

Second Reading

Mr DONALD PAGE (Ballina—Minister for Local Government, and Minister for the North Coast) [3.37 p.m.]: I move:

That this bill be now read a second time.

This bill was introduced in the other place on 29 May 2013; the second reading speech appears in the Hansard gallery for that day. This bill is in the same form as it was in the other place. The purpose of the bill is to increase the flexibility of councils to manage their own elections and to address timing issues that have become apparent following the implementation of the 2011 amendments to the Local Government Act 1993. The practical impacts of the current provisions in the Act are to require councils to decide whether to use the services of the Electoral Commissioner for the September 2016 elections three years in advance—that is, by September 2013; and bind councils that engaged the Electoral Commissioner to conduct a by-election in the first 12 months following the 2012 election to continue using the services of the Electoral Commissioner for all subsequent elections, including the next ordinary election.

Clearly these time frames do not allow councils sufficient time to test the market and make a fully informed decision about an event that is to occur three years in the future. Similarly, the Electoral Commissioner is not in a position to determine and quote service levels and costs for an election to be conducted three years in the future. Reducing the cost of local elections to ratepayers was one of the key reasons for returning the conduct of elections to councils. It is essential that councils have the ability to test the market in order to choose the most cost-effective option. This ability is currently unnecessarily limited in the Act and risks undermining the original policy intent.

The bill deals with this by permitting a council to make a decision on the conduct of all of its elections, referendums and polls up to 18 months prior to an ordinary election—so for the next election that will be March 2015—with a view to finalising all election arrangements, by contract or otherwise, with the Electoral Commissioner no later than 15 months before the election. That would be June 2015 for the next election. The contract will expire 18 months prior to the next ordinary election unless terminated by either party at any time by notice in writing following the ordinary election. This proposal also allows councils to opt out of any contract with the Electoral Commissioner after the ordinary election if they want to, thereby freeing them to conduct any by-election, polls or referendums that arise in the new term of the council. The bill further provides that a council may decide to enter into an election arrangement with the Electoral Commissioner to conduct the council's individual elections, other than ordinary elections. This arrangement may be made at any time and will provide increased flexibility for councils.

Another important proposal in the bill is designed to limit the risk of a failed election. It provides that the Electoral Commissioner may agree to conduct a council's ordinary election even after the 15-month deadline if the Electoral Commissioner is satisfied that there are exceptional circumstances that make it necessary or desirable for the election to be administered by the Electoral Commissioner. Clearly, the expectation is that this provision will only be used in emergency situations where, for example, a council having determined to

conduct its election is no longer able to do so for reasons that are beyond its control. The decision on whether to conduct an election for a council in such circumstances ultimately rests solely with the Electoral Commissioner.

Further, it is proposed that all first elections of a council for an area after its constitution and following the establishment of a new council are to be conducted by the Electoral Commissioner. This is because new councils are unlikely to have the resources or capacity in place to allow the first election to be conducted in-house. In the case of first elections, a new council will be charged by the Electoral Commission on a cost-recovery basis. This will avoid the need for what may be complex commercial negotiations between the Electoral Commission and an administrator during a short period between the constitution of a new area and the council election date.

The Division of Local Government has consulted the local government sector and the Electoral Commissioner on the proposals in the bill. The Government has accepted the advice from the Electoral Commissioner that he needs contracts to be signed 15 months before the general election to enable him to do the necessary preparations to successfully conduct the election. The Government recognises the importance, given its election commitment to return powers to councils to conduct elections, to maximise the opportunity for councils to use these powers. However, this should not be at the expense of ensuring council elections are conducted appropriately and effectively. The proposals in the bill strike an appropriate balance between these positions. They are designed to reconcile councils' desire for greater flexibility with the Electoral Commissioner's need for certainty to allow forward planning and to put in place the logistical arrangements necessary to ensure council elections are properly and effectively conducted. I commend the bill to the House.