



Speech by

**Andrew Cripps**

**MEMBER FOR HINCHINBROOK**

Hansard Thursday, 4 June 2009

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## **LOCAL GOVERNMENT BILL**

**Mr CRIPPS** (Hinchinbrook—LNP) (3.57 pm): I rise to make a contribution to the debate on the Local Government Bill. I note in doing so that the bill is almost a complete rewrite of the act. Despite this, debate today has been limited to only a few hours of the parliament's time, notwithstanding the wide-ranging and significant implications it will have for the governance of our local communities.

The bill implements significant changes to the legislative regime under which local government is organised in Queensland. The bill is principle based, in contrast to the existing Local Government Act that was heavily prescriptive and process based. Specific processes will be largely taken out of the new Local Government Act, with a number being placed into regulations and a number of provisions incorporated into other more relevant statutes.

I acknowledge that there has been extensive consultation with local councils, the Queensland Local Government Association and other stakeholders. I am pleased to acknowledge that fact and I welcome it and say that I hope it is a sign of things to come. It is, however, in stark contrast to the consultation that took place with local councils, the Local Government Association of Queensland and other stakeholders when the state Labor government undertook radical wholesale amalgamations of local government authorities across the state during the last parliament. That process of forced local council amalgamations was a dark chapter in Queensland's history and continues to cause significant problems in local communities across Queensland. It was really a disgraceful episode, but it was instructive for a member in their first term in this place, as I was at the time, about how little respect the government has for the parliament and the people of Queensland.

The Local Government Association of Queensland requested a number of changes to the 2008 bill, which was the previous version of the bill that lapsed when the state election was called earlier this year. The explanatory notes accompanying the bill indicate that the state government accepted a number of those requested amendments, with the bill that has been introduced subsequent to the election reflecting those changes.

Today I would like to put on the record a number of matters raised with me by local government authorities in the electorate of Hinchinbrook. It is important to put on the record that local councils are the closest level of government to the people of Queensland, and as such it is a very important level of government for local communities. Given the significant geographical size of Queensland, the conditions experienced and the challenges faced by local councils in particular areas of Queensland will be diverse. Therefore, the principles based approach proposed by the bill is generally welcomed by the Queensland Local Government Association and councils across the state. However, this will inevitably mean that local government authorities will have divergent views on some matters in the bill.

The first issue is an issue raised with me by the Hinchinbrook Shire Council. It has expressed an interest in candidates for the position of mayor of a local government authority being permitted to simultaneously stand for election as a councillor. This is not currently permitted by the Local Government Act or by the proposed amendments to the act in this bill. The Hinchinbrook Shire Council feels that not allowing dual candidacy at times means that experienced mayors and councillors are lost to local

government when they choose to run for mayor but are unsuccessful. This argument applies to both experienced councillors electing to run for mayor and mayors who may be unsuccessful in being re-elected but who are able to secure enough support to be returned as a councillor.

I wish to be clear in making these comments today that the proposition is distinct from a system whereby a mayor is elected by councillors at the first meeting of a council subsequent to a local council election. This proposition may be worthy of further consideration given the widespread reduction in the number of councillors being elected to each council subsequent to the recent local government reform process. The Hinchinbrook Shire Council believes that dual candidacy operates in other jurisdictions such as Tasmania and New Zealand and that it should be given some consideration in Queensland. The Hinchinbrook Shire Council has also expressed a desire for local councils to be consulted on the content of the regulations prior to their being implemented, in recognition of the fact that a considerable amount of the bill will be implemented through regulation, which seems reasonable.

The Cassowary Coast Regional Council has expressed its concern about the fact that this bill does not include provision to reinstate the body corporate status contained in the previous Local Government Act until it was amended in 2008. The Cassowary Coast Regional Council considers that the provisions in this bill do not properly reflect the status of local government authorities as individual legal entities and believes that the reinstatement of the provisions that provide for corporation status should occur as a matter of priority.

This is a matter that is also being decried by the Queensland Local Government Association. The Local Government Association of Queensland has been taken out of the Local Government Act after a very long time and will be replaced by a company limited by guarantee. The shabby way that the state Labor government treated local government, and indeed the LGAQ, during the process of local government reform seems to be continued with the representative body of local government being sidelined from the act.

The bill includes detailed provisions relating to roads and other infrastructure including the fixing of levels for roads. The Cassowary Coast Regional Council considers that the prescriptive nature of the provisions relating to the fixing of road levels should be reviewed and not be a mandatory requirement for councils to fix permanent levels on all roads, particularly rural roads. The Cassowary Coast Regional Council considers that the prescriptive nature of these provisions seems to be inconsistent with the principles based approach upon which much of the rest of the bill has been developed.

In contrast, the Cassowary Coast Regional Council considers that the provisions of the bill regarding rates appear to be very broad. The council believes that, given the important nature of the provisions that cover rating systems, there should be consideration given to providing more detail in the act in this regard, especially in relation to differential general rates and the use of unimproved capital valuations for a basis of rating. The council believes there is some confusion in the provisions of the bill about the difference between a rate and a charge for availability or supply of a service to a property, and the council is of the view that the distinction between a rate and a charge that is in the current Local Government Act should be retained.

The Cassowary Coast Regional Council notes that the bill includes provision for the minister to be furnished with an expanded range of powers to monitor the actions of local councils and take steps to address issues where the actions of councils are deemed to be unsatisfactory. The council acknowledges that these changes are being made to overcome some perceived shortcomings in the existing Local Government Act to address these matters. The council is generally supportive of the proposed changes but is concerned about the proposal for the minister to have the opportunity to dismiss an individual councillor or dissolve an entire council without that individual councillor or a council as a whole having recourse to a process of judicial review of that decision.

It should be noted that the Cassowary Coast Regional Council was created as a result of a forced amalgamation of the former shires of Johnstone and Cardwell. A number of honourable members will be aware that the former Johnstone Shire Council was dismissed and an administrator appointed in February 2007. I was in this place when the former minister for local government, now the Treasurer, advised the parliament of his decision. As I said in this place at that time, there is no doubt there had been a considerable amount of concern expressed about the activity of the Johnstone Shire Council over the preceding three years, culminating in the minister for local government issuing a show-cause notice in the later part of 2006. An injunction was sought by two councillors at the time. That injunction was dismissed in early 2007, and subsequently the state government made a determination to dismiss the council.

I am certainly not arguing today that the minister made the wrong decision at the time, but I must say that I think individual councillors and local government authorities as a whole ought to have recourse to a process of judicial review in the event that the local government minister makes a decision to dismiss them. A local government minister should have nothing to fear from a process of judicial review if they comply with the proposed provisions in the bill in relation to show-cause notices and their reasons for moving to dismiss an individual councillor or an entire council are sound.

The Cassowary Coast Regional Council also notes that the bill does not contain a provision requiring candidates for council to be residents in the local government area that they are contesting. The council considers that it is an important requirement for candidacy for local government authorities that residency within the local government area be a qualification of candidacy and that this provision should be in the bill.

In relation to the matter of local councillors continuing to be required to resign from a local council in order to nominate for election to the Queensland Legislative Assembly, I think this is a failed opportunity to bring Queensland into line with Commonwealth legislation, which does not require local councillors to resign from local councils to contest federal elections.

I heard the member for Redlands explain earlier that this scenario creates enormous difficulties for local communities when it ought not. By-elections for local government authorities are forced on local governments regardless of whether the councillor who resigned to stand for election to the Queensland Legislative Assembly is successful. The member for Redlands was recently in this scenario, and the government would do well to take note of his experience and reconsider this provision.

Lastly, I heard earlier the comments made by the member for Mulgrave about the financial circumstances of the Cassowary Coast Regional Council—a local government authority that we share representation of in this place. I am somehow tempted by the remarks made by the member in reference to that matter to take up the matter, but I fear that the minister knows and perhaps the Deputy Speaker would know that this is not the time or place, save to say that I have spoken in this place on a number of occasions about the financial circumstances of the Cassowary Coast Regional Council and that the government still has not adequately addressed the recommendations of the Local Government Reform Commission report or the subsequent recommendations of the Orion report and the de Castel report. I hope that the minister on returning to this portfolio will proactively address the real need to assist that Cassowary Coast Regional Council for the benefit of the ratepayers, many of whom are my constituents.