

10 February 2006

Mr Robert Needham
Head, Crime and Misconduct Commission
Gold Coast City Council Inquiry
GPO Box 3123
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Email: mailbox@cmc.qld.gov.au

Dear Sir

Re: Discussion Paper on Local Government Electoral Process

The Commission's discussion paper was considered by Redland Shire Council at a Special Meeting on Tuesday 7 February 2006 and a subsequent submission has been compiled and forwarded. This submission was not however, a unanimous decision and therefore, I attach for your consideration my comments on the Local Government Electoral process.

Additionally, Council has stressed in the letter accompanying its submission, the "overriding view that whatever changes are proposed or made with respect to local government electoral processes these should be consistent with the rules covering State and Federal elections. This sentiment was a constant theme expressed throughout the discussion of this paper."

While this was broached several times during the discussion, so too was the view that while it would be ideal to have as much consistency across the three levels of government as possible; local government should not fail to rectify shortcomings and improve the process simply because state or federal government refuse to alter their processes accordingly.

The Courier Mail of Saturday 11 February highlighted the need for greater controls and accountability for campaign donations. 'Planning Minister Desley Boyle, it is reported, has run into a snag in her efforts to ban councillors from voting on plans by developers who have contributed to their election funding. It is considered that the extent of developer contributions to councillors may be such that local authorities would have difficulty forming the required quorum.

This revelation demonstrates a number of things:

- the disproportionate amount of campaign funding that comes from the development industry, and thus leaves their motives highly questionable.
- there is justification to limit the amount of monies spent on, and thus contributed to, campaigns;
- the more desirable position would be for candidates to seek donations from a more diverse range of the community.

It should also be noted that it appears that relevant agencies lack commitment to investigating suspected breaches; lack resources to ensure that adequate investigations are undertaken and that breaches will occur if there is inadequate penalties and a lack of enforcement.

Thank you for the opportunity to comment.

Sincerely

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**Submission on the
Crime and Misconduct Commission, Queensland**

*The local government electoral process:
discussion paper*

From: Councillor Debra Henry, Redland Shire Council

The views expressed in this document are those of the writer and do not necessarily reflect those of the Redland Shire Council.

Unique disclosure provisions for local government

Q.1. Should the laws relating to the disclosure of election gifts for candidates at local government elections differ from those applying to candidates at state government elections?

A. No. But even if State won't change to improve, does not mean the local governments shouldn't lead by example.

False or misleading statements of candidates

Q.2. Is the existing law prohibiting false statements of fact about the personal character or conduct of a candidate adequate to safeguard the integrity of local government elections?

A. NO

Q.3. If the current law is inadequate, what changes should be made?

Remove any ambiguity; hasten response times; increase penalty.

Electoral bribery

Q.4. Is the existing law relating to electoral bribery in local government elections appropriate?

A. NO

Periods in which election gifts have to be disclosed

Q.5. Should the period in which candidates must disclose election gifts be changed?

A. Yes

Q.6. Should candidates have to disclose election gifts received at any time before an election?

A. Yes - 12 months before the declaration of election for new candidates.

Q.7. Should the period after an election in which candidates have to disclose gifts be increased?

A. YES

Fundraising

Q.8. Should the LGA be amended to clarify the disclosure requirements for monies received through fundraising activities?

A. YES

Lodgement date for returns

Q.9. Before an election, should candidates have to disclose the gifts they have received?

A. YES

Q.10. Should candidates be prohibited from accepting election gifts for a period after the disclosure deadline?

YES

Q.11. If candidates are prohibited from accepting election gifts for a period after the disclosure deadline, what other provisions should be introduced to prevent abuse of this prohibition?

Groups of candidates

Q.12. Should any person who is not a member of a candidate's campaign committee be allowed to solicit funds on behalf of the candidate?

A. NO - persons purporting to be soliciting funds on behalf of a candidate should be formerly endorsed by the committee / candidate.

Q.13. Should candidates who share election funding be required to be part of an identifiable group of candidates?

A. YES

Q.14. Should there be a registration requirement for groups of candidates?

A. YES

Q.15. Does the definition of a 'group of candidates' require amendment?

A. YES

Donations via solicitors'/accountants' trust accounts

Q.16. Should there be specific reference to solicitors'/accountants' trust accounts in the LGA?

A. YES.

If so, in what form?

Specify that the definition of a trust fund in the LGA includes solicitors'/accountants' so as to remove any ambiguity; as there is perception by some that this is not the case.

Origin of candidates' donations

Q.17. Is there any good reason for allowing local government election candidates to accept donations from unincorporated associations, trust funds or foundations that have sourced donations from individuals or companies?

A. YES, as long as the source of donors to the unincorporated associations, trust funds or foundations are made known. This would then be as legitimate source of donation as any other.

Q.18. Should candidates in local government elections be allowed only to accept election gifts directly from the person making the gift?

A. NO, as long as the origins of the donation are declared.

Anonymous donations

Q.19. Is the current penalty for accepting anonymous donations adequate?

A. No

Q.20. Should the acceptance of anonymous donations above the prescribed amount be an offence?

A. Yes

Third parties and parallel campaigns

Q.21. Should a third party have to disclose its expenditure as well as donations received?

A. Yes

Q.22. Should the \$1000 threshold above which donations have to be declared be lowered?

A. Yes - suggested amount should be the same as for a candidate.

A.23. Should third parties have to lodge returns before an election?

A. Yes - same as a candidate.

Q.24. Should election advertising instigated by a third party that is not an individual have to identify the third party as well as the individual who authorised the advertisements?

A. Yes, but controls need to be put in place so as to prevent the signage that indicates the third party support from becoming an advertisement/ sponsorship signage.

Limits on election expenses

Q.25.Should there be limits on election expenditure in Queensland local government elections?

A. YES

Q.26.If so, should first-time candidates be allowed to spend more than incumbent councillors, to take account of the incumbent's natural advantage in relation to voter recognition?

A. YES

Q.27. If there were to be limits on election expenditure, how would a candidate's expenditure be audited to ensure compliance?

A. The keeping of a stipulated set of accounting books that are lodged and audited.

Loans to candidates

Q.28.Should the LGA be amended to require candidates to disclose details of loans received?

A. Yes

Enforcement

Q.29.Is the existing system of enforcing the disclosure provisions of the LGA operating effective, and can it be improved?

Penalties

Q.30. Are the current penalties for offences in relation to election returns appropriate?

A. NO

Conflicts of interest

Q.31. Are the current provisions of the LGA in relation to conflicts of interest on the part of councillors sufficient?

A. NO

If not, what improvements should be made?

Tighten definition and increase penalties.

Q.32. Should councillors be prohibited from participating in council matters that involve a person who gave an election gift to the councillor?

A. YES

Q.33. Should failure by a councillor to appropriately resolve a conflict of interest be an offence under the LGA?

A. YES

Donations through political parties

A.34. Should local government candidates endorsed by registered political parties have to disclose election gifts received by the candidate's campaign committee, and donations received by the party's central office, where the candidate is aware that the donation was made for the candidate's benefit?

A. Yes