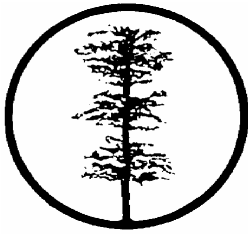


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1 March 2006

The Hon. Desley Boyle
Minister for Local Government and Planning
C/o Manager, Policy & Legislation Division
Local Government Services
Department of Local Government, Planning, Sport and Recreation
PO Box 15031
CITY EAST QLD 4002

Dear Minister,

Submission on the Discussion Paper "Ensuring Accountable and Transparent Local Government Elections"

Attached is our submission.

We strongly support your proposals to bring the conduct of local government elections into line with the conduct of State elections and to make local government elections more open and accountable. However we consider that the laws with respect to the conduct of State elections do not go far enough to end the excessive influence of developers over Council, so our views include a few recommendations that go beyond bringing local government into line with the State system.

Should you have any further queries please do not hesitate to contact us on the numbers listed above.

Yours faithfully,

Jo-Anne Bragg
Principal Solicitor
EDO Qld

Kirsty Ruddock
Principal Solicitor
EDO-NQ

Submission on the Discussion Paper ‘Ensuring Accountable and Transparent Local Government Elections’

1. Introduction

EDOs

Environmental Defenders Office (Qld) Inc. and Environmental Defenders Office of Northern Queensland Inc. are public interest environmental and planning legal offices. Each year we provide legal assistance to hundreds of members of the community, both individuals and members of established groups, on planning issues. Amongst other matters, clients need assistance on making submissions on proposed planning schemes, submissions on proposed developments and appeals to the Planning and Environment Court in relation to proposed developments.

Land Development is Profitable

Land development is a very profitable industry. If a developer can purchase rural or industrial land then arrange for the local government to approve a change to the planning scheme or a development approval, say for residential development, the land suddenly leaps in value. This type of “rezoning” has occurred hundreds if not thousands of times in Queensland.

Developers have excessive influence over Council

Based on hundreds of client matters, we have formed a view that profit hungry developers often have an inappropriate level of influence over Council decision-making, compared to the influence of the general community. However unless you have time or money to hire an investigative journalist to do the job for you it is hard to track the influence of a developer over a councillor and harder still to tell if the developer’s influence is gained by unlawful means. The system needs to be more open and accountable so ordinary citizens have a fairer chance to influence and judge councillors.

Welcome Changes Proposed by Minister Boyle, but need to go further

We strongly support Minister Boyle’s proposals to bring the conduct of local government elections into line with the conduct of State elections and to endeavour to make local government elections more open and accountable. However we consider that the laws with respect to the conduct of State elections do not go far enough to end the excessive influence of developers over Council, so our views include recommendations that go beyond bringing local government into line with the State system. Suggestions 3, 4 and 5 under “openness and accountability” relate to Local Government Act matters but from a community perspective it is good to have one place to go for information on finances and councillors.

Openness and Accountability

Laws need to be changed so that any member of the public can easily track on the internet through a simple search:

1. whether a person or a company has donated funds to a particular councillor or party and how much;
2. sources and quantities of funds donated or provided to a councillor or party;
3. the declared personal financial interests of any councillor or associated person;
4. when any councillor has declared a “material personal interest” and if that councillor voted on a matter before council; and

5. on a matter before council, how councillors voted, & who declared a “material personal interest”.

The information must be lodged promptly ie within three business days and no donations must be allowed in the fortnight prior to the election.

Cross Checking with Advertisers

How can you tell how much a councillor has spent on an election campaign? We support strong obligations on publishers and advertisers to lodge returns identifying amounts paid by councillors or parties for political advertisements. Publishers and advertisers should also provide details of any free advertising provided in their publications to candidates. This enables cross checking on whether the amounts declared by councillors as donated appear to be correct.

Tightening the Rules on Conduct of Elections, including capping Spending

Why not limit the amounts that a candidate and party may spend on an election campaign? If a modest but enforceable limit was set, then the candidate need not cultivate rich donors, such as developers, as the candidate will know that his or her opponents were subject to the same limit. Otherwise, candidates will seek funds to afford expensive but effective media advertising for fear that his or her opponents will otherwise win by media blitz.

The rules as to what constitute “donations that must be declared” need revision given evidence to the CMC Inquiry. For example, function tickets need to be declared.

2. Comments on headings in Discussion Paper follow.

The role of the Electoral Commission of Queensland (ECQ) in elections

The EDO agrees that the LGA should be amended to allow large urban councils, that use Optional Preferential Voting, to enter into an agreement with ECQ for the administration of council elections. To ensure the integrity of the electoral process it would be best if the ECQ could administer all council elections.

Returning Officer Training and Support

We agree with suggestions that RO must not just attend training but also be accredited as possessing the appropriate skills to carry out the role.

Caretaker Requirements

Councils should be required to adhere to election caretaker principles based on the state and federal principles. Allowing councils to come up with their own standards will not ensure a high and consistent standard across the state as is currently required.

Candidate Behaviour

A code of conduct for council elections is useful in providing guidance as to what is considered appropriate behavior for election candidates. The code of conduct for council election candidates should as a minimum be equivalent to the State code. However, the EDOs recommend enforcing the code through legislation. This would ensure a much greater level of compliance and would strengthen public trust.

Election Donations

Openness and Accountability

Laws need to be changed so that any member of the public can easily track on the internet through a simple search:

1. whether a person or a company has donated funds to a particular councillor or party and how much;
2. sources and quantities of funds donated or provided to a councillor or party
3. the declared personal financial interests of any councillor or associated person;
4. when any councillor has declared a “material personal interest” and if that councillor voted on a matter before council;
5. on a matter before council, how councillors voted, & who declared a “material personal interest”.

Cap Amount Spent on Election

Why not limit the amounts that a candidate and party may spend on an election campaign? If a modest but enforceable limit was set, then the candidate need not cultivate rich donors, such as developers, as the candidate will know that his or her opponents were subject to the same limit. Otherwise, candidates will seek funds to afford expensive but effective media advertising for fear that his or her opponents will otherwise win by media blitz.

The rules as to what constitute “donations that must be declared” need revision given evidence to the CMC Inquiry. For example, function tickets need to be declared. Finally, declaration should be posted two weeks prior to the poll with no further donations to be accepted.

Cross Checking with Advertisers

How can you tell how much a councillor has spent on an election campaign? It is a very good idea to oblige publishers and broadcasters to lodge returns identifying amounts paid by councilors or parties for political advertisements or “in kind” support. This enables cross checking on whether the amounts declared by councillors as donated appear to be correct.

Yes, Increased Penalties

EDOs strongly support that there should be **increased penalties and prosecution** of those seeking to deceive the electorate about the source of their funding or backers and those convicted of electoral fraud be removed from office and prevented from standing for election in the future.