

11 May 2018

Our ref: KB-Gen

The Hon Stirling Hinchliffe
Minister for Local Government
Minister for Racing and Minister for Multicultural Affairs
PO Box 15009
City East Qld 4002

By email: lgrma@ministerial.qld.gov.au

Dear Minister

Proposed Amendments to the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

We refer to your media statement issued on 10 May 2018 announcing that the Government will introduce amendments to the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 (the Bill) in the next parliamentary sitting which will provide for the automatic suspension of any mayor or councillor charged with one of a series of serious integrity offences.

We note that this Bill has already progressed through the Parliamentary Committee process, with the report being published on 23 April 2018. It appears these new amendments will not have the benefit of scrutiny and review offered by this process. On this basis, we call for the draft amendments to be released to the public prior to their introduction to Parliament or preferably, that they be introduced in their own Bill to be considered by a Parliamentary Committee independently.

Based on the media statement, the Queensland Law Society is concerned that automatic suspension flowing from a charge, rather than a conviction relating to a criminal offence, may run contrary to the principle of the presumption of innocence. Any encroachment on this fundamental principle must be appropriately justified as necessary in the public interest, for example, in order to protect the public from imminent harm.

In our view, the question of deciding whether a mayor or councillor should be suspended after being *charged* with a criminal offence should not be based on the offence alone but should be a finding made on evidence of a sufficient nexus between the offence, the office as councillor and the likelihood of imminent risk of physical or significant harm to the public.

In each case, the councillor should have a right to challenge the suspension and to seek legal advice.

Proposed Amendments to the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

We look forward to reviewing the draft proposed amendments. If you have any queries regarding the contents of this letter, please do not hesitate to contact our Senior Policy Solicitor, Kate Brodnik on (07) 3842 5851 or k.brodnik@qls.com.au.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Ken Taylor', with a long horizontal flourish extending to the right.

Ken Taylor
President