



11 April 2017

Mr A J MacSporran QC  
Chairperson  
Crime and Corruption Commission  
GPO Box 3123  
BRISBANE QLD 4001

Dear Mr MacSporran

Thank you for your letter of 21 March 2017 inviting the Local Government Association of Queensland (LGAQ) to make a submission on issues related to local government elections.

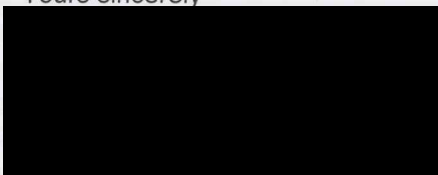
The position of the LGAQ with regard to the conduct of candidates in local government elections is very clear: transparency is paramount. Councils reflect the values and aspirations of their communities. They are leaders in open and transparent government, value scrutiny and understand the obligation to be accountable to their communities.

The LGAQ wishes to make the following three points to demonstrate the Association's support for increased transparency in local government elections.

- 1.) The LGAQ has been strongly supportive of the Government's decision to introduce real time disclosure of electoral donations as an important step towards increased openness and transparency.
- 2.) The LGAQ has written to the Government seeking to make the register of interest compulsory at the time a candidate nominates for election (copy of submission attached). The LGAQ believes making it mandatory for anyone seeking to nominate as a candidate for local government election to submit their register of interest at the time of nominating would significantly increase transparency and accountability. It would ensure affairs are in order and have been properly considered by those seeking to nominate.
- 3.) In the event that the inquiry ultimately recommends further tightening of the requirements of the *Local Government Electoral Act 2011* in relation to disclosure by groups of candidates, the LGAQ would be supportive of such a recommendation if it is for the purpose of giving proper effect to what the legislator had originally intended.

I hope these points will assist the Commission with its consideration of issues related to local government elections. Should you have any questions about this submission, please do not hesitate to contact me on (07) 3000 2220.

Yours sincerely



GREG HALLAM PSM  
CHIEF EXECUTIVE OFFICER



16 January 2017

The Hon Jackie Trad MP  
Deputy Premier  
Minister for Infrastructure, Local Government and Planning  
Minister for Trade and Investment  
PO Box 15009  
BRISBANE QLD 4002

Dear Deputy Premier

I am writing regarding the obligation in the *Local Government Act 2009* (LGA) in relation to the register of interests for councillors.

Under Section 171B of the LGA, a councillor who has an interest that must be recorded in the register of interests must notify the local government's CEO of the particulars of the interest within 30 days after the interest arises. Under the current process it is possible for councillors elected at a quadrennial election to begin their term of office on different dates. This can potentially lead to confusion about when their individual obligation under the register of interest provisions begins and can create an administrative burden for the CEO of the local government.

At the 120<sup>th</sup> Annual Conference of the Local Government Association of Queensland (LGAQ), held on the Gold Coast from 18-20 October 2016, Ipswich City Council submitted a motion calling on the LGAQ to lobby the State Government for an amendment to the relevant provisions in the LGA to provide that the obligation in relation to the register of interests for councillors commences at the same time for all councillors. This motion was referred to the LGAQ Policy Executive for consideration and resolution.

On 16 December 2016, the Policy Executive considered the motion and agreed to write to the State Government seeking to make the register of interest compulsory at the time a candidate nominates for election.

I know the Palaszczuk Government shares the LGAQ's desire to have the local government sector as open and transparent as possible. It is the strong view of the LGAQ Policy Executive that our joint efforts to increase transparency and accountability would be reinforced by making it mandatory for anyone seeking to nominate as a candidate for local government election to submit their register of interest at the time of nominating. This would provide no additional burden on existing elected members and ensure affairs are in order and have been properly considered by those seeking to nominate.

The LGAQ has received legal advice indicating that the desired objective could be relatively easily achieved by amending Section 27 of the *Local Government Electoral Act 2011* and through consequential amendments to the *Local Government Electoral Regulation 2012*. Please find attached the detailed amendments sought.





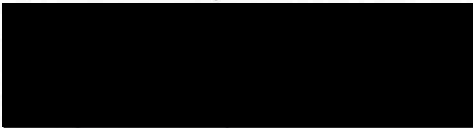
2.

While this is the preferred approach given it provides the highest level of transparency, equity and accountability, should it not be acceptable, the LGAQ requests consideration be given to amending Section 171B of the LGA to have the date for initial submission for the new term of a Councillor's register of interest to be the date on which they make their declaration of office.

In the interest of transparency and accountability and the spirit of open government, I urge you to support the LGAQ Policy Executive's preferred approach and make the register of interest compulsory at the time a candidate nominates for election.

Should your Department have further questions about the amendments sought, they are welcome to contact me directly on (07) 3000 2245.

Yours sincerely



Sarah Buckler  
ACTING CHIEF EXECUTIVE OFFICER

cc The Hon Yvette D'Ath MP, Attorney-General and Minister for Justice and Minister for Training and Skills.

**Attachment: Amendments sought to make the register of interest compulsory at the time a candidate nominates for local government election**

Subsections (1) and (2) of section 27 of the *Local Government Electoral Act 2011* currently provide as follows: -

**“27 Making and certification of nomination**

(1) A person who wishes to be a candidate in an election may only be nominated by—

(a) the registered officer of a registered political party that has endorsed the person as a candidate for the election; or

(b) at least 6 electors for the local government area, or division of the local government area, for which the election is to be held.

(2) A nomination must—

(a) be in the approved form; and

(b) contain the following—

(i) the candidate’s name, address and occupation;

(ii) a signed statement by the candidate consenting to the nomination;

(iii) if subsection (1)(a) applies—a signed statement by the registered political party’s registered officer that the party has endorsed the candidate; and

(c) be given to the returning officer after the nominations are invited for the election but before noon on the nomination day.

(3) ...”

From a drafting perspective, what the LGAQ Policy Executive seeks as its preferred position could be relatively easily achieved by amendment to subsection (2) of section 27 by re-numbering existing sub-paragraph (c) as sub-paragraph (d) and then including a new sub-paragraph (c) as follows: -

“(c) if the candidate has an interest that must be recorded in a register of interests under a regulation in relation to the candidate or a person who is related to the candidate, contain particulars of that interest in the approved form; and

This is effectively a simplified duplication of the *Local Government Act 2009*, section 171B requirements for disclosure of interests imposed upon sitting councillors. There is already a definition of approved form in the *Local Government Electoral Act 2011*, so no consequential amendment is required in that respect. So far as what is intended by the words “a person who is related to the candidate” the *Local Government Act 2009*, section 171B(3) definition could be duplicated, with some minor amendment, and inserted as subsection (8) as follows: -

“(8) For subsection (2)(c), a person is related to a candidate if—

(a) the person is the candidate’s spouse; or

(b) the person is totally or substantially dependent on the candidate and—



- (i) the person is the candidate's child; or
- (ii) the person's affairs are so closely connected with the affairs of the candidate that a benefit derived by the person, or a substantial part of it, could pass to the candidate."

Consequential amendments would be required to the *Local Government Electoral Regulation 2012*, by largely duplicating section 291 and schedule 5 of the *Local Government Regulation 2012*. So far as the insertion of a new section in the *Local Government Electoral Regulation 2012* is concerned, using the wording of section 291 of the *Local Government Regulation 2012* as a starting point, it could look like this: -

**"Contents of registers of interests**

(1) The register of interests of a candidate and a person who is related to a candidate must contain the financial and non-financial particulars mentioned in schedule 1 for an interest held by the person.

(2) However, the register of interests of a person who is related to a candidate need not include any interest that is held jointly, or in common, with the candidate and included in the register of interests of the candidate.

(3) Nothing in subsection (1) requires a register of interests to include any of the following—

- (a) the number or monetary value of shares;
- (b) the monetary value of an investment or interest;
- (c) the full street address of land;
- (d) the amount of a liability, donation or other income;
- (e) the account number of, or amounts held in, accounts held with a financial institution;
- (f) the monetary value of accommodation, an asset, a gift or travel.

(4) To remove any doubt, it is declared that a person holds an interest if the person holds the interest alone or jointly, or in common, with another person."

To complete the drafting exercise, schedule 5 of the *Local Government Regulation 2012* would need to be duplicated, to appear as schedule 1 to the *Local Government Electoral Regulation 2012*. The only changes that would be required are as follows: -

- Definition of "relevant person" to be simplified so that it reads –

**"relevant person** means a candidate or a person who is related to a candidate"

- Sub-paragraph (c)(iv) of section 2 (shareholding or controlling interest in a corporation) to be simplified so that it reads –

**"(iv) the investments or other interests in property held by the subsidiaries; and**

- Sub-paragraph (d) of section 2 (shareholding or controlling interest in a corporation) to be simplified so that it reads –

“(d) the investments or other interests in property, other than those mentioned in paragraph (c)(iv), held by the company.”

- Section 5 (self-managed superannuation fund) – replace the word “councillor”, wherever it appears, with the word “candidate”.
- Section 17 (other financial or non-financial interests) to be re-written so that it reads –

**“Other financial or non-financial interests**

(1) The particulars required for each other interest of a candidate are sufficient details of the interest to identify it.

(2) In this section— interest, of the candidate, means a financial or non-financial interest—

(a) of which the relevant person is aware; and

(b) that raises, appears to raise, or could raise, a conflict between the candidates duty, if elected, under the Local Government Act 2009 and the holder of the interest.”

Section 32 of the *Local Government Electoral Act 2011* requires the returning officer to “display a copy of the nomination in a conspicuous position at the office of the returning officer”. This nomination would include the register of interests (as sought to be imposed by the Policy Executive).