



Redland
CITY COUNCIL

MINUTES

SPECIAL MEETING

Wednesday, 25 October 2017

**The Council Chambers
Bloomfield Street
CLEVELAND QLD**

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1 DECLARATION OF OPENING

The Mayor declared the meeting open at 12.02pm.

2 RECORD OF ATTENDANCE AND LEAVE OF ABSENCE

MEMBERS PRESENT:

Mayor Williams	Mayor and Chair
Cr W Boglary	Deputy Mayor and Councillor Division 1
Cr P Mitchell	Councillor Division 2
Cr L Hewlett	Councillor Division 4
Cr M Edwards	Councillor Division 5
Cr J Talty	Councillor Division 6
Cr M Elliott	Councillor Division 7
Cr T Huges	Councillor Division 8 – entered at 12.03pm
Cr P Gleeson	Councillor Division 9
Cr P Bishop	Councillor Division 10 – by teleconference

EXECUTIVE LEADERSHIP TEAM:

Andrew Chesterman	Chief Executive Officer
John Oberhardt	General Manager Organisational Services
Andrew Ross	General Counsel

MINUTES

Elizabeth Striplin	Corporate Meetings & Registers Coordinator
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2.1 TELECONFERENCE – CR BISHOP

COUNCIL RESOLUTION

Moved by: Cr M Edwards

Seconded by: Cr M Elliott

That Cr Bishop is granted permission to attend the meeting by teleconference.

CARRIED 9/0

Crs Boglary, Mitchell, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson and Williams voted FOR the motion

Cr Bishop could not vote at the meeting prior to being granted permission to teleconference.

Cr Gollè was absent from the meeting.

2.2 LEAVE OF ABSENCE – CR GOLLÈ

COUNCIL RESOLUTION

Moved by: Cr W Boglary

Seconded by: Cr P Mitchell

That a leave of absence be granted for Cr Gollè.

CARRIED 10/0

Crs Boglary, Mitchell, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Williams voted FOR the motion

Cr Gollè was absent from the meeting.

3 DECLARATION OF MATERIAL PERSONAL INTEREST OR CONFLICT OF INTEREST ON ANY ITEMS OF BUSINESS

Nil

4 BUSINESS

4.1 ORGANISATIONAL SERVICES

4.1.1 SUBMISSION TO PARLIAMENTARY COMMITTEE ON LOCAL GOVERNMENT BILLS

Objective Reference: A2655446
Reports and Attachments (Archives)

Attachments: Draft submissions:
[1. Councillor Complaints Bill 2017](#)
[2. Implementing Belcarra Bill 2017](#)

Authorising Officer: John Oberhardt
General Manager Organisational Services

Responsible Officer: Paul Holtom
Group Manager Corporate Services

Report Author: Andrew Ross
General Counsel

PURPOSE

This report recommends Council authorise the Chief Executive Officer to make a submission to the Parliamentary Committee on two recently introduced Bills, namely:

1. Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2017; and,
2. Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017.

The draft submissions are attached to this Report. A full copy of the Bills, Explanatory Notes, Parliament Speech and related publications are available from the Legal Affairs and Community Safety Committee at: <https://www.parliament.qld.gov.au/work-of-committees/committees/LACSC>

BACKGROUND

On 10 and 12 October 2017 the Bills were respectively introduced to the Queensland Parliament and referred to the Legal Affairs & Community Safety Committee for detailed consideration. On 18 October 2017 Council resolved to consider making a submission on the Bills.

Councillor Complaints Bill

The objective of the Bill is to implement the Queensland Government's response to the Independent Councillor Complaints Review Panel's Report 'Councillor Complaints Review: A fair, effective and efficient framework' (the Councillor Complaints Report) to provide for a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland.

The review follows concerns raised by the Local Government Managers Australia and Local Government Association of Queensland about the role of chief executive officers (CEOs) in the management of complaints and the way in which complaints are dealt with under the Local Government Act 2009, including the inability to seek a review of decisions and the need to ensure that natural justice is afforded to all parties.

The Bill supports, partially supports or supports in principle 50 of the recommendations from the Councillor Complaints Report noting:

1. Independent Assessor to investigate and consider all complaints including frivolous, vexatious or out-of-time complaints. This will provide for increased transparency and objectivity in the process currently performed by Mayors, CEOs or the department.
2. Independent Assessment Tribunal will also be established by the Bill with expanded penalties to replace the current Regional Conduct Review Panels, providing for the more efficient determination of a complaint.
3. A compulsory code of conduct is established to bring consistency with members of parliament, local government employees, state government employees, all of whom operate under a code of conduct.
4. Penalties are strengthened within the legislation to: discourage frivolous or improper complaints; preserve the confidentiality of an investigation; and deter a councillor from taking reprisal against an employee or former councillor for making a complaint.

A full copy of the Bill, Parliamentary Speech, Explanatory Notes, including a link to the Councillor Complaints Report and Government Response covering all 60 recommendations is available in the attachments to the report. Approximately 10 recommendations from the Councillor Complaints Report are not supported in the Government Response or Bill for the reasons identified in the attachments.

Timeline:

- 10-10-17: Bill introduced
- 10-10-17: Current Status Referred to Committee
- 25-10-17: Public briefing
- 26-10-17: Submission closing date
- 27-11-17: Report to Parliament
- 01-07-18: Proposed start date of Bill (if accepted)

Implementing Belcarra Bill

The objective of the Bill is to implement recommendations from the Crime and Corruption Commission's report, Operation Belcarra: a blueprint for integrity and addressing corruption risk in local government. The report made 31 recommendations designed to reduce the risk of corruption and increase transparency, integrity and accountability in Queensland local governments.

The Bill principally amends Local Government Electoral Act 2011 (LGEA) regulated by the Electoral Commission of Queensland and other amendments to the Local Government Act 2009 (LG Act) and Planning Act 2016.

Key Changes:

The following recommendations are considered significant to require urgent legislative change:

Banning Donations:

1. Banning donations from property developers for candidates, third parties, political parties and councillors. This is extended to Members of State Parliament. The Bill defines a prohibited donor as a property developer or an industry representative organisation a majority of whose members are property developers, but does not include an entity which the Electoral Commissioner (commissioner) has determined is not a prohibited donor.

Conflicts of Interests; Duty to Report; Offence to Influence:

2. Strengthening the process associated with the declaration of councillor conflicts of interest, the management of conflicts of interest and material personal interests within council meetings and penalties for non-compliance.
 3. The Bill provides that if a councillor has a real or perceived conflict of interest in a matter to be discussed at a local government meeting, the councillor must inform the meeting about the councillor's personal interests in the matter, including the following particulars about the interests:
 - a. the nature of the interests;
 - b. if the councillor's personal interests in the matter arise because of the councillor's relationship with, or receipt of a gift from, another person:
 - i. the name of the other person
 - ii. the nature of the relationship or value and date of receipt of the gift
 - iii. the nature of the other person's interests in the matter.
 4. The maximum penalty for failing to inform the meeting about the councillor's personal interests in a matter is 100 penalty units or 1 year's imprisonment.
 5. The Bill provides that if a councillor has informed a meeting about the councillor's personal interests in a matter and the councillor does not decide to leave the meeting, other councillors who are entitled to vote at the meeting must decide:
 - a. whether the councillor has a real conflict of interest or perceived conflict of interest in the matter; and
 - b. if they decide the councillor has a real conflict of interest or perceived conflict of interest in the matter whether the councillor:
 - c. must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on; or
 - d. may participate in the meeting in relation to the matter, including by voting on the matter.
 6. The Bill also prescribes a duty to report another councillor's material personal interest or conflict of interest in a matter to be discussed at a council meeting. The councillor must, as soon as practicable inform the person who is presiding at the meeting about the councillor's belief or suspicion and the facts and circumstances that form the basis of the belief or suspicion. This provision will not apply if the other councillor has already declared a conflict of interest or a material personal interest. Failure to comply with this requirement will amount to misconduct by the councillor.
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7. The Bill provides that a councillor who has a material personal interest or conflict of interest in a matter the councillor must not:
 - a. influence or attempt to influence another councillor to vote on the matter in a particular way at a meeting of the council or any of its committees; or,
 - b. influence or attempt to influence a council employee or contractor of the council who is authorised to decide or otherwise deal with the matter.
8. The maximum penalty that may be imposed for this offence is 200 penalty units or 2 years' imprisonment. The new offence is also an integrity offence.

Timeline:

12-10-17: Bill introduced
12-10-17: Current Status Referred to Committee
25-10-17: Public briefing
26-10-17: Submission closing date
27-11-17: Report to Parliament

STRATEGIC IMPLICATIONS

Legislative Requirements

The legislative process involves in summary the Bill being presented to Parliament that refer the Bill to a Committee to consider the Bill in detail including public submissions that report back to Parliament with any amendments to be debated and voted on, and if accepted, becomes law.

Risk Management

The Bills are formed from recommendations from the Department of Infrastructure Local Government and Planning and Crime and Corruption Commission to reduce the risk of corruption and increase transparency, integrity and accountability in Queensland local governments.

Financial

There are no current financial implications from the Bills; however this will be assessed in due course on its implications if accepted.

People

There are no current people implications from the Bills.

Environmental

There are no current environmental implications from the Bills.

Social

There are no current social implications from the Bills; but for achieving the objectives of strengthening government transparency and integrity.

Alignment with Council's Policy and Plans

The Report aligns with the key outcomes of the Corporate Plan 2015, including Strong and Connected communities and Inclusive and Ethical governance.

CONSULTATION

Consultation has occurred with councillors and members of the senior management group and relevant staff.

OPTIONS**Options**

1. That Council resolves to make a submission to the Parliamentary Committee on the Bills, generally in accordance with the draft submissions attached to this report.
2. That Council resolves to make an amended submission to the Parliamentary Committee on the Bills with amendments as raised during the council meeting.
3. That Council resolves not to make a submission to the Parliamentary Committee and to accept the Bills as introduced and subsequently made by Parliament.

OFFICER'S RECOMMENDATION

That Council resolves to make a submission to the Parliamentary Committee on the Bills, generally in accordance with the draft submissions attached to this report.

COUNCIL RESOLUTION

Moved by: Cr P Gleeson

Seconded by: Cr J Talty

That Council resolves to make submissions to the Parliamentary Committee, as attached to these minutes.

CARRIED 10/0

Crs Boglary, Mitchell, Hewlett, Edwards, Elliott, Huges, Talty, Gleeson, Bishop and Williams voted FOR the motion

Cr Gollè was absent from the meeting.

5 MEETING CLOSURE

There being no further business, the Mayor declared the meeting closed at 12.19pm.

Signature of Chairperson: _____

Confirmation date: _____

25 October, 2017

Contact: Andrew Ross
General Counsel 3829 8999

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BRISBANE QLD 4000

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**LOCAL GOVERNMENT (COUNCILLOR COMPLAINTS) AND OTHER LEGISLATION
AMENDMENT BILL 2017 (THE BILL)**

Dear Committee,

I refer to the call for submissions on the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2017 (the Bill).

On 25 October 2017 the Redland City Council resolved by Special Meeting to make this submission on the Bill.

The Redland City Council serves a community of approximately 150,000 coastal residents, across six islands and the mainland about 35 minutes from Brisbane. Council supports and commends the Government's introduction of the Bill to strengthen local government transparency and integrity.

Submission

Council acknowledges and supports that the policy objective of the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2017 (the Bill) is to implement the Government's response to the Independent Councillor Complaints Review Panel's Report 'Councillor Complaints Review: A fair, effective and efficient framework' (the Councillor Complaints Report) to provide for a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland.

Council supports the Bill and would like to provide feedback and recommendations on the following Items for consideration:

1. Division 5 – Referral of conduct to local government

Council recommends that:

- all complaints are dealt with independently by the independent assessor and no complaints are referred to the local government to be dealt with.
- all requests for investigative information to the local government are to be sent to the Chief Executive Officer only for action.
- the Office of the Independent Assessor be resourced appropriately to manage the Councillors complaints process in its entirety.

2. Chapter 5 A s150AW – Protection from reprisal

Council recommends that the Bill be amended to include any person making, assessing, providing information and/or deciding complaints in the protected person definition. This protects any person from reprisal both internal and external to an organisation or agency.

3. Complaints made during election caretaker period

Council recommends that:

- There should be a prohibition from disclosing information regarding a Councillor complaint at any time (not just through the election caretaker period), until such time the complaint has been assessed, substantiated and finalised as determined by the Independent Assessor.
- Penalties be imposed on those who disclose information before a determination has been made.

4. The way a complaint is made

Council strongly supports the recommendation from the Independent Councillor Complaints Review Panel that a standardised form is developed, including a declaration that the complainant is acting in good faith and has provided information that is true and correct to the best of their knowledge. Council believes this will further deter frivolous and vexatious complainants and also reduce the amount of unsubstantiated complaints received.

5. Public disclosure of complaints

Council recommends that only the outcome of substantiated and finalised complaints be disclosed on the department's website or be made available for public viewing.

Conclusion

Thank you for the opportunity to provide a submission on the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2017 (the Bill). Redland City Council looks forward to the proposed amendments being made and working with the state government in partnership to continue to uphold the transparency and accountability of local government in Queensland.

Yours faithfully

Andrew Chesterman
Chief Executive Officer

25 October 2017

Contact: Andrew Ross
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Legal Affairs and Community Safety Committee
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Brisbane QLD 4000

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**SUBMISSION LOCAL GOVERNMENT (IMPLEMENTING BELCARRA) AND OTHER
LEGISLATION AMENDMENT BILL 2017**

Dear Committee,

I refer to the call for submissions on the Local Government (Implementing Belcarra) and Other Legislation Amendment Bill 2017 (the Bill).

On 25 October 2017 the Redland City Council resolved by Special Meeting to make this submission on the Bill.

The Redland City Council serves a community of approximately 150,000 coastal residents, across six islands and the mainland about 35minutes from Brisbane. Council supports and commends the Government's introduction of the Bill to strengthen government transparency and integrity.

Of note the Council resolved on 4 November 2015 to write to the State Government requesting an investigation into legislative provisions that prohibit all political donations for government campaigns and for all candidates [including local government] to be publically funded as part of the *Electoral Act 1992*.

Council makes the following comments to the Bill:

1. To extend the Bill to cover all 31 recommendations in the Belcarra Report; alternatively a timeframe for such assessment and extension to occur in a future Bill, with provisions for resourcing the Electoral Commission, Integrity Commissioner and the Department of Infrastructure Local Government and Planning to fully implement the report findings.
2. To extend the prohibition of political donations from developers to include all corporate donations and potential lobby groups and to adopt a public funding model of candidates, similar to that regulated under the *Electoral Act 1992* so as to remove the perception of third party funded political decisions.
3. To extend the personal interests and influence provisions beyond the statutory meeting regime under the *Local Government Act 2009* to include any meeting, workshop or event which the subject councillor may have a personal interest or ability as a councillor to influence a government decision, activity or service.

4. To extend the definition of political donations and registrable gifts and benefits under *Schedule 5* of the *Local Government Regulation 2012* to both be deemed as a material personal interest requiring effected councillors to remove themselves from statutory meetings and influence of a government decision, activity or service.
5. "To extend the real time disclosure requirements within the *Local Government Electoral Act 2011* to include third party donors, so that candidates, groups of candidates, agents of candidates and third party donors are treated equally to disclose their interests as required by the Act."

Conclusion

Thank you for the opportunity to provide a submission on the Bill. Redland City Council looks forward to the proposed amendments being made and working with the state government in partnership to continue to uphold the transparency and accountability of local government in Queensland.

Yours faithfully

Andrew Chesterman
Chief Executive Officer