Speech By
Hon. Stirling Hinchliffe

MEMBER FOR SANDGATE

Record of Proceedings, 16 May 2018

LOCAL GOVERNMENT (COUNCILLOR COMPLAINTS) AND OTHER LEGISLATION AMENDMENT BILL; LOCAL GOVERNMENT ELECTORAL (IMPLEMENTING STAGE 1 OF BELCARRA) AND OTHER LEGISLATION AMENDMENT BILL

Hon. SJ HINCHLIFFE (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (3.31 pm), in reply: I thank all members who have contributed to this cognate debate. Lifting transparency and accountability in both levels of government is at the heart of these bills and at the heart of everything that the Palaszczuk government strives for. These bills are a critical element of our strong and enduring commitment to the revitalisation of local government in Queensland. We are utterly determined to restore public confidence in our elected officials. I thank those members on both sides of the House who have expressed a commitment to that same aim.

I acknowledge the excellent work of the independent review panel. Its recommendations have underpinned the development of the new councillor complaints legislation. The review panel invited public submissions, conducted its own research and sought input from all Queensland local governments, the LGMA, the LGAQ, the CCC, the Auditor-General, the Queensland Ombudsman and the Integrity Commissioner. I also thank the CCC, the Queensland Ombudsman and the Economics and Governance Committee, submitters and witnesses.

I turn now to some of the issues that were raised during the debate. At the outset, I want to correct the repeated assertions made by those opposite in this debate, including the Leader of the Opposition, that this legislation is somehow being rammed through. That is an absolutely preposterous claim, particularly in relation to the key issues that those members claimed were being rammed through—that is, the ban on property developer donations. Those assertions do not stand up to even the slightest bit of scrutiny. We have introduced these bills twice. They have undergone scrutiny by two parliamentary committees and have been subjected to two sets of public and private hearings. The bills have even been considered by everyone of voting age in Queensland via a state election, no less. Some would argue that that is the ultimate scrutiny. Once again, these bills are being subjected to extensive scrutiny in this place.

I also want to respond to the notion argued by some of those opposite that the government is driven by political motivation in bringing these bills before the House. We have acted on the advice of the CCC—a standing royal commission. The members opposite cannot have it both ways. Either they support the CCC and its recommendations, as we do, or they do not. If the Leader of the Opposition believes that this full process represents the government ramming through legislation, then I have to say that, if the Leader of the Opposition were ever to form a government, her government would get nothing done.

The member for Warrego and a number of other speakers, including the members for Broadwater, Bundaberg and Noosa, raised concerns about how councils will handle the situation of councillors voting on other councillors' conflicts of interests improperly, including by voting in blocs. As

councillors must perform their responsibilities in accordance with local government principles and a proposed mandatory councillor code of conduct, to do otherwise may constitute misconduct, or even corrupt conduct in certain circumstances. Councillors seeking to use those provisions corruptly themselves will find themselves referred to the CCC. The bill requires the decision and the reasons for the decision of other councillors about a councillor's conflict of interest to be recorded in the minutes of the meeting and on the council website. This will aid transparency in local government decision-making.

How and when the new code of conduct of councillors will be prepared was also raised by the member for Warrego. The mandatory code will be developed by my department in consultation with the Local Government Liaison Group. It will take effect when it is approved by a regulation. It is my intention that this work and all the other preparatory steps will be done well ahead of a December 2018 start date.

This brings me to the contribution of the member for Maryborough, who spoke of his concerns about the very poor participation in candidate training provided by my department. I want to advise the House that I share his concerns and I am giving full consideration to further reform in relation to compulsory candidate training for all of those contemplating the role of councillor. It is a further measure that is aimed at boosting accountability and transparency by ensuring that councils are well equipped to carry out their responsibilities in a responsible, ethical and legal way.

Currently, councils must pay the cost of regional conduct review panels and the Local Government Remuneration and Discipline Tribunal. Under the new regime, councils will be liable for some costs imposed by the Councillor Conduct Tribunal. This will be a matter for the Independent Assessor. The state government will cover the costs associated with the establishment of the Office of the Independent Assessor. It is extremely difficult for approximate costs to be provided to councils ahead of the investigation, or the hearing of a complaint.

I say to the member for Warrego that she is correct in saying that the bill inserts provisions similar to those omitted in 2011. Although the CCC did not support requiring councillors to leave the room and abstain from voting for all conflicts of interest, it considered that there is value in other aspects of the original provisions. The CCC stated—

Requiring other councillors to decide whether a councillor has a conflict of interest and whether they should stay in the room to vote on a matter ensures that alternative and more independent perspectives are taken into consideration.

It stated further—

... the other councillors can give voice to other perspectives, and may be better able to reflect on the perception of a conflict than the councillor in question.

The following was the view of the CCC—

... relying on the local government principles alone does not reflect the seriousness of undeclared conflicts of interest.

It stated further—

Re-introducing a specific obligation on councillors to report another councillor's conflict of interest would increase councillors' accountability and reinforce the importance of dealing with conflicts of interest in transparent and accountable ways.

In relation to the LGAQ recommendation regarding the treatment of gifts in excess of $500 and the declaration of conflicts of interest and material personal interests, the government will consider those matters when it implements the remaining Belcarra recommendations. Some other members questioned why the ban on developer donations to candidates does not apply to unions or why it stops at property developers. According to the CCC—

... until such time as unions and other types of donors demonstrate the same risk of actual or perceived corruption in Queensland local government as property developers, a more encompassing ban is not appropriate.

I turn now to the adoption of the New South Wales model and the New South Wales definition. These provisions have been operational in New South Wales for a number of years. They have been tested in the High Court and found to be constitutional. People have asked, 'Why should they apply at a state level?' The CCC has said that the government may consider it appropriate to adopt a developer donor ban at the state level. In Queensland, the state has a significant role in the state's planning framework. It is absolutely the right thing to do to apply these recommendations at the state level. We on this side of the House have never shied away from doing the right thing. The people of Queensland elected us to make decisions. Indeed, they elected us in November to make this decision. This was a commitment that we took to the people of Queensland and we are following through on our commitment.

Some members have asked, 'Who is a property developer?' For the purposes of the bill, a prohibited donor means a property developer or an industry representative organisation of which the majority of its members are property developers. The term 'industry representative organisation' is not defined in the legislation and is to be given its ordinary meaning. As the bill does not include a definition of 'regularly' it, too, is to be given its ordinary meaning. It is appropriate that the nature of guidance material provided regarding provisions is a matter for the Electoral Commission of Queensland.

One of the more nonsensical contributions that was made during the debate was made by the member for Broadwater—a former minister for local government no less. He says he fears that the Palaszczuk government's move to provide the minister with the power to dissolve or suspend a council in the public interest runs the risk of local government becoming nothing more than a creature of the state. I have news for the member for Broadwater: local government is already a creature of the state. It does not exist without our legislation, without our edict. That is why we need to act to protect the system of local government throughout our state. We have a responsibility to improve the system, to enhance the system and to support it to best serve the people of Queensland.

As for questions on time frames on the handling of complaints, the simple answer is that every complaint is different and setting time frames is problematic given some investigations are far more complex than others. However, minor matters such as unsuitable meeting conduct and inappropriate conduct can be handled locally and swiftly by councils themselves, leaving the Independent Assessor and the Councillor Conduct Tribunal with greater capacity to handle misconduct swiftly.

As to the term 'public interest', there have been a number of members make remarks around this. Recent events have put beyond doubt the need for the state government to be able to act in the public interest. Further, the term 'public interest' is a term with which the courts are very familiar. It is used widely across the statute books—177 acts in all, including the Local Government Act, the Judicial Review Act, the Information Privacy Act, the Crime and Corruption Act and the Criminal Code. I do not deny that this is a broad term and I accept that there are some concerns about its use. That is why I have committed to a review of this provision within the next two years.

I now turn to the claims of those opposite that any move to ban developer donations, notwithstanding what was a clear recommendation of the CCC, is an attack on one side, that it is somehow politically motivated. This is just not true. I may not be alone in that belief. In his contribution the member for Mermaid Beach told us that developers donate to both sides. Surprise, surprise! 'The fact is they donated to the Labor Party as well', he claims. 'I can name them if you want', he stated. I can name them too because I have been the beneficiary of political donations from the property industry.

This is not an attack on one side. This is setting the standard that we need. Those opposite cannot have it both ways. Which way will it be? Is it an attack on one side or is it as the member for Mermaid Beach claims? Time and time again yesterday and again today some in this House have questioned the application of the developer donation ban on the state government. It has been a constant LNP refrain. Not only do we say that what is good for the goose is good for the gander, but it is naive in the extreme for those opposite to perpetuate this belief that the state government does not have a significant role to play when it comes to planning. As the Attorney-General said yesterday, it is a very convenient argument from people who time and time again call into question the government's approach on a range of planning matters.

There was one particularly curious contribution from the member for Toowoomba North in this debate when he said—I might add in an incredulous tone—

> … imagine if there was a piece of retrospective legislation brought in here that said any union donations that are received will attract a penalty of $190,000 and 10 years imprisonment and we made it retrospective to just before the election. Imagine what people would say.

We do not have to imagine; someone has. The member for Toowoomba South has proposed that very thing in an amendment circulated in his name.

I conclude by acknowledging that many members in this place have a background in local government. Many have worked hard in the service of their community in those roles. Indeed, as we know, the vast majority of councillors are honest, hardworking and dedicated individuals. These measures are not about catching out honest councillors or those who make genuine mistakes, they are about those councillors who do not live up to community expectations and who intentionally flout the laws of Queensland. The passage of these bills will clearly show the commitment of this parliament to a system of local government for Queensland that is robust, that is independent, that is transparent and that is accountable. I thank all the members for their contributions and I commend the bills to the House.