



THE LOCAL GOVERNMENT ELECTORAL PROCESS: Discussion Paper

Does existing Queensland legislation sufficiently maintain the integrity of the local government electoral process?

Response presented by

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INTRODUCTION

The Property Council of Australia is the property industry's peak representative body, with over 2000 members throughout Australia who in turn own, manage or invest over \$360 billion worth of property in Australia.

These 2000 members are spread across all industry sectors including commercial office, retail, listed and unlisted property trusts and residential development.

The Property Council welcomes the opportunity to provide an industry response to the discussion paper released by the Crime and Misconduct Commission. The Property Council notes that the development industry and its participation in the local government election process has been mentioned extensively throughout the Discussion Paper and as the peak representative body, the Property Council sees it as extremely important that an industry response be presented.

EXECUTIVE SUMMARY

In any democratic society the cornerstone to its success is the ability for any individual or corporation or stakeholder to be able to participate in the electoral process.

The participation in the electoral process may come about in a direct participation through running as a candidate or participating in a political party or indirectly by providing donations to a preferred candidate or group of candidates. But this ability to participate in the process is essential at all levels of government.

The discussion paper indicates that an option for the State to consider is to limit the amount of or the participation of particular sectors of the community from participating in the local government election process.

Whilst there are certain issues of transparency that may need to be addressed (which the Property Council supports), there have been no findings in the Inquiry in the Gold Coast Council that any developer who donated funds to certain local candidates received beneficial decisions from the Council itself and therefore there is no requisite need to limit or preclude the development industry participating in the electoral process.

The Property Council does support an open and transparent system but as stated does not support a system that discriminates against or prevents a particular sector of the community from freely participating in the political process.

UNIQUE DISCLOSURE PROVISIONS FOR LOCAL GOVERNMENT

- ***‘Should laws relating to disclosure of election gifts for candidates at local government elections differ from those applying to candidates at state government elections?’***

There is an underlying assumption (unsubstantiated) throughout the Discussion Paper that local elections are more influenced through the size of donations than state elections.

The Property Council rejects this notion as being one that is unsubstantiated and subjective at best. The inference contained in the Discussion Paper is that interest groups and in particular the development industry can ‘BUY VOTES’ and have much to gain by supporting candidates in local government elections.

Again we reiterate the fact that there have been no findings in the Inquiry into the Gold Coast Council that any developer or any individual or company received preferential decisions as a result of the provisions of the electoral gifts.

Under these circumstances the Property Council does not believe there is any evidence or reason as to why the laws relating to political donations in local government elections should be altered or differ from those laws applying to disclosure of electoral gifts in state elections.

The Property Council does however accept that the role of local government is not an easy one. In light of our rapidly growing population and the pressures that accompany that growth, local governments (as a result more of

the current planning systems) are struggling to cope with many aspects of that growth including accommodating new residents, protecting the environment and providing services to rate payers.

The Property Council submits that a more appropriate way to resolve many of the pressures confronting local governments is to ease their pressure through amending the current planning system rather than preventing or limiting participation of the community the electoral process itself.

In 1998 the Development Assess Forum (DAF) was established by agreement of all state planning ministers and was charged to provide a series of recommendations to reform Australia's planning system. In 2005 DAF presented a list of nine recommendations to the planning ministers. The basis of the recommendations was that local government maintain its key role in the planning system by deciding the planning schemes applicable to their local area but strongly recommended that the dual role of law maker and decision maker currently undertaken by many local councils should be broken. It is recommended by DAF that the decision making function should be transferred to an independent panel for determination thus removing any real or perceived conflict from local council.

It is inferred from the Discussion Paper that the perception of a lack of transparency on the Gold Coast related not to the planning laws itself, but decisions on individual development applications and how they are assessed against the laws.

The recommendations of DAF resolve these issues.

RECOMMENDATION:

The CMC recommend to Government the full adoption of the DAF recommendations.

CONFLICTS OF INTEREST

- ***Are the current provisions of the LGA in relation to conflicts of interest sufficient? If not what improvements should be made?***
- ***Should councillors be prohibited from participating in the council matters that involve a person who gave an election gift to the councillor?***
- ***Should failure by a councillor to appropriately resolve a conflict of interest be an offence under LGA?***

As with many other matters raised throughout the Discussion Paper there has been a particular focus on developers and their contributions to local councillors.

It is the industries firm view that current laws relating to conflicts are sufficient to resolve all current issues arising in council business.

The LGA makes it clear that once elected a councillor represents the broad interests of the local government area. They do not represent a specific ward nor group of interests and each and every decision determine by council must be in accordance with those interests. This may mean, in the case of a development, the development is approved or alternatively is rejected.

The Property Council does not believe that simply because a councillor receives a political donation from a party that it automatically creates a conflict (or as inferred by the discussion paper where the councillor votes in favour of the development proceeding). A conflict will only occur of a councillor is voting on a matter where the councillor has a direct pecuniary interest.

If taken to the ultimate conclusion if this 'indirect conflict arises' then a councillor who may receive a gift from an environmental or anti-development group would have to exclude themselves from consideration of ALL development applications which is not in the interest of the broader community.

However any real or perceived conflict would be removed if the State Government were to adopt the recommendations of the Development Assessment forum as outlined earlier in this response.

Whilst retaining their legislative roles the decisions making on individual applications would essentially be removed and thus removing the perception of conflict and bias.

CONCLUSION

The property industry believes that it has a role to play in the political process, as have all sectors of the community. It believes that the involvement should be open and transparent but importantly believes that it should be consistent across all levels of government.

The industry does however strongly advocate that the adoption of the Development Assessment Reform recommendations removes any real or perceived conflict or bias from the development application decision making process.