Speech By
Hon. Stirling Hinchliffe

MEMBER FOR SANDGATE

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LOCAL GOVERNMENT ELECTORAL (IMPLEMENTING STAGE 2 OF BELCARRA) AND OTHER LEGISLATION AMENDMENT BILL

ELECTORAL AND OTHER LEGISLATION AMENDMENT BILL

Second Reading (Cognate Debate)

Hon. SJ HINCHLIFFE (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (2.58 pm): I move—

That the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill be now read a second time.

Community confidence in local government is of paramount importance. As members are aware, the Crime and Corruption Commission formed the view that the systemic issues in the local government sector identified through Operation Belcarra justified the implementation of a more stringent regulatory framework. Since the Operation Belcarra report was released by the CCC in October 2017, 113 criminal charges have been laid by the CCC against 21 councillors or council employees. Two of the four councils investigated as part of Operation Belcarra have had to be dissolved and placed into administration. This is an unprecedented situation for the local government sector in Queensland's history.

The Palaszczuk government's rolling reform agenda is aimed at rebuilding the community's faith and trust in local government. I should note that throughout Queensland we have wonderful councillors doing excellent work for their communities. I want to publicly acknowledge the good work that the vast majority of our councillors are doing every day delivering quality local services and governance to communities right across Queensland, many of whom I hope will recontest the upcoming local government elections in March 2020.

The government's wideranging raft of local government reforms is guided by four key principles of integrity, transparency, diversity and consistency, and we have a strong record when it comes to delivering reform: in 2017 we introduced real-time donation disclosure for state and local government elections; in 2018 we introduced councillor complaints legislation to establish the Office of the Independent Assessor; in 2018 we also passed Belcarra stage 1 to implement five of the 31 recommendations.

I am pleased to remind members that the ban on developer donations has now been upheld in the highest court in Australia in the recent Spence decision. The Attorney-General and I have been working with stakeholders to address the balance of the Belcarra recommendations and to implement recommendations from the independent review into the 2016 local government elections, known as the

Soorley report. I express my thanks to the Economics and Governance Committee for its thorough examination of the bill. I also thank stakeholders for their contributions. The committee made one recommendation, that the bill be passed, and I am pleased to table the government's response.

Tabled paper: Economics and Governance Committee: Report No. 26, 56th Parliament, June 2019—Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019, government response 1834.

I will address the detail of the response and some of the committee's comments in the report as I outline the key elements of the bill.

I turn first to the proposed amendments to the council electoral system under the Local Government Electoral Act 2011. In relation to electoral funding, financial disclosure and related transparency issues, the bill proposes a range of extensive reforms. The CCC considered that a requirement to disclose expenditure would provide a complete picture of election finance, helping to reveal any inequity between candidates and ensuring that candidates' campaign expenses are able to be reconciled with their campaign income. It concluded that expenditure disclosure makes uneven financial competition between candidates transparent to voters. The bill, therefore, introduces a new scheme for real-time disclosure of electoral expenditure by candidates, groups of candidates, registered political parties and associated entities in line with Belcarra recommendation 2. I am pleased to note the committee's comment that there was broad support among stakeholders for the implementation of the real-time electoral disclosure requirements.

The CCC considered that, if voters feel misled by some candidates' claims of independence, their perceptions of the integrity and transparency of council elections may be adversely affected. To address this, the bill implements the government's policy on Belcarra recommendations 3 and 4 and amends the process of nominating as a candidate. It provides for candidates to disclose, as a condition of nomination, particular interests in relation to the local government and the membership of political parties, trade or professional organisations. The ECQ will publish the nomination form.

Similarly, the CCC also examined the ambiguity in the nature of relationships between candidates. To address this, the bill makes key amendments relating to groups of candidates to implement the government's policy in relation to Belcarra recommendation 5. First, it provides that a person must not engage in a group campaign activity for an election unless the activity relates to candidates who are members of a group of candidates or candidates who are endorsed by the same political party for the election. Second, it requires a record of membership of a group of candidates to be given to the Electoral Commission during the period starting 30 days after the polling day for a quadrennial election or the day after the polling day for another type of election and ending at noon on the last day for the receipt of nominations for candidates. I am pleased to note the committee's comment that stakeholders generally supported the bill's prohibition on group-campaigning techniques.

The CCC highlighted that a key aspect of transparency is the financial relationships between donors and candidates. To implement the government's response to recommendations 6, 18 and 19, additional details will now be required on returns for gifts, loans and third-party expenditure. Importantly, the relevant details to be disclosed will include details about the original source of a gift or loan. Further, if a person making a gift or loan has an interest in a matter that is greater than that of others in the area, the nature of the interest must be disclosed. For gifts or loans made by an individual, the name and address of the individual, their occupation and industry must be disclosed. For gifts or loans made by a corporation, the name and address of the directors or members of the executive committee of the corporation or holding company and the type of business must be disclosed. Finally, third-party expenditure returns must include the name and business address of the supplier and the name of the candidate, group or party if the expenditure is used to benefit, support or oppose them, and a description of the relevant issue if the expenditure is used to support or oppose the issue.

The bill deems election participants and councillors to have knowledge of the original source of a gift or loan in a proceeding for an offence against the legislation to implement the government's response to Belcarra recommendations 7 and 21. I acknowledge the significant concerns of some stakeholders about this reversal of the onus of proof. Earlier I tabled the government's response to the committee report. The response outlines our intention to remove these provisions from the bill. Consistency between the local government and state electoral systems and governance frameworks is one of the key policy objectives of the bill. Reversing the onus of proof imposes a higher obligation on councillors and participants in local government elections than applies to members of the state parliament and participants in state elections.

I note the CCC chairperson Alan MacSporran's comments that this provision was a recommendation of Belcarra as an extraordinary measure because of the high corruption risk in the local government sector and the need to lift the standards—a drastic measure for drastic circumstances. However, I particularly emphasise that the new requirements in the bill for donor entities to disclose the

true source of contributions will ensure that election participants and councillors are, in fact, informed of the origins of the gifts or loans they receive. This very significant transparency reform remains unaffected by the removal of the deeming provisions.

The CCC highlighted in its report that many people seemed to be unaware of or unclear about their disclosure obligations. To implement the government's response to Belcarra recommendation 8, gift recipients will be required to notify the donor of the donor's disclosure obligations. Further, candidates, agents for groups of candidates and third parties must take reasonable steps to prospectively notify the public of the candidate's, group's or third party's disclosure obligations. This amendment implements the government's response to Belcarra recommendation 10.

I now turn to the very important issue of campaign accounts. The CCC identified that issues of noncompliance with the requirement for candidate and group dedicated accounts particularly arose in the form of payment out of another account, often involving the use of a credit card. To implement the government's response to recommendation 14, the bill introduces restrictions on the use of campaign accounts for candidates and groups of candidates, including by prohibiting the use of credit cards to make payments from campaign accounts. To ensure that candidates turn their mind to the campaign account requirements early on in their campaigns, the bill requires candidates and groups to provide information about the relevant account in the candidate nomination form or the group record of membership. This is consistent with Belcarra recommendation 15.

As the committee noted, the CCC highlighted a lack of awareness among candidates of their obligations, including electoral funding and financial disclosure obligations. The bill implements the government's response to Belcarra recommendation 12 by providing that completion of a mandatory training course in the six months before nomination day will be a condition of nomination. I am pleased to note the committee's comment that the introduction of mandatory training for candidates and sitting councillors was widely supported by stakeholders.

The department has developed an online course and regional workshops for candidates who cannot access or use the online course. These will be rolled out in the coming months. All candidates, including sitting councillors and mayors, wishing to nominate for the 2020 local government elections must complete this training before they can nominate with the ECQ.

To implement the government's response to recommendations 29 and 30, the bill makes a series of amendments to penalties and limitation periods for existing offences, including prescribing certain offences as integrity offences. A person is automatically suspended as a councillor if the person is charged with an integrity offence. A person convicted of an integrity offence automatically stops being a councillor and is disqualified for four years.

To strengthen the election disclosure requirements, the bill amends the definition of 'candidate' for certain parts of the act. This means that sitting councillors and other persons who have announced or otherwise indicated an intention to be a candidate will be required to disclose gifts, loans and expenditure in real time, regardless of when the gift or loan is received during the disclosure period. Further, to ensure consistency, the bill also amends the disclosure period in relation to third-party expenditure to align with the disclosure period for gifts to previous candidates, groups of candidates and third parties.

I turn now to the amendments to the system of voting. The bill amends the Local Government Electoral Act 2011 to mandate that, for an election for a mayor or for a local government area divided into single-councillor divisions, the system of voting is compulsory preferential voting. Over the last few months it has become clear that the majority of mayors, councillors and the LGAQ do not support the introduction of compulsory preferential voting for local government elections. During the committee process mayors or councillors representing 28 councils made submissions opposing the introduction of CPV.

The Premier, in particular, has been very receptive in listening to the feedback from the local government sector. As a result of the feedback, I will move amendments to the bill during consideration in detail to remove the provisions relating to compulsory preferential voting. We will not be proceeding with the introduction of CPV for local government elections.

Opposition members interjected.

Mr DEPUTY SPEAKER (Mr McArdle): Members to my left, thank you.

Mr HINCHLIFFE: The Palaszczuk government has consulted and we have listened. This morning I officially opened the LGAQ annual conference in Cairns, where I delivered this news to representatives of all 77 local governments in Queensland. The announcement was warmly received by everyone in

the room and has been publicly supported by the LGAQ. President Mark Jamieson and CEO Greg Hallam, who both made remarks, said it was 'a sign of a listening government' and 'the government deserved applause for heeding the concerns of local councils'.

The Soorley report also considered voter concerns following the 2016 local government elections. The bill makes a range of amendments to implement key recommendations from the independent review to achieve better alignment between state and local government elections and make operational improvements and support efficiencies in the local government electoral system, as the Attorney-General outlined in subsequent parts of the debate.

The government will move an amendment to remove the changes to the penalty for failing to give an electoral return within the time required. It is considered that this offence is more appropriately dealt with through an infringement notice rather than as an integrity offence. Instead, amendments will provide that a councillor's office will become vacant if the councillor has not complied with the requirement to submit a summary return under part 6 of the Local Government Electoral Act 2011 within the required period, or a longer period allowed by the minister. If the councillor is a member of a group of candidates or endorsed by a political party and the agent for the group or party does not give the return in the required time, the councillors will be able to give the return themselves. In this situation, ECQ will advise the councillor that the agent has failed to make the return and the councillor will have 30 days, or a longer period allowed by the minister, to give the return themselves.

I turn now to key provisions of the bill about councillors' conflicts of interest. On 6 September this year the CCC handed down six new recommendations in relation to managing conflicts of interest and registers of interest for cabinet ministers and members of the Queensland parliament. The CCC recommendations specifically mentioned aligning the obligations of elected officials in state government with the obligations of elected officials in local government, consistent with the recommendations for local government made by the CCC arising out of Operation Belcarra. As a result of these new recommendations, the conflict of interest and register of interest provisions in the bill will be removed during amendments in consideration in detail. These provisions will be amended to align with the new legislative regime to regulate the ROIs and COIs of cabinet ministers and will form part of future legislation. Alignment between councillors and state ministers is a key policy outcome of these reforms.

As the Palaszczuk government has continually committed to, we will impose the same obligations on councillors as state ministers while also fulfilling all the Belcarra recommendations and the recent 6 September recommendations from the CCC. Importantly, the COI and ROI reforms will be subject to further consideration by a parliamentary committee and further stakeholder consultation.

I turn now to the proposed amendments to the Local Government Act 2009 and the City of Brisbane Act 2010 in relation to councillor complaints. As part of the government's response to the independent review panel's report *Councillor complaints review: a fair, effective and efficient framework*, the government gave an undertaking to review the councillor complaints framework applying to Brisbane City Council within six months of the commencement in December 2018 of the new framework under the Local Government Act 2009. The department undertook this review to determine whether to provide a single and independent councillor complaints framework across all 77 local governments.

The bill amends the Local Government Act 2009 and the City of Brisbane Act 2010 to apply the relevant provisions to the Brisbane City Council. This will ensure that in relation to councillor conduct the same behavioural standards, offences, penalties and investigating and hearing bodies apply to all local governments and councillors in Queensland. Further, the bill makes a number of refinements to the existing councillor complaints framework under the Local Government Act. Also, the government will move further amendments to the councillor complaints provisions. After consideration of the views of stakeholders, it is proposed to remove the amendments in the bill which would allow the Independent Assessor to investigate the conduct of local government employees. The government will not be expanding the role of the Independent Assessor at this time when the focus is, as it should be, on the timely assessment of the large number of existing complaints.

The bill makes a number of important changes to the operation of the local government system and decision-making. These amendments repeal the powers of mayors, other than for the City of Brisbane, in relation to budgets. Further, they amend the powers of mayors, other than for the City of Brisbane, in relation to the appointment of senior executive employees and directions to the chief executive officer and senior executive employees. The bill repeals the power of the mayor to direct senior executive employees and provides that the chief executive officer appoints all employees, including senior executive employees. It provides that a direction by the mayor to the chief executive officer must not be inconsistent with a resolution, or a document adopted by resolution, of the local government. Further, the chief executive officer must keep a record of each direction given by the mayor to the chief executive officer and make each direction available to the local government.

I am pleased to note the committee's comment that stakeholders were united in their support for the proposed changes as they relate to budgets. The committee noted that views on the other changes were mixed. Removing the mayoral powers in relation to senior executive officers provides a clear separation between elected councillors and employees. The amendments address integrity concerns associated with overreach by councillors into council administration.

These measures undo the changes made by the Newman LNP government in 2012. The 2012 legislative changes provided a suite of amendments which provided mayors with more power. These reach-around powers given to mayors in 2012 are now seen as the tipping point which led to the integrity mess and the loss of confidence from the community in the local government sector which we have seen unfold in Queensland in recent years.

The legacy of the member for Broadwater when he was local government minister in the Newman LNP government is a shopping list of legislative changes which have led to today's integrity quagmire in local government. The measures in this bill right these wrongs and will help restore community faith in the local government sector.

The bill includes changes to ensure consistency between the Local Government Act 2009 and the City of Brisbane Act 2010 and improve access to information for councillors by providing that the information that councillors can request under the City of Brisbane Act is to relate to the council and that a Brisbane City Council councillor can request advice or information across all wards of Brisbane City Council, as occurs in every other local government area in the state. The chief executive officer must comply with a request for advice or information within 10 business days or 20 business days at the latest. An increased maximum penalty applies. The amendments reflect the importance of councillors requiring all the information needed to carry out their responsibilities and make informed decisions in the public interest.

The Right to Information Act 2009 exempts information relating to Brisbane City Council's Establishment and Coordination Committee from right to information requests for a period of 10 years. No other local government in Queensland has such an exemption. To improve transparency and consistency, the bill removes it.

Turning to our reforms in relation to the caretaker period, the bill extends the prohibition on local governments publishing or distributing election material to apply to local government controlled entities. Further, it prescribes additional decisions that councils are prohibited from making during a caretaker period. Certain provisions of the bill commence by proclamation to ensure the community is well informed ahead of the changes. Further, the bill also makes clear that a proposed 'local government change', assessed by the Local Government Change Commission, can request multimember divisions. I also inform the House that the government will move a range of amendments during consideration in detail to clarify minor drafting matters and necessary regulatory-making powers.

The department has prepared a range of guidance and training materials for councillors to ensure they are aware of these changes. In particular, councillors will have access to fact sheets, webinars, videos and other online material to assist with their understanding. Following the commencement of the legislation, the department will continue to provide advice and assistance for councils and councillors. I would like to take this opportunity to thank officers from the department for their diligence and hard work in preparing this material and in preparation for this bill.

With this bill, the Palaszczuk government continues its commitment to the local government rolling reform agenda and restoring community faith in the sector. The CCC identified that the Queensland community was calling for local government to be held to higher standards. The passage of this bill will deliver the extensive package of reforms recommended by the CCC, key changes identified in the Soorley report and a raft of additional comprehensive measures which will help restore the good name of local government in our state. I thank the CCC for the critical work it has undertaken to date. I reassure all Queenslanders that the historic reforms we are progressing today will restore stability, certainty and confidence to their local communities. I commend the bill to the House.