

LOCAL GOVERNMENT
ASSOCIATION
OF QUEENSLAND LTD.

ABN 11 010 883 293
ACN 142 783 917



Local Government House
25 Evelyn Street Newstead Qld 4006
PO Box 2230 Fortitude Valley BC Qld 4006
Phone (07) 3000 2222 Fax (07) 3252 4473

10 March 2011

The Queensland Integrity Commissioner
PO Box 15290
City East Qld 4002



Dear Commissioner,

CHAPTER 4 OF THE INTEGRITY ACT 2009 (REGULATION OF LOBBYING ACTIVITIES)

The Local Government Association of Queensland Ltd ("LGAQ") is pleased to make the following submission on behalf of its members.

Background

The LGAQ is a company limited by guarantee registered under the *Corporations Act 2001*. It is incorporated principally to represent Queensland local government in its dealings with other governments, unions, business and the community. Additional objects of the LGAQ include acting as a representative body for members for the purpose of providing effective and professional representation in dealings between local government and other levels of government, industry, the media and the public generally.

It is in this capacity that the LGAQ makes the following submissions.

Lobbying for development approvals under the *Sustainable Planning Act 2009*

The greatest difficulty which Queensland local governments are presently experiencing with the lobbying regime revolves around the development approval process under the *Sustainable Planning Act 2009*. The LGAQ supports the view which the Gold Coast City Council has adopted that all town planners (and other "development professionals" such as, for example, surveyors) carry out lobbying activities (as presently defined) on a regular basis. As there is no relevant exception to the definition of "lobbyist" or "lobbying activities", they are required under the legislation to register as a lobbyist. To date, it appears that very few town planning consultancies or individual town planners have registered as lobbyists, notwithstanding the apparent legislated requirement to do so.

The LGAQ's primary concern on behalf of its members is that councillors and Council officers will be exposed to criminal prosecution if they continue to have contact with town planners (and other development professionals) who are not registered as lobbyists. The exact nature of this potential criminal exposure is discussed later in this submission.

The LGAQ notes the recommendation in the November 2010 ICAC Report ("Investigation into corruption risks involved in lobbying"), that NSW Councils should be excluded from any lobbying regime. That ICAC report appears to have acknowledged that the vast amount of lobbying in NSW local government occurred in relation to the assessment of development applications. The LGAQ takes the pragmatic view, so far as the Queensland State Government is concerned, that a blanket exemption for local government from complying with chapter 4 (regulation of lobbying activities) is unlikely to be forthcoming.



Adopting this pragmatic view, it is the LGAQ's submission that amendments should be made to chapter 4 so that town planners, surveyors and other development professionals are clearly excluded from the definition of lobbyist.

Leaving aside the issues of assessing development applications under the *Sustainable Planning Act 2009*, the LGAQ agrees with the evidence that was put before the ICAC that it was very rare for Councils to be lobbied about matters other than development applications. Accordingly, and subject to the removal of development professionals from the requirement to register as lobbyists, the LGAQ does not consider that further significant reform of chapter 4 is required.

Penalties for breach of section 71

There is one other area of concern for the LGAQ. There appears to be the suggestion that if a Councillor or a Council officer breaches the current regime they might be exposed to a prosecution for the offence prescribed by section 204 of the *Criminal Code* (Disobedience to statute law), which carries a maximum penalty of imprisonment for one year. If this truly is the potential criminal exposure for failing to comply with either subsection 2 or subsection 3 of section 71 of the *Integrity Act 2009* then, in the LGAQ's submission, the punishment certainly does not "fit the crime".

The LGAQ accordingly submits that amendment to chapter 4 should be made so that it is clear that a failure to comply with the subsections in question is dealt with as: -

- For a Councillor - as misconduct (as that term is defined in section 176 of the *Local Government Act 2009* and section 178 of the *City of Brisbane Act 2010*); or
- For a Council employee - as conduct for which disciplinary action can be taken pursuant to chapter 5, part 3 of the *Local Government (Operations) Regulation 2010* and chapter 5, part 3 of the *City of Brisbane (Operations) Regulation 2010*.

Concluding comments

The LGAQ would welcome the opportunity to further discuss with you its ongoing concerns in relation to the operation of chapter 4, so far as it relates to Queensland local government. In any event, I look forward to your response to this submission in due course.

Yours sincerely,

GREG HALLAM PSM
CHIEF EXECUTIVE OFFICER