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Engaging for Reform



Hon Geoff Brock MP
Minister for Regional Development
Minister for Local Government
Level 17, 25 Grenfell Street
Adelaide SA 5000

Dear Minister

Submission: Council Members Personal Interests

The Community Alliance SA is an umbrella organisation for resident and community groups from Adelaide and other areas of South Australia, whose aim is:

'To put the people back into planning and development'

We are grateful for this opportunity to give input into Council Members Personal Interests Discussion Paper.

Proposal 1: Need for Change

The Community Alliance believes there is definitely a need for change due to Elected member confusion about their personal interests and making declarations about those conflicts of interest and the Ombudsman's recommendations.

Proposal 2: Public Interest Principle

The Community Alliance believes the importance of acting in the public interest outweighs any personal interests Elected Members may have. This concept is of paramount importance and fundamental.

Proposals 3 and 4: Material Interests and Real/Perceived Interests

The Community Alliance SA suggests it is unclear where the boundaries lie between a material and real interest because both words (material and real) 'sound' very similar and may be confusing. Clearer distinctions between these two definitions would benefit from a real life example from material that the Ombudsman would have.

The Community Alliance supports the move away from a one size fits all approach to Elected Members Personal Interests with the introduction of a new

category - Perceived Conflicts.

The Community Alliance is reluctant to support members with real conflicts of interest being permitted to decide for themselves to stay in a meeting. We believe this provision is open to abuse. However, the Community Alliance does support the inclusion of their reasons for staying or leaving a meeting to be included in the minutes which must also declare/include why there is a conflict.

Proposal 5: Exclusion of Ordinary Business

The Community Alliance is not convinced about the proposed exemption for council ordinary business being prescribed by Regulation: this could be inadvertently broadened making the new category of Personal Interest irrelevant and confusing. We believe that clearer detail needs to be included in the proposed legislation.

The Community Alliance is concerned about the proposal to include changes to Planning Schemes as ordinary business exempt from Conflict of Interest provisions. For instance, what if an Elected Member/s are directly employed in an electorate office by the Planning Minister or other government Member/s of the SA Parliament who are politically committed to promote and support a particular planning scheme or amendment? The Community Alliance suggests that a Political Conflict of Interest may exist.

The Community Alliance contends that it is unclear why committee/deputy mayor appointments are excluded from these provisions because these appointments attract an additional financial benefit and Elected Members should exclude themselves.

Section 5.2 also includes exclusion for Elected Members who are members of a political party. The Community Alliance believes this provision should not be included in the proposed legislation. We argue that a Political Conflict of Interest exists as it can have a material impact on voting patterns with party members showing solidarity for one another. If a member or group of members has received assistance in their election campaigns from an MP or party volunteers then the interests of the party can easily outweigh the public interest. This issue of Political Conflict of Interest is not addressed anywhere in the Discussion Paper.

The Community Alliance respectfully suggests referring to the Ombudsman's report on St Clair for his comments on the duty to employer (electorate office) vs. duty to public interest. This includes Elected Members who are routinely assisted by MPs or their political party. The Elected Member's position in Council depends on this assistance and support and a Political Conflict of Interest arises when there is tension between political party objectives and the public interest. This has been demonstrated many times in councils with Elected Members who are

members of a political party (Refer to Statistics from the November 2014 local government elections suggest that more than 50% metro EMs may be party members or have been assisted in their campaigns by parties).

Other: The current provisions for declaring and staying in a meeting if an Elected Member is a membership of a not for profit organization/s appears to be effective. The Community Alliance suggests this provision should include those Elected Members belonging to a political party enabling the community to determine if collusion may be occurring.

The Community Alliance is aware that at least one council has Elected Members who are husband and wife or partner and belong to the same political party. This could lead to collusion between two closely associated Elected Members. Elected Members can sit on e.g. A DAP whilst another can sit on another key committee. The Community Alliance thinks this situation is undesirable and requires investigating.

In closing, the Community Alliance SA would like to point out the difficulty a community organisation comprised of volunteers such as ours has in responding to such complex matters, and that we are not able to cover everything that is important to the community in the Council members Personal Interests Discussion Paper. However we believe that views of the community are of paramount importance in these matters.

Yours sincerely

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