Speech By

# Hon. David Crisafulli

## MEMBER FOR MUNDINGBURRA

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## LOCAL GOVERNMENT AND OTHER LEGISLATION AMENDMENT BILL

### Second Reading

**Hon. DF CRISAFULLI** (Mundingburra—LNP) (Minister for Local Government, Community Recovery and Resilience) (4.03 pm): I move—

That the bill be now read a second time.

I am pleased to stand in the House to speak to the Local Government and Other Legislation Amendment Bill 2013 in the second reading debate. Last year the government delivered on its pre-election promise to empower local government and increase autonomy, authority and responsibility to plan and respond to local communities. The 2012 legislative reform program gave local decision makers the freedom and power to make decisions appropriate to local needs without unnecessary state intervention. Red tape which was strangling councils was significantly cut and unnecessary reporting requirements and prescription were removed. As a result, councils have been able to get on with delivering what is important for their communities.

The process of revitalising local government in Queensland continues with this bill and will be ongoing. As I said at the time of the bill's introduction in August—in a year of delivery for local governments—this bill is another milestone on the road to empowering local communities and the local governments that represent them, but it is certainly not the end of the road. I predicted further changes in 2013, and here we are.

I will now briefly run through the key objectives of the bill. The bill delivers on the government's commitment to empower local communities and ensures that appropriate transitional and financial arrangements are in place to support deamalgamation, another key promise of the government. The date for the election of mayors and councils for the new local governments of Douglas, Livingstone, Mareeba and Noosa has been set, with locals going to the polls on Saturday, 9 November. These newly established councils become operational on 1 January 2014 and it is imperative they are set to govern from the get-go, ensuring the delivery of effective and efficient services to their communities.

The bill gives the new councils the power to set a budget and levy rates outside of the prescribed budget cycle for the remainder of the 2013-14 financial year. It also makes certain that the transfer of assets between the new and continuing deamalgamated local governments will not incur duty under the Duties Act 2001 and provides essential transitional provisions for development applications affected by deamalgamation. The bill provides that only the minister may apply to the Local Government Change Commission to have a local government change application assessed. This amendment will end the uncertainty.

The bill allows one person to be both a councillor of a local government and a director of a local government owned corporation at the same time. However, there is a noteworthy restriction and that is that the person who is both a councillor and a director of the corporate entity cannot be the chairperson or deputy chairperson of the board of the corporate entity. In effect, it enables a level of

interaction, a level of oversight, but still keeps that independence. I hope it can allow one community in particular to get on with delivering what it needs to deliver for its constituency.

The bill elevates from the regulations to the City of Brisbane Act and the Local Government Act the integrity offence of a councillor who fails to ensure their register of interests is correct and repeals the head of power in these acts for a regulation to prescribe other integrity and bribery offences. This amendment comes about as a result of report No. 23 of the Transport, Housing and Local Government Committee, which recommended that offences which disqualify a person from being a councillor should be specified in the act and not made under a regulation due to the severe consequences imposed.

Further, the bill supports the government's commitment to reforming Queensland's planning and development assessment system. Amendments change the hierarchy of the state planning instruments to ensure that, to the extent of any inconsistency, a State Planning Policy will prevail over regional plans and local planning instruments. This will enable the state's interest in planning and development to be integrated appropriately into regional plans and local government planning schemes. The bill also provides for the continued operation of existing development control plans as a planning mechanism for affected local government areas. These development control plans provide for substantial additional development and essential infrastructure in some of South-East Queensland's fastest growing communities.

To conclude, the bill makes various amendments which are minor and technical in nature to further clarify policy intent and correct minor anomalies. In addition to the amendments in the bill, work has begun to amend the local government regulations including complementary amendments to the Local Government Regulation 2012 necessary to provide the new deamalgamating local governments with budget flexibility after changeover day for the remainder of the 2013-14 financial year. I am determined to ensure that these new councils are able to deliver for their communities from day one in the way that they will indicate during this election process.

I would like to thank the Transport, Housing and Local Government Committee members and particularly the chair, the member for Warrego, for their deliberations and report on the bill which was tabled in the House on 9 October. My thanks also go to those who took the time to communicate their concerns and suggestions on the bill through submissions to the committee. Ten submissions were received in total.

I am pleased to note that the committee was supportive of the bill and recommended that it be passed. The committee also made a number of other recommendations for amendments. I might take the time to respond briefly to those. The government does not support recommendation 2 to amend the bill so that a development application is considered under the old hierarchy of state planning instruments.

The government considers that providing discretion for the assessment manager to use either the old hierarchy or the new hierarchy will enable them to more effectively resolve any conflicts between the proposed development and the planning scheme and the new State Planning Policy and regional plans.

The government supports recommendation 3 in principle to include appeal provisions which enable the local government which did not decide an application to elect to be a party to an appeal; however, the recommendation as proposed by the committee would not be needed in light of the proposed government response to recommendation 4. By providing a concurrence agency role for the non-decision-making local government, they will automatically have the ability to be party to an appeal about the development application. I hope the House can see that we have struck a balance in that regard.

The government does not support recommendation 4, which requires that the continuing local government remain the decision maker for an application if the development assessment process has reached the information and referral stage at changeover day. The government considers it is more appropriate to draft legislation that will enable the local governments affected by deamalgamation to make a decision suitable for their communities without undue state intervention or unnecessary prescription, and that has been the theme of this government. However, in addition to this empowerment of discretion the government is proposing amendments to be moved during consideration in detail to provide an equitable role in the decision-making process for development applications where a proposed development is situated on land which straddles both the continuing and new local government. Regardless of which local government is the decision maker, the other local government will be the concurrence agency, but only for the part of the development application that is actually located in the area of their jurisdiction.

The government supports recommendation 5 to amend the bill to enable the chief executive officer of a council to respond immediately to a councillor conduct complaint prior to the council providing written notice of the complaint to the chief executive officer. In fact, the government will go further and amend the bill to remove all requirements where a written notice must be given to the entity prescribed to conduct a preliminary assessment of the complaint. This means that when making or receiving a complaint, the council, the department's chief executive, the chief executive officer of the council—and in the case of the Local Government Act 2009, the mayor—will not be required to give written notice of the complaint as part of the referral process. This approach is consistent with government policy to remove unnecessary prescription and to empower local governments. Allowing local governments to rely on their own internal processes and policies supports operational convenience and allows the assessment of complaints to occur in a timely manner.

I thank the committee for its valuable contribution to this bill, and I table the government's response.

*Tabled paper*: Transport, Housing and Local Government Committee: Report No. 33—Local Government and Other Legislation Amendment Bill 2013, government response [3954].

In closing, I will be moving a number of amendments during the consideration in detail stage of the bill that will give effect to the government's response to recommendations 3 and 5 of the committee's report. Two minor amendments will also be moved to correct the minor typographical error in section 90A of the Local Government Act 2009 and to fix an incorrect section reference in schedule 1 of the bill with respect to the Local Government Regulation 2012 amendments. I commend the bill to the House.