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The Gold Coast City Council Inquiry
Crime and Misconduct Commission
GPO Box 3123
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SUBMISSION – THE GOLD COAST CITY COUNCIL INQUIRY

Attached is my submission for consideration.

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needed.

Yours faithfully

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Encl

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INTRODUCTION

The community's ability and faith in the integrity, transparency and accountability in the local government's electoral process has been sorely tested over recent years – the events during the 2004 electoral cycle in several local government areas (Gold Coast City and Redland Shire to cite two high profile examples) marked a fresh low point. Coupled with a widespread belief that representatives are serving sectional interests, not the community's, cynicism in how local government operates is significant.

The current review into the electoral processes of local government provides a unique starting point into the interplay between the state and local government. This broader review needs to include reviews of infrastructure, population management, transportation and utilities management to ensure long-term sustainability.

The scope of this submission deals exclusively with the electoral process of local government. The sooner meaningful dialogue on sustainable review is commenced, the greater the ability for all stakeholders to meet the major challenges that face Queensland.

STATUTE REVIEW

The differing requirements between the Electoral Act 1992, the Local Government Act 1993 and the City of Brisbane Act 1924 can lead to confusion on those participating in and administering the electoral process at local government. This covers the voting requirements (either optional preferential or first past the post), candidate and third party disclosures

The ability for all participants to operate clearly under one statute would better enhance and facilitate the administration of the electoral process. The establishment of a single statute covering the electoral process for local government would (if properly constructed) serve to substantially reduce, if not eliminate, the confusion and differing requirements (whether actual or perceived) of the various electoral statutes that covers the electoral process for local governments.

CONDUCT OF ELECTIONS

All local government elections currently charge the chief executive officer (CEO) (or a delegate) to oversee the administration electoral process. In the case of the Brisbane City Council, the Electoral Commission of Queensland (ECQ) is authorised to administer the electoral process subject to a resolution by that Council.

The disadvantage of the current arrangement is it places the CEO in an invidious position – that of being arbiter to their employer. The worst-case scenario is that professional relationship between the CEO and the elected representatives can deteriorate so quickly that it disadvantages the community immensely.

The fundamental premise of a participatory democracy like Queensland is the faith that the community places in the integrity, transparency and accountability of the electoral process in electing candidates in good faith to represent them. The current arrangements have the potential for unscrupulous persons to favour certain candidates, thus facilitating their election to representative office at the expense of better-credentialed candidates.

Other areas of concern that require attention include:

1. Disclosure of donations to candidates (whether direct or in kind);
2. Candidate conduct prior to, during and after the electoral process;
3. Caretaker periods for councils;
4. Commonality of voting systems across all local government areas;
5. Provision of finance (whether equity or debt) by individuals, organisations or trusts;

The essential element of any reform is to ensure maximum transparency, integrity and accountability for the electoral process that allows for maximum confidence by the electorate in candidates and their elected representatives.

PROBITY OF CANDIDATES AND EXTERNAL PARTIES

Recent experience with Gold Coast City, Redland and Burnett Shires highlight the perception that candidates are serving sectional or ideological interests, not those of the broader community with minimal recourse to correct any perception or actuality of misconduct by candidates or councillors.

This is particularly true during the election process where groups of candidates, whether by design or coincidence, facilitated the election of one of their number to elected office to serve a particular interest. There have been incidences in Redland Shire dating back to 1990 where political parties have supported candidates without those candidates formally declaring their membership of the political party, causing concern in the community about whose interests the candidates were serving.

The growth and influence of Political Action Committees (PACs) in the United States requires careful monitoring locally. Several PAC groups during the 2004 United States Presidential election were fronts for sectional interests dedicated solely to the denigration of a particular candidate. Further monitoring of this issue is required to ensure that any negative influence of such groups is eliminated from the Australian political scene.

In the Australian context, the establishment of funds or groups dedicated to serve particular interests requires better regulation and monitoring. Under United States laws, such groups require registration under section 501c (4) of the IRS code to qualify for concessional taxation arrangements.

CONCLUSIONS AND RECOMMENDATIONS

In essence, important and immediate changes to the local government electoral processes to improve and enhances transparency, integrity and accountability of the overall process.

A summary of recommendations resulting from this submission include:

1. The enactment of a separate statute governing the local government electoral process allowing for:
 - a. The mandatory involvement of the Electoral Commission (ECQ) in the administration and supervision of the election process;
 - b. Establishing a single voting system for each local government area;
 - c. Establishing divisional representation structures for each local government area;
 - d. Ensuring that “group tickets” (however identified) are identified clearly;
 - e. Continuous mandatory disclosure by candidates of funding sources for their campaigns from their declaration of candidature to the declaration of the poll;
 - f. Continuous mandatory disclosure by elected representatives of donations, gifts and other funding sources during non-election periods;
 - g. Mandatory disclosure of political and professional affiliations by candidates when they announce their candidature for office; and
 - h. A code of conduct for candidates and elected representatives supported by state law.
2. Establishing a single voting system across all local government areas;
3. Maintaining the current scenario where individual local governments fund the administration of any electoral process;
4. Remove the exclusive right of the Minister to dissolve a local government area (as opposed to dismissing the elected representatives). The merger of Woongarra and Gooburrum Shires to form Burnett Shire and the absorption of the Albert Shire during 1994 are illustrations of how the process is not to be conducted;
5. Instituting a mandatory caretaker periods from the first Monday of February until the declaration of the poll to minimise the risk of abuse of resources and favouritism;
6. Considering the expansion of the *Brisbane City Council Business and Procedure Act 1939* to incorporate all local governments;

7. Mandatory disclosure by third parties when donating to candidates or political parties, in conjunction with prompt returns to the ECQ when poll is declared; and
8. Investigate and possibly regulate the operation of PAC like funds to ensure transparency and accountability of funding sources and destinations.

In a participatory democracy like Queensland, the integrity, transparency and accountability of the electoral system is paramount for all participants.

Without these elements, the electorate's confidence in their representatives to represent their interests (and not sectional or ideological ones) is undermined, with the risk of the process being subverted to serve narrow sectional or ideological interests and not of the community.