




Speech By
Michael Healy

MEMBER FOR CAIRNS

Record of Proceedings, 20 March 2018

LOCAL GOVERNMENT LEGISLATION (VALIDATION OF RATES AND CHARGES) AMENDMENT BILL

 **Mr HEALY** (Cairns—ALP) (5.45 pm): Firstly, I am absolutely honoured to participate in this enthusiastic and very important debate. I acknowledge the fine points made by my learned colleague on the other side of the chamber. I stand in support of the Local Government Legislation (Validation of Rates and Charges) Amendment Bill 2018. I will run through a few points, and I think they are important. Having sat here for a number of hours and listened to a number of previous speakers I do feel there may be some repetitive points, but I do not feel I am labouring the point.

On 6 November 2017, the Supreme Court of Queensland delivered its judgement in the matter of *Linville Holdings Pty Ltd v Fraser Coast Regional Council*. The court declared that for each of the financial years ending 30 June 2015 to 30 June 2017 the Fraser Coast Regional Council failed to validly make and levy rates and charges within its local government area because it did not decide by resolution at its budget meeting for that year what rates and charges were to be levied, as required by section 94 of the Local Government Act.

I have sat on a number of boards for statutory government organisations and also not-for-profit organisations. Particularly when it comes to budgets, resolutions are fundamental. Like the majority of people in this chamber, I share the concerns about the gross inefficiency in this area but I also recognise the importance of this legislation which seeks to tidy up those areas. I do not go looking for blame, but I think it is important that we acknowledge the gross inefficiencies here. The purpose of this amendment is to ensure we outlaw them and make sure they do not occur again.

It is also important to note that the court's declaration applies to the Fraser Coast Regional Council. Other local governments that may have constructed their resolutions with similar deficiencies to those outlined in the court's decision may be affected if similar declarations are made in relation to those local governments' rates and charges.

The bill also declares that anything done, or to be done, in relation to a rate or charge is as valid as it would have been, or would be, if the local government had decided to levy the rate or charge by resolution at the local government's budget meeting for the financial year under the City of Brisbane Act 2010. The proposed amendments will operate retrospectively. Section 4(2)(a) of the Legislative Standards Act 1992 requires legislation to have sufficient regard to the rights and liberties of individuals. Section 4(3)(g) of the same act provides that whether the legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect the rights and liberties or impose obligations retrospectively.

Without the amendments, the Fraser Coast Regional Council and other local governments which may have constructed their resolutions in a way that has similar deficiencies to those outlined in the court's decision may be at risk of legal action for the recovery of rates and charges paid by ratepayers, impacting adversely on the financial liquidity of these local government organisations.

Accordingly, in these circumstances the amendments have sufficient regard to the fundamental legislative principles stated in section 4(2)(a) of the Legislative Standards Act because of the need to provide financial surety to local governments, which I am sure everybody would clearly understand.

The Local Government Association of Queensland and Brisbane City Council have been consulted and support the policy objectives of the bill. Consultation on drafting issues is continuing prior to the proposed introduction of the bill. I would like to state from the outset that, as has been stated by the member for Pine Rivers, 25 councils have levied rates and charges that have not been in accordance with the guidelines. We in this chamber have the responsibility to ensure that those guidelines and processes are followed and that they are appropriate.

In conclusion, I would like to acknowledge the work of members on both sides of the chamber who contributed to the committee. It was no doubt a very arduous task. From my learned colleague, the member for Logan who chaired that group, the contribution was terrific. I would also like to acknowledge that this is sensible legislation. This is what the people of Queensland expect us to do in this chamber, so I commend the bill to the House.