that the CEO binds the decision for the election and that the role is to provide an election plan for consistency, so long as this is not held up by the ECQ in any bureaucratic processes. The timing appears satisfactory for the CEO RO to establish and run an effective election process for the local community

- *empower the Electoral Commission of Queensland (ECQ) to direct a CEO RO and approve the CEO RO's election plan*

The oversight of the CEO RO remains independent through the ECQ and should not be impacted by any political process or directions that are inconsistent with accepted policy and practice for local government elections. With the intention of the ECQ to provide an information pack and templates, then consistent advice to local governments from the ECQ is absolutely critical to the success of any centralised oversight. As soon as any exception is provided that must be shared with all RO's so that inconsistent decisions are not made based on a centralised decision that may lead to further inaccuracies in the process or results of polls. Training must be provided for both the RO's and also Candidates and scrutineers to ensure all are aware of expected outcomes and standard processes.

- *change voting for mayors in undivided local governments from first-past-the-post (FPTP) to optional-preferential (OPV) and simplify voting for candidates in FPTP elections*

While there has been debate within Council on the proposal to change the method of voting for the Mayor – the majority position is opposed to the amendment to *Optional Preferential Voting* and support the retention of the current *First Past the Post* method. To make the method of voting consistent for all Mayors undermines the individuality of local governments and presents the one size fits all argument that has been so fiercely opposed throughout the 2008 local government reforms. It further introduces and inconsistency for undivided Councils of different methods of voting for Mayor and Councillor which it is submitted will only mean more confusion for voters.

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- *introduce a cut-off date for a local government to apply for a full postal ballot*

Given the significant shift towards full postal ballots in the last local government elections, the proposal for a cut-off date has merit in providing sufficient forward planning to effectively conduct the poll. Council's experience last time to proceed to full postal ballot was done with a significant economic interest in trying to reduce the costs for the election. It was submitted that without the additional costs and staffing for an attendance ballot and the known timeframes that it should have been a cheaper outcome, this was not necessarily the case – with the total cost being significantly more and more importantly excessive delays in producing a result. The cut-off date for postal ballot is supported, but more stringent criteria need to be applied so that it is only used to address real constraints such as geographic isolation and distance more suited to rural and remote council areas.

- *provide for the ECQ to declare the result of the election of the mayor separately to the declaration of the other councillors*

This proposal is supported in the interest of advising the community of outcomes, given that there are separate ballot papers and a separate but concurrent process, which is often finalised in advance of the declaration for councillors in well contested ballots.

- *more closely align the Local Government Electoral Act 2011 (LGEA) with the Electoral Act 1992 (EA), where relevant and appropriate, including:*
 - *aligning provisions relating to roll closures, ballot papers, special postal voters, recount of votes, failure to vote, candidate gift disclosure periods, candidate deposits, offences, and the ECQ's investigation powers; and*
 - *adopting a number of reforms in the Electoral Reform Amendment Act 2014 (ERA Act) in relation to increased access to postal voting, regulation of how-to-vote cards, electronic voting and proof of identity requirements*

There is general support to improve the alignment between local government and state government elections, but local governments still need to retain the flexibility and decision making in the CEO RO responsible and accountable for the outcomes. Alignment on the roll closure, special voters, offences where practical can be achieved, however there will local issues such as ballot papers where decisions at the local level can be more effective and timely.

- *clarify in the City of Brisbane Act 2010 (COBA) and the Local Government Act 2009 (LGA) that a councillor who is subject to a suspended sentence is disqualified from being a councillor immediately on the sentence being handed down*

This matter should be consistent with the State Government's position for elected members and remain consistent with the intent of the legislation proposed.