

**LOCAL GOVERNMENT AMENDMENT (LOCAL DEMOCRACY—WARD
REPRESENTATION REFORM) BILL 2011**

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Bill introduced, and read a first time and ordered to be printed on motion by Mr David Shoebridge.

Second Reading

Mr DAVID SHOEBRIDGE [10.24 a.m.]: I move:

That this bill be now read a second time.

The object of the Local Government Amendment (Local Democracy—Ward Presentation Reform) Bill 2011 is to make some straightforward amendments to the Local Government Act 1993 to provide that each council for an area that is divided into wards must have at least three councillors for each ward. The bill had some additional provisions with an eye to the upcoming local government elections in 2012. It provides that at least 12 months before the election councils with areas divided into wards that have fewer than three councillors for each ward need to take steps to alter their ward boundaries or change the number of councillors, or indeed both, to ensure that those councils comply with this new requirement. A council will not need to obtain approval at a constitutional referendum for this change to the number of councillors, which is consistent with other legislation that was introduced in this House only a matter of weeks ago.

This bill, if passed, will ensure that local governments are not only representative but also are effective and accountable. It will put in place some necessary checks and balances at local councils that will prevent councils in the future from falling prey to what we have seen to be essentially corrupt conduct, corrupt behaviour that has brought down some key previous administrations. Two of the most high-profile administrations that were brought down through corruption or mismanagement were Wollongong and Shellharbour councils. Both councils effectively had one-party dominance through the undemocratic process of having two-member wards. However, there is also an unhealthy lack of democracy in a number of substantial councils in the metropolitan area, including Ku-ring-gai and Botany. Indeed, in the heart of the Premier's electorate is a deeply undemocratic system at Ku-ring-gai council. Ku-ring-gai council has two-member wards.

I note that Marrickville has perhaps one of the most diverse groups on council—it has both Labor, The Greens and independents. It is an example of a democratically functioning council, unlike Botany Council. I note the irrational chirping from the Hon. Sophie Cotsis—

The PRESIDENT: Order! I call the Hon. Sophie Cotsis to order for the first time.

Mr DAVID SHOEBRIDGE: We know what happens in Botany Council, that home of democracy governed by the Labor Party. Botany Council does not even have an election. It is so undemocratic that the people of Botany do not even bother contesting. At the last council elections Botany Council was the only council in New South Wales not to have an election. The councillors were simply re-elected because the people of Botany realised that the crooked electoral system that was in place was going to guarantee an ongoing Labor monopoly because of the undemocratic way in which the two-member ward system operates in New South Wales.

Two-member wards, together with optional preferential voting—which is the system in place under the Local Government Act in New South Wales—inevitably produce non-democratic

outcomes. That is because any party or ticket that gets 50 per cent of the vote plus one in a two-member ward dominates it and both candidates are elected. They fill both positions on the ticket regardless of the opposition vote. There can be the bizarre outcome where one ticket gets 51 per cent of the vote and two members are elected and the other ticket gets 49 per cent of the vote and no members are elected.

It is a denial of democracy. It is designed to put in place that kind of dominant party gerrymanders such as happened in Botany and it is about time that this Parliament moved to change that system. In fact, I give credit to the Government. When it introduced the legislation dealing with Wollongong and Shellharbour councils the Government listened to the clear recommendations from the administrators in Shellharbour and got rid of the unrepresentative two-member wards. The Government, when it has had a close look at two-member wards, has realised what a deeply undemocratic outcome they are and has acted. I give it credit for that. The Government acted in both Shellharbour and Wollongong councils to put in place a more democratic system, indeed a very democratic system of having three-ward councillors in both of those local government areas.

I deal now with the specifics of the bill. Clause 1 sets out the name of the bill—that is, the Local Government Amendment (Local Democracy—Ward Representation Reform) Act 2011—which clearly reflects its aim to provide democracy in these local government areas. Of course, the legislation will commence on the date of assent. The substance of the bill is in clause 3, which contains an amendment to section 224 of the Local Government Act by inserting after existing subsection (3) the following three subsections:

(4) A council for an area that is divided into wards must, following in the next ordinary election after the commencement of this subsection, have at least 3 councillors for each ward.

(5) At least 6 months after the next ordinary election after the commencement of this subsection, each council of an area divided into wards that has fewer than 3 councillors for each ward must do either or both of the following to ensure that the council complies with this section:

(a) alter the ward boundaries of the area in accordance with Division 1 of Part 1 of this Chapter,

(b) change the number of councillors in accordance with this Division.

(6) However, a council is not required to obtain approval at a constitutional referendum for a change to the number of councillors made in accordance with subsection (5).

This is a straightforward and direct bill, and if it is enacted it will substantially improve the arrangements in a number of councils in New South Wales. More than half a dozen councils have an undemocratic process for the election of local councillors. I mentioned the metropolitan councils of Botany Bay and Ku-ring-gai, but a number of councils in regional New South Wales are subject to the same undemocratic arrangements. They are Cabonne, Conargo, Guyra, Tenterfield, Wakool, Walcha and Weddin, which all have two-member wards and small populations. Cabonne has the largest population with 12,994 citizens and the population in the other councils ranges from 4,500 to 7,000. This problem is not exclusive to large metropolitan councils; it is also being experienced in regional New South Wales. Why would this Parliament allow a situation to continue whereby one ticket attracting 41 per cent of the vote can have two candidates elected and another ticket attracting 49 per cent of the vote can have no candidate elected?

The Hon. Dr Peter Phelps: That is fundamentally wrong and it demonstrates your lack of knowledge of the electoral system.

Mr DAVID SHOEBRIDGE: The Government Whip clearly does not understand the legislation. I invite him to read it. If he is not happy to do that he can consult the New South Wales Electoral Commission, which will confirm my interpretation. I direct him to chapter 10 of part 3 of the Local Government Act 1993. He should do some research. If he did he would find, rather remarkably, that that deeply undemocratic system exists in New South Wales.

The Hon. Sophie Cotsis: Let the people make the decision.

Mr DAVID SHOEBRIDGE: If the people are subject to a local gerrymander it is hard for them to do that. The Botany situation is a good example. An incumbent administration that has the benefit of a local gerrymander is hardly likely to decide to change the arrangement to the detriment of its obvious self-interest.

The Hon. Sophie Cotsis: There was an election.

Mr DAVID SHOEBRIDGE: The honourable member can say that as often as she likes, but the reality is that the poll was declared because no-one contested the seats. Ku-ring-gai—the Premier's own backyard—has five two-member wards. However, because of the stultifying effect of that arrangement there was no contest in the Wahroonga ward. Only one ticket was lodged and the councillors on that ticket were elected unopposed—the poll was simply declared. In the Gordon ward, group A attracted 46 per cent of the primary vote and group B attracted 40 per cent. After distribution of preferences the difference was less than 5 per cent or 6 per cent. However, group A had two candidates elected and no-one from group B was elected. That is a deeply undemocratic outcome.

In Comenarra, group A attracted 43 per cent of the primary vote and group B attracted 33 per cent, and after distribution of preferences there was a margin of 10 per cent between the two groups. However, group A had two candidates elected and no-one from group B was elected. If the system in either of those wards had been genuinely democratic and if they had had at least three-member wards each of those groups would have had one candidate elected. Subject to the distribution of preferences, group A would probably have had two candidates elected. That would have produced an outcome that was far closer to reflecting the democratic wishes of electors in those local government areas.

Why is the Premier willing to restore democracy in Wollongong and Shellharbour but not in his own backyard in Ku-ring-gai? It would appear that he is perfectly comfortable with the administration that is repeatedly returned to office in Ku-ring-gai, just as the Labor Government was comfortable with the repeated return of the administrations it preferred in Botany, Wollongong and Shellharbour. That is not a proper basis upon which to run local government in this State. The installation of a new government presents us with the opportunity to abandon this unrepresentative system and to institute genuine accountability and democracy. The House should support this legislation and ensure that it is enacted before the 2012 local government elections. Why will the Government not endorse this bill? If members opposite wish, they can take carriage of it and introduce it as a Government bill. This is more about democracy than party political outcomes. This is about ensuring that we have genuine democracy in local government in New South Wales.

Both the Australian Capital Territory and the Northern Territory have a number of two-member seats. However, they have genuine proportional representation and not the winner-takes-all scenario that we have in New South Wales. If Ku-ring-gai had a two-member ward arrangement one member would have been elected from each group. Of course, that is not the most democratic arrangement, and that is why the bill provides for a minimum of three councillors in each ward. That allows for a genuinely democratic contest. If one group attracts slightly more than 50 per cent of the vote that will be democratically reflected in that group probably having two candidates elected. The minority party that attracts 49 per cent, 48 per cent or 47 per cent of the vote will have one candidate elected. That will result in genuinely democratic representation that accurately reflects the wishes of the electors of that ward.

In addition, it will result in a democratic outcome; that is, the group that attracts the greater percentage of the vote will have a larger number of candidates elected. That is why the model proposed in this legislation involves a minimum of three councillors per ward. The legislation does not impose any outcome other than that on local councils. Local councils can examine their electoral system and if they wish to abandon two-member wards, to amalgamate a few wards or to introduce three-member wards, they can do so. If they want two wards with five members in each ward, they are also welcome to do that. If they want to abolish wards entirely and have proportional representation across their local government area they are also welcome to do that. This legislation will not impose any model on any local council; it simply imposes the basic constraint that the electoral system must be democratic.

The Local Government Association has examined this bill and I am told that it has resolved to support it and the reforms that it will achieve. This is a modest reform that has the support of the local government association. It is a modest reform that has the support of residents that I have spoken to in both Botany and Ku-ring-gai who are sick and tired of seeing an undemocratic outcome at their local council elections.

The Hon. Sophie Cotsis: They should run.

Mr DAVID SHOEBRIDGE: I hear the Hon. Sophie Cotsis again bleating about a constitutional referendum. The real difficulty with a constitutional referendum is that if it was held in 2012 Botany would not have democracy until 2016, and Labor would entrench its ongoing dominance in Botany. The figures show that the only likely way that the Labor Party could succeed in holding on to somewhere like Botany is by continuing to have this undemocratic outcome in two-member wards and discouraging other parties and other interests from running. Equally, there have been councillors in Ku-ring-Gai who have run year after year and have an entrenched position. The way of breaking into entrenched positions, opening up local government to genuine democracy, is to give new entrants—other interests—a genuine opportunity to be elected. Two-member wards do not do that. A minimum three-member ward is required to have that mixture of democracy as well as a genuine political contest.

I commend the bill to the House and look forward to the contributions of other members in relation to this key issue of local democracy in New South Wales. I particularly look forward to seeing how the Hon. Sophie Cotsis defends this gross lack of democracy—the failure even to have a contested election in Botany—and how Labor can defend its record of doing nothing to get rid of this blight on local government that sat on the statute book for the whole 16 years of its administration. I look forward to the Government advancing the reforms it put in place in Shellharbour and Wollongong and imposing that kind of democracy across local government in New South Wales.

Debate adjourned on motion by the Hon. Lynda Voltz and set down as an order of the day for a future day.