



Queensland Veterans' Council Bill 2021

Report No. 6, 57th Parliament
Community Support and Services Committee
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Community Support and Services Committee

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All web address references are current at the time of publishing.

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Abbreviations

AD Act	<i>Anzac Day Act 1995</i>
ADF	Australian Defence Force
BCC	Brisbane City Council
BDWV	Bundaberg District Women Veterans Inc.
Bill	Queensland Veterans' Council Bill
Board	Board of Trustees under the <i>Anzac Day Act 1995</i>
Committee	Community Support and Services Committee
Department	Department of the Premier and Cabinet
DFWAQ	Defence Force Welfare Association – Queensland Branch
HRA	<i>Human Rights Act 2019</i>
Land Act	<i>Land Act 1994</i>
Legacy Brisbane	Legacy Club of Brisbane
LSA	<i>Legislative Standards Act 1992</i>
NSW	New South Wales
QVAC	Queensland Veterans' Advisory Council
QVC	Queensland Veterans' Council
RARA	Royal Australian Regiment Association
RSL Queensland	Returned and Services League of Australia – Queensland Branch
Trust Fund	Anzac Day Trust Fund under the <i>Anzac Day Act 1995</i>
WA	Western Australia

Chair's foreword

This report presents a summary of the Community Support and Services Committee's examination of the Queensland Veterans' Council Bill 2021.

The committee's task was to consider the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, to consider whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. The committee also examined the Bill for compatibility with human rights in accordance with the *Human Rights Act 2019*.

In many capital cities of developed countries across the world, War Memorials play an integral role in acknowledging the sacrifices made by men and women and their families during periods of conflict. Such War Memorials afford a special place of remembrance of those lives lost and the stark reality of the human cost of war. This Bill will ensure that Anzac Square is one of such War Memorials in which Queenslanders and in fact all Australians can be proud.


The historical origin of Anzac Square was the culmination of the broader Queensland community's response to the First World War. This tradition continued with the detailing of significant periods of conflict that followed, ensuring Anzac Square serves as a War Memorial for all Queenslanders and visitors to Brisbane, the capital city of Queensland.

The Bill also provides that the Queensland Veterans' Council (QVC) would administer the Anzac Day Trust Fund, recognising the very important role that veterans and their families play administering the Anzac Day Trust Fund to those organisations who support our ex-service men and women and their dependents. Further, the Bill ensures that the Queensland veterans' community are afforded a clear and direct pathway for communication with the highest levels of the Queensland Government about matters important to them.

In addition, the establishment of the QVC ensures that strong governance and accountability arrangements are in place to safeguard the use of public funds in Queensland.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank our Parliamentary Service staff, Brisbane City Council, the State Library of Queensland and the Department of the Premier and Cabinet.

I commend this report to the House.



Corrine McMillan MP

Chair

Recommendations

Recommendation 1 **3**

The committee recommends that the Queensland Veterans' Council Bill 2021 be passed.

Recommendation 2 **23**

The committee recommends that clause 13 of the Queensland Veterans' Council Bill 2021 be amended to provide that at least 50 per cent of the members of the Queensland Veterans' Council must be veterans or representatives of the veterans' community.

Recommendation 3 **26**

The committee recommends that clause 34 of the Queensland Veterans' Council Bill be amended to provide that the Minister must establish a veterans' reference group.

1 Introduction

1.1 Role of the committee

The Community Support and Services Committee (committee) is a portfolio committee of the Legislative Assembly established on 26 November 2020 under the *Parliament of Queensland Act 2001* and the Standing Rules and Orders of the Legislative Assembly.¹

The committee's areas of portfolio responsibility are:

- Communities, Housing, Digital Economy and the Arts
- Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships, and
- Children, Youth Justice and Multicultural Affairs.

The functions of a portfolio committee include the examination of bills and subordinate legislation in its portfolio area to consider:

- the policy to be given effect by the legislation
- the application of fundamental legislative principles
- matters arising under the *Human Rights Act 2019* (HRA), and
- for subordinate legislation – its lawfulness.²

The Queensland Veterans' Council Bill 2021 (Bill) was introduced into the Legislative Assembly and referred to the committee on 22 April 2021. The committee was required to report to the Legislative Assembly by 11 June 2021.

1.2 Inquiry process

On 27 April 2021, the committee invited stakeholders and subscribers to make written submissions on the Bill. Twelve submissions were received.

The committee received a public briefing about the Bill from the Department of the Premier and Cabinet (the department) on 30 April 2021 (see Appendix B for a list of officials who attended the public briefing).

The committee also received written advice from the department in response to matters raised in submissions.

The committee held a public hearing on 24 May 2021 (see Appendix C for a list of witnesses). The committee also conducted a site visit to Anzac Square, Brisbane on 28 May 2021 (see Appendix D for a list of attendees at the site visit).

The submissions, correspondence from the department and transcripts of the briefing and hearing are available on the committee's webpage.³

1.3 Policy objectives of the Bill

The objective of the Bill is to establish the Queensland Veterans' Council (QVC) as a statutory body. The QVC would have three areas of responsibility:

- to act as trustee of Anzac Square under the *Land Act 1994* (Land Act) and the ongoing management and operation of Anzac Square

¹ *Parliament of Queensland Act 2001*, s 88 and Standing Order 194.

² *Parliament of Queensland Act 2001*, s 93; and *Human Rights Act 2019* (HRA), ss 39, 40, 41 and 57.

³ Parliament of Queensland, <https://www.parliament.qld.gov.au/CSSC>

- the functions of the Board of Trustees (the Board) under the *Anzac Day Act 1995* (AD Act), and
- providing advice to government on veterans' matters.⁴

1.4 Government consultation on the Bill

The explanatory notes state that consultation on the options for the future governance of Anzac Square occurred at various times between 2017 and 2021. The explanatory notes state that the bodies consulted with during this period were the former Anzac Square Steering Committee (a committee established to oversee the restoration project), former Queensland Advisory Committee for the Commemoration of the Anzac Centenary (now ceased), Queensland Veterans' Advisory Committee (QVAC) and Brisbane City Council (BCC).⁵

The explanatory notes advise that briefings on the establishment of the QVC were provided to:

- the Board
- Returned and Services League of Australia - Queensland Branch (RSL Queensland)
- Legacy Club of Brisbane (Legacy Brisbane)
- Australian War Widows - Queensland
- Mates4Mates
- Australian Federation of Totally and Permanently Incapacitated Ex Servicemen and Women - Queensland Branch
- Defence Force Welfare Association – Queensland (DFWAQ)
- Partners of Veterans' Association of Australia - Queensland
- Veterans' of Australia Association – Hervey Bay Branch, and
- individual veterans' stakeholders, including the former chair of QVAC and the former Deputy Chair of the Queensland Advisory Committee for the Commemoration of the Anzac Centenary.⁶

A consultation version of the Bill was released to BCC and a verbal briefing was provided to BCC officers to support the council's consideration of the proposals in the Bill.⁷

A number of submitters, including Mr Daniel O'Kearney (the former Chair of QVAC), the Bundaberg District Women Veterans Inc. (BDWV), RSL Queensland and Legacy Brisbane raised concerns about the adequacy of the consultation undertaken by the department in drafting the Bill.⁸

⁴ Explanatory notes, p 1.

⁵ Explanatory notes, p 7.

⁶ Explanatory notes, p 7.

⁷ Explanatory notes, p 7.

⁸ Submission 6. See also BDWV, public hearing transcript, Brisbane, 24 May 2021, p 2; RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 15; and Legacy Brisbane, public hearing transcript, Brisbane, 24 May 2021, p 17.

At the public hearing, the department advised that a large group of veterans' stakeholder groups were identified and approached to provide diverse representation as part of the consultation process. The department stated that:

... when we were identifying particular or potential stakeholders for consultation we aimed to go as broad as possible. We used the ex-service organisation mapping project to help us identify and ensure that we had covered a broad range of ex-service organisations in Queensland.

...

We then contacted a whole range of ex-service organisations and asked them to express an interest in whether they wanted to participate in the consultation. We received responses back from some but not all of the organisations that we contacted.

We also went out through the Queensland Veterans' Advisory Council and its networks as well to seek people who would be interested in being involved in that consultation.⁹

The department advised that during the consultation the following topics were covered:

- the government's approval for the preparation of a new statutory body
- the specific obligations which apply to statutory bodies in Queensland, including under the *Financial Accountability Act 2009*
- the three main areas that the QVC would be responsible for: Anzac Square; the Anzac Day Trust Fund; and providing advice to government on veterans' matters
- the QVC's proposed membership structure, and
- the next steps, including that legislation would be required in order to establish the QVC as a statutory body.¹⁰

The department tabled a copy of the document used as part of the consultation process at the public hearing on 24 May 2021.¹¹

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

After examination of the Bill, including the policy objectives it is intended to achieve, and consideration of the information provided by the department and submitters, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends that the Queensland Veterans' Council Bill 2021 be passed.

⁹ Department, public hearing transcript, Brisbane, 24 May 2021, p 20.

¹⁰ Department, public hearing transcript, Brisbane, 24 May 2021, p 20.

¹¹ Tabled paper, Department, public hearing, Brisbane, 24 May 2021.

2 Background to the Bill

2.1 Anzac Square

Anzac Square in Brisbane is Queensland's pre-eminent War Memorial, commemorating the contribution of Australian armed forces and particularly the service of Queensland's men and women, in overseas conflict since the Boer War.¹²

Located between Ann Street and Adelaide Street in Brisbane, Anzac Square was dedicated on Remembrance Day 1930 as Queensland's State War Memorial and lies on Crown land reserved under the Land Act for purposes of cultural significance, historical and parks. The land is listed on the Queensland Heritage Register.

On 5 December 1974, by Order in Council, the land was placed under the control of BCC as trustee.¹³ BCC is currently the trustee of Anzac Square.¹⁴

Between 2014 and 2019, significant restoration work was undertaken on Anzac Square in four stages, with the final Stage 4 works completed in August 2019. The project was a joint initiative between the Queensland Government, Anzac Centenary Public Fund and BCC. The stages of the project included:

- stage one – completed in mid-2014 – the removal of the former RSL Queensland Headquarters and investigation of water penetration issues and structural condition of substructure and walls
- stage two – completed in April 2015 – critical works to address water leakage in undercroft areas, which had damaged rooms and galleries and threatened the structural integrity of the memorial. This stage also addressed issues with the reliability of the Eternal Flame by installing a new electronic ignition system inside the Eternal Flame urn
- stage three – completed in April 2016 - the refurbishment and respectful enhancement of the heritage undercroft spaces. The spaces in the undercroft were renamed as: World War I Memorial Crypt (previously the Shrine of Memories); World War II Gallery (previously Memorial Crypt) and Post World War II Memorial and Exhibition Gallery (previously RSL Queensland Headquarters), and
- stage four - sympathetically conserved and enhanced the public presentation, public access and amenity of the site, confirming Anzac Square's significance as the State's War Memorial for servicemen and women.¹⁵

At the public briefing, the department advised that:

The project included a major redevelopment of the undercroft to create the Anzac Memorial Galleries, which are modern gallery spaces fitted with digital technology that provide a platform for educational and interactive exhibitions. The memorial galleries allow Anzac Square to expand its original purpose to include education.¹⁶

¹² Queensland Government, 'Anzac Square restoration and enhancement', <https://anzac100.initiatives.qld.gov.au/legacy-projects/bcc/index.aspx>.

¹³ Explanatory notes, p 1.

¹⁴ Department, public briefing transcript, Brisbane, 30 April 2021, p 1.

¹⁵ Queensland Government, 'Anzac Square restoration and enhancement', <https://anzac100.initiatives.qld.gov.au/legacy-projects/bcc/index.aspx>.

¹⁶ Department, public briefing transcript, Brisbane, 30 April 2021, p 2. See also Queensland Government, 'Anzac Square restoration and enhancement', <https://anzac100.initiatives.qld.gov.au/legacy-projects/bcc/index.aspx>.

The project cost \$21.98 million and was jointly funded by the Australian Government, Queensland Government and BCC.¹⁷

Upon commencement, the Bill would transfer the trusteeship and management of Anzac Square to the QVC.

2.2 Anzac Day Trust Fund

The Anzac Day Trust Fund (the Trust Fund) was established by the AD Act. The Trust Fund is currently administered by the Anzac Day Trust, a statutory body governed by a four member Board of Trustees.¹⁸

The Trust Fund offers annual payments to institutions, organisations and associations that provide assistance to ex-service men and women and their dependants. To be eligible for payments, institutions, organisations and associations must provide help or support to:

- aged persons who served in the Australian Defence Force (ADF)
- the spouses and children of deceased persons who served in the ADF
- persons who served in the ADF in times of war or armed conflict, and
- institutions, organisations or associations that provide help or support to aged persons, spouses and children of deceased persons who served in the ADF.¹⁹

The explanatory notes state that the Trust Fund is funded predominantly by a grant appropriated by the Queensland Government, in accordance with the formula prescribed in the AD Act.²⁰

Upon commencement of the Bill, the QVC would become responsible for the administration of the Trust Fund.²¹ However, the AD Act and the requirement for the Queensland Government to make an annual grant for the purposes of the Trust Fund and the purposes for which payments may be made from the Trust Fund would not be changed.²²

2.3 Advice to government on veterans' matters

The QVAC is a ministerial committee, which provides a forum for the Queensland veterans' community to communicate directly with the highest levels of the Queensland Government about matters relating to veterans.²³ In addition, QVAC promotes the wellbeing of veterans in Queensland.

The QVAC comprises of a Chairperson and up to 11 other members from the Queensland veterans' community including: veterans' associations; associated ex-service organisations; and people with a

¹⁷ Queensland Government, 'Anzac Square restoration and enhancement', <https://anzac100.initiatives.qld.gov.au/legacy-projects/bcc/index.aspx>.

¹⁸ Department, correspondence, 4 May 2021, p 2.

¹⁹ Queensland Government, 'Anzac Day trust fund', <https://www.qld.gov.au/law/laws-regulated-industries-and-accountability/money-tax-and-trust-accounts/anzac-day-trust-fund>

²⁰ Explanatory notes, p 2.

²¹ Bill, cl 55.

²² Department, correspondence, 4 May 2021, p 2; Department, public briefing transcript, Brisbane, 30 April 2021, p 2.

²³ Explanatory notes, p 2; Queensland Government, 'Establishment of and appointments to the Veterans' Advisory Council', February 2014, <https://cabinet.qld.gov.au/documents/2014/Feb/Appts%20Veterans%20council/Appointments%20Veterans%20Advisory%20Council.docx>

direct link to or interest in veterans' issues. The members of QVAC are nominated or identified by the Queensland veterans' community.²⁴

Upon commencement of the Bill, the QVAC would cease to exist and its advisory functions would be undertaken by the QVC, with the support of a veterans' reference group.²⁵

2.4 Review of current arrangements

At the public hearing, the department advised that it undertook a review of the current arrangements for several reasons:

There was a range of stakeholders that had indicated that a new model would be useful. In relation to Anzac Square, the Anzac Square steering committee was of the view that we needed a new governance model for the management of Anzac Square. There were also views about how we could improve the collaboration and coordination of veterans' issues across government—the Anzac Day Trust was in a different portfolio—and how we could modernise that and put those together. Those discussions had been happening over a couple of years around how we could modernise that and put all those veterans' matters together to make it more of a coordinated approach.²⁶

In addition, the explanatory notes state that the establishment of the QVC:

- will support the future strategic direction and operation of Anzac Square
- provides the opportunity to consolidate the role of the Board in providing governance of the Trust Fund and the governance of Anzac Square into one statutory body, and
- provides the opportunity to formalise the functions of the QVAC.²⁷

2.5 Approaches in other jurisdictions

The department advised that establishing a statutory body with governance responsibility for Anzac Square reflects the approach adopted in Victoria and New South Wales (NSW), where a statutory body has responsibility for the management of the respective State War Memorials.²⁸

The committee notes that in Victoria and NSW, separate bodies perform the function of managing the State War Memorial and the allocation of funds for veteran-related causes and providing advice to the relevant Minister.

2.5.1 Victoria

In Victoria, the care, management, maintenance and preservation of the Shrine of Remembrance and surrounding land is the responsibility of 10 Shrine Trustees, as per the *Shrine of Remembrance Act 1978* (Vic).²⁹

The administration of funding and providing advice to the Minister for Veterans is the responsibility of the Victorian Veterans Council, an independent statutory body established by the *Veterans Act 2005* (Vic). The Victoria Veterans Council provides:

²⁴ Explanatory notes, p 2; Queensland Government, 'Establishment of and appointments to the Veterans' Advisory Council', February 2014, <https://cabinet.qld.gov.au/documents/2014/Feb/Apts%20Veterans%20council/Appointments%20Veterans%20Advisory%20Council.docx>

²⁵ Explanatory notes, p 2.

²⁶ Department, public hearing transcript, Brisbane, 24 May 2021, p 22.

²⁷ Explanatory notes, pp 1-2.

²⁸ Department, correspondence, 4 May 2021, p 1.

²⁹ *Shrine of Remembrance Act 1978*, https://content.legislation.vic.gov.au/sites/default/files/1de3e3f4-f809-3583-a143-d60ff94bfcca_78-9167aa026%20authorised.pdf.

- advice to the Minister for Veterans on issues affecting Victoria's veteran community
- advice to the Minister and/or the Director of Consumer Affairs on the regulation of Patriotic Funds
- support for veterans' commemoration and education through the Victorian Veterans Fund
- support for veterans' welfare through the Anzac Day Proceeds Fund.³⁰

2.5.2 New South Wales

In NSW, a Board of Trustees administers NSW's Anzac Memorial, under the *Anzac Memorial (Building) Act 1923* (NSW).³¹

The Community War Memorials Fund, established in 2008 by the NSW Government, helps conserve, repair and protect War Memorials across NSW. The fund is delivered by the NSW Office for Veterans Affairs.³²

2.5.3 Western Australia

In Western Australia (WA), the Veterans Advisory Council is a non-statutory advisory body established in 2014 by the Minister for Veterans Issues.³³ The Veterans Advisory Council:

- investigates matters referred to it by the Minister for Veterans Issues, and
- provides advice to the WA Government on matters relevant to veterans, including health, ageing and welfare.³⁴

The *Anzac Day Act 1960* (WA) established the Anzac Day Trust Grants, which are available to ex-service organisations to support the welfare of ex-service personnel and their families.³⁵

³⁰ Victorian Government, 'About the Victorian Veterans Council', <https://www.vic.gov.au/victorian-veterans-council>.

³¹ Anzac Memorial, Hyde Park Sydney, 'About the Memorial', <https://www.anzacmemorial.nsw.gov.au/about>.

³² New South Wales Government, 'Community War Memorials Fund', <https://www.veterans.nsw.gov.au/assets/Community-War-Memorials-Fund/Community-War-Memorials-Fund-2021-2022-Program-Guidelines.pdf>, p 2.

³³ Western Australia Government, Department of Communities, 'Veterans', <https://www.communities.wa.gov.au/media/1269/misc126-veterans-ac-termsofref-2018.pdf>.

³⁴ Western Australia Government, Department of Communities, 'Veterans', <https://www.communities.wa.gov.au/media/1269/misc126-veterans-ac-termsofref-2018.pdf>.

³⁵ Western Australia Government, 'Veterans issues', <https://www.wa.gov.au/organisation/department-of-jobs-tourism-science-and-innovation/veterans-issues>.

3 Examination of the Bill

The main purpose of the Bill is to establish the QVC to:

- manage, maintain, preserve and develop Anzac Square as the State's War Memorial
- administer the Trust Fund, including by making payments from the Fund, and
- advise the Minister about veterans' matters.³⁶

3.1 Establishment and functions of the Queensland Veterans' Council

The Bill establishes the QVC as an independent statutory body. The QVC would be considered as a unit of public administration under the *Crime and Corruption Act 2001*, and a statutory body under:

- the *Financial Accountability Act 2009*, and
- the *Statutory Bodies Financial Arrangements Act 1982*.³⁷

The QVC would have all the powers of an individual and may, for example, enter into contracts or agreements, appoint agents, engage consultants and charge a fee for its services.³⁸

The Bill provides that the QVC will have three main areas of responsibility:

- maintenance and management of Anzac Square as the heritage asset for the state
- management of the Trust Fund, and
- providing advice to the government on veterans' matters.³⁹

3.1.1 Maintenance and management of Anzac Square

The Bill provides that the QVC would have the following functions in relation to Anzac Square:

- to act as trustee of Anzac Square reserve under the Land Act
- to manage, maintain, preserve and develop Anzac Square as a memorial to honour the service and sacrifice of Queenslanders and other Australians in war, conflict, peacekeeping and peacemaking
- to approve and oversee the staging of ceremonial activities and events at Anzac Square to commemorate the service and sacrifice of Queenslanders and other Australians in war, conflict, peacekeeping and peacemaking
- to approve, manage and promote public programs at Anzac Square to inform, educate and promote understanding among Queenslanders and visitors about the history, experiences, service and sacrifice of Queenslanders and other Australians in war, conflict, peacekeeping and peacemaking, and
- to manage and maintain the cultural heritage significance of Anzac Square.⁴⁰

The term Anzac Square is defined as the 'Anzac Square reserve and all memorials and monuments on the reserve including the Shrine of Remembrance, the Shrine of Memories, the Crypt and all other present and future memorials'.⁴¹

³⁶ Bill, cl 3.

³⁷ Bill, cl 5-8.

³⁸ Bill, cl 12.

³⁹ Department, public briefing transcript, Brisbane, 30 April 2021, pp 5-6.

⁴⁰ Bill, cl 9.

⁴¹ Bill, sch 1.

The department advised that the QVC will not assume responsibility for developing, promoting and delivering ceremonial activities and events at Anzac Square. The department stated that organisations which wish to deliver ceremonial activities at Anzac Square will seek the QVC's permission to use Anzac Square and the QVC would have the power to oversee the use of Anzac Square.⁴²

To support the maintenance of the heritage significance of Anzac Square, clause 48 of the Bill provides that the QVC must prepare and implement a conservation management plan for Anzac Square, which must be approved by the Queensland Heritage Council. The conservation management plan must be reviewed at least once every five years.⁴³

The Bill also provides that Anzac Square is to continue to be taken as a public place for any Act that confers or imposes on a police officer or authorised person powers or functions in respect of a public place, or that provides for offences committed in a public place. This provision does not, however, prevent or limit the imposition by the QVC of conditions of entry for Anzac Square.⁴⁴

A local law made by the BCC would continue to apply to Anzac Square, except if a regulation provides that the local law does not apply or applies with stated changes. The explanatory notes state that 'The clause ensures that appropriate BCC local laws will continue to apply to Anzac Square'.⁴⁵

3.1.2 Management of Anzac Day Trust

The Bill provides that the QVC would have the function of administering the Trust Fund and deciding applications for payments out of the Trust Fund.⁴⁶

The department advised that:

... the Queensland Veterans' Council will replace the current four-member board of trustees of the Anzac Day Trust Fund. The trust fund is funded predominantly by a grant appropriated from the Queensland government and provides annual payments to institutions, organisations or associations to assist ex-service men and women and their dependants. The bill does not alter the quantum of funding provided by government to the trust fund; nor does it alter the purposes for which payments may be made from the trust fund.⁴⁷

The Bill makes consequential amendments to the AD Act including to abolish the Anzac Day Trust, end the terms of appointment for the Board and Secretary of the Anzac Day Trust and transfer responsibility for the administration of the Trust Fund to the QVC.⁴⁸

3.1.3 Advice to government on veterans' matters

The Bill provides that the QVC would also have the following functions in relation to veterans' matters:

- to monitor matters affecting the veterans' community
- to investigate and report on any aspect of veterans' matters referred to it by the Minister
- to consult with the veterans' community when developing advice for the Minister, and
- to advise the Minister about veterans' matters and any other matter relevant to the performance of the council's functions.⁴⁹

⁴² Department, correspondence, 4 May 2021, p 1.

⁴³ Bill, cl 48.

⁴⁴ Bill, cl 46.

⁴⁵ Explanatory notes, p 13.

⁴⁶ Bill, cl 10.

⁴⁷ Department, public briefing transcript, Brisbane, 30 April 2021, p 2.

⁴⁸ Bill, cl 68-86; department, correspondence, 4 May 2021, p 2.

⁴⁹ Bill, cl 11.

The department advised that to support the QVC ‘... in providing advice to government, clause 34 provides for the establishment of the veterans reference group’, with the functions of:

... helping the Queensland Veterans’ Council to identify and consult with the veterans community, veterans organisations and other community organisations when preparing advice for the minister; and to help the council to advise the minister about veterans matters.⁵⁰

In addition, the department advised that the Bill provides a direct link between the QVC and the veterans’ reference group ‘through the overlap of membership of the two entities. The two members of the QVC that are nominated by veterans’ organisations will also co-chair the veterans’ reference group.’⁵¹

The establishment, functions and composition of the veterans’ reference group are discussed in more detail at section 3.3 of this report.

3.1.4 Submitters’ views and department’s response

DFWAQ supported the concept of the QVC to address various emerging veterans’ issues which needed to be addressed at state level; however, it consider that the proposed governance structure is flawed.⁵² Australian War Widows Queensland stated that it welcomed the move towards making the QVC a statutory body with the appropriate authority to ensure that Queensland’s War Memorial is managed by veterans and for veterans.⁵³ RSL Queensland stated that it:

... welcomes the actions by the Queensland State Government to establish the Queensland Veterans Council, a statutory body that will modernise the legislative framework for veterans’ matters, provide a modern governance framework for the development and maintenance of Anzac Square, formalise the responsibilities of the Anzac Day Trust Fund and monitor and report on general matters affecting veterans.⁵⁴

Queensland Heritage Council commended the Bill which it considered ‘... will encourage maintenance of the cultural heritage significance of Anzac Square in a number of ways’.⁵⁵

3.1.4.1 Concerns about the focus of the Queensland Veterans’ Council and its ability to perform three distinct functions

A number of submitters raised concerns that the Bill seeks to establish one statutory body to perform three distinct functions, which require different skills, experience, knowledge and method of operation.⁵⁶

Mr Daniel O’Kearney (former Chair of the QVAC) advised that during 2015, QVAC identified that a number of veterans’ roles were carried out across various government departments. The QVAC suggested that ‘to achieve efficiencies and for the betterment of the veteran community many of the roles could be created under a single Minister and department’. Mr O’Kearney stated that:

Understanding that each of these roles has different requirements and some are charities it was envisaged that there would be one supervisory and administrative body and a number of Boards, Trusts or Committees dealing with a particular role.⁵⁷

⁵⁰ Department, public briefing transcript, Brisbane, 30 April 2021, p 2.

⁵¹ Department, correspondence, 4 May 2021, p 2.

⁵² Submission 8, p 10.

⁵³ Submission 4, p 1.

⁵⁴ Submission 9, p 2.

⁵⁵ Submission 3, p 1.

⁵⁶ Submissions 2, 5 and 10.

⁵⁷ Submission 2, p 1.

Mr O’Kearney stated that ‘The proposal to establish a single body was not to establish one where one size fits all and it was not to abolish a century of historical precedence’.⁵⁸

Submitters expressed concerns that the proposed functions of the QVC mix the custodial management of an inanimate object, Anzac Square, with the welfare of the veterans’ community.⁵⁹ At the public hearing, the BDWV stated that:

... the whole focus of it [the Bill] appears to us to be on the management and administration of Anzac Square. In a nutshell, Anzac Square is a memorial; veterans are people. We do not think those two necessarily sit easily in the same bill ...⁶⁰

Submitters recommended that separate bodies should be established to perform the distinct functions of the management, conservation and significant historical aspects of Anzac Square; the administration of the Trust Fund; and the provision of advice to ministers about veterans’ matters.⁶¹

The BDWV stated that:

There is a strong view to say they should all be veterans on that council and the management of Anzac Square should be either a separate bill entirely or just a separate grouping under the Veterans’ Council, because that requires specialist historians, builders and council workers as well as a bit of military history input. It does not really sit with dealing with suicide prevention for veterans and the day-to-day issues that veterans in our community face.⁶²

The DFWAQ agreed with this view, stating that the administration of the Trust Fund certainly requires a separate entity:

The other side, advice and the allocation of funds to meet veteran needs, I believe there should be a separate entity. Having listened to other people’s submissions and having talked to people a lot since, they are separate things. There needs to be a relationship with the Anzac Day Commemoration Committee because that has an educational role as well. That has veteran organisations on it plus a cross-section of the community. In fact, there is a good model there because the annual general meeting is this week. As the Premier is the chair and the Leader of the Opposition is the deputy chair, it gives the feeling of a united bipartisan approach, which would be good.⁶³

Submitters, including Mr O’Kearney and DFWAQ supported the model used in NSW and Victoria, where separate statutory bodies have been established to manage the State War Memorials and provide veteran advice and manage grants.⁶⁴

Mr Shortridge raised concerns that the QVC would not be sufficiently agile to react quickly to short notice, high priority tasks. Mr Shortridge also considered that the role of advising the government on veterans issue is likely to take up most of the time of the QVC, especially with the Royal Commission on Veteran Suicide.⁶⁵

In relation to the concerns raised by submitters, the department stated that:

Combining into one statutory body the responsibility for Anzac Square, the Anzac Day Trust and the provision of advice to government on veterans’ matters, is designed to provide greater coordination of

⁵⁸ Submission 2, p 1.

⁵⁹ Submission 2, p 2.

⁶⁰ BDWV, public hearing transcript, Brisbane, 24 May 2021, p 1.

⁶¹ Submissions 2, 5, 8 and 10; Mr Cameron CSC, public hearing transcript, Brisbane, 24 May 2021, p 10.

⁶² BDWV, public hearing transcript, Brisbane, 24 May 2021, p 3.

⁶³ DFWAQ, public hearing transcript, Brisbane, 24 May 2021, p 13.

⁶⁴ Mr O’Kearney, public hearing transcript, Brisbane, 24 May 2021, p 4; DFWAQ, public hearing transcript, Brisbane, 24 May 2021, p 12.

⁶⁵ Submission 5, p 3.

veteran-related matters. It also modernises and strengthens the legislative framework for veterans' matters in Queensland.⁶⁶

3.1.4.2 Impact on the Anzac Day Trust Fund

Submitters, including Mr Cameron CSC, RSL Queensland, Mr Craig, Mr O'Kearney and DFWAQ, raised concerns about the impact the proposals may have on the governance and administration of the Trust Fund.⁶⁷

Mr Cameron CSC raised concerns that there would be insufficient funding to maintain the functions of the Trust Fund, as well as maintaining Anzac Square and providing advice to the Minister.⁶⁸ At the public hearing, Mr Cameron CSC stated:

If we do the raw maths around the Anzac Day Trust at the moment and the current cost of looking after Anzac Square, I think over a five-year period the veteran community through the Anzac Day Trust will be poorer to the tune of about \$5 million.⁶⁹

Similarly, RSL Queensland sought clarification as to whether any funding from the Trust Fund would be used to support the operation of Anzac Square.⁷⁰

Mr Craig sought clarification about whether the proposal to remove the existing Trust Fund and Trustees affected the objectives of the Trust Fund.⁷¹

In response, the department advised that:

Section 13 of the *Anzac Day Act 1995* (AD Act) provides that the State is to pay an annual grant to the Anzac Day Trust. The Bill makes amendments to replace references to "the Trust" with a reference to "the Council" (i.e. QVC). There is no change to the formula that determines the quantum of the grant provided to the Anzac Day Trust Fund.

The Bill does not abolish the Anzac Day Trust Fund. This remains in section 8 of the AD Act.

Section 9 of the AD Act provides the purposes for which payments may be made from the Fund. The Bill does not alter the purposes for which payments may be made and funding allocated to the Anzac Day Trust Fund cannot be used for any other purposes than those purposes currently provided for under the AD Act.⁷²

Mr O'Kearney and DFWAQ noted that the Trust was established 100 years ago.⁷³ DFWAQ noted that the Trust works well and is highly regarded amongst the veterans' community and questioned the rationale for proposing a change.⁷⁴ The submitters raised concerns about the proposed changes and considered that the Trust Fund should continue to be administered by four trustees, all of whom should be veterans.⁷⁵

⁶⁶ Department, correspondence, 26 May 2021, p 2.

⁶⁷ Submissions 1, 2, 8, 9 and 11.

⁶⁸ Submission 11, p 2.

⁶⁹ Mr Cameron CSC, public hearing transcript, Brisbane, 24 May 2021, p 11.

⁷⁰ Submission 9, p 3.

⁷¹ Submission 1, p 3.

⁷² Department, correspondence, 26 May 2021, p 4.

⁷³ Submissions 2 and 8.

⁷⁴ Submission 8, p 5; DFWAQ, public hearing transcript, Brisbane, 24 May 2021, p 12.

⁷⁵ Submissions 2 and 8.

At the public hearing, Mr O’Kearney stated that the proposals would mean ‘... that people who have no understanding of the veterans’ community will now be making decisions on where that trust money goes’.⁷⁶

Mr O’Kearney suggested that the Bill should allow for the Trust Fund to continue to be administered by the four trustees under the supervision of the QVC.⁷⁷

In response, the department advised that the AD Act establishes the Trust as a statutory body. The department noted that:

Statutory bodies are separate legal entities that are responsible to the Minister and Parliament. It is not appropriate for one statutory body to have oversight over another statutory body in terms of the performance of its legislative functions.⁷⁸

The department stated that the Bill provides that the QVC will have governance responsibility for the Trust Fund. The department stated that:

Clause 38 of the Bill provides that the QVC may establish advisory committees to advise on matters relating to the QVC’s functions. Using this power, the QVC may establish an advisory committee to provide advice on the allocation of funding from the Trust Fund. It is open to the QVC to decide whether payments from the Trust Fund will be made in accordance with recommendations of an advisory committee established to advise on the allocation of funding from the Trust Fund.⁷⁹

3.1.4.3 Prioritisation of providing advice on veterans’ matters

Submitters, including Mr O’Kearney, BDWV, and Mr Craig, noted that the function of advising the Minister on veterans’ matters was listed last at clause 3 of the Bill, and considered that this function should be the number one priority of the QVC.⁸⁰ Mr Shortridge considered that the ‘bill seems almost exclusively focussed on Anzac Square and there is a risk other veteran issues will take a lesser priority’.⁸¹

At the public hearing, Mr Craig stated that:

Given that we are now calling this the Queensland Veterans’ Council, I think the optics would be much better served, and indeed the practice, if the provision of advice on veterans matters was at the top of the pile rather than No. 3.⁸²

At the public hearing, the department clarified that:

... the way it has been drafted in the bill there is no one function that is more important than the other. I think some of the submitters have mentioned the order. The order in which they appear in the bill does not alter which one is more important.⁸³

Mr Cameron CSC raised concerns that the establishment of the QVC would weaken the voice of ex-service organisations, as the government would be able to consult directly with the QVC, instead of such organisations.⁸⁴

⁷⁶ Mr O’Kearney, public hearing transcript, Brisbane, 24 May 2021, p 4.

⁷⁷ Submission 2, p 4.

⁷⁸ Department, correspondence, 26 May 2021, p 6.

⁷⁹ Department, correspondence, 26 May 2021, p 6.

⁸⁰ Submissions 2, 6 and 8; Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 7.

⁸¹ Submission 5, p 3.

⁸² Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 7.

⁸³ Department, public hearing transcript, Brisbane, 24 May 2021, p 22.

⁸⁴ Submission 11, p 3.

Mr Cameron CSC also considered that the Bill will 'politicise Anzac Day and veterans' issues. Mr Cameron CSC stated that 'The structure of the Bill is to create a Council which is directed by the Premier. In clause 11 of the Bill it is clear it has very little freedom unless directed by the Minister' and 'This is very worrying, as the State Government will be able to control the education and messaging around Anzac Day through control of the Council'.⁸⁵

In response, the department stated that the Bill does not prevent the Minister or the Office for Veterans from seeking advice directly from, or consulting directly with, the broader veterans' community. In addition, the functions of the Office for Veterans within the department include providing a mechanism for veterans' organisations to communicate with the Queensland Government. The department advised that 'There is no requirement for either the Minister or the Office for Veterans' to rely solely on the advice of the QVC'.⁸⁶

At the public hearing, the department advised that:

There are three key functions. The QVC itself will provide that governance overlay. The advice function is intended to be supported by the veterans reference group. There are also provisions in the bill that allow the minister to make a statement of expectations—and the introductory speech referred to this—and that statement can also set out things like how the minister intends consultation with the sector to work. That particular statement could outline what is expected in terms of consultation with the veterans organisation and how that consultation response is to be fed back to provide the minister with that advice.⁸⁷

3.1.5 Committee comments

The committee notes submitters' concerns about the focus of the QVC and its ability to perform several distinct functions. The committee also notes submitters' views about the different skills, expertise, knowledge and method of operation required to discharge these functions appropriately.

The committee notes the department's advice that the intention is for the QVC to perform a coordinating role and to provide governance overlay for the various functions. The committee notes that the QVC may appoint advisory committees to assist it in performing each function and may also engage experts. The committee also notes the important role envisaged for the veterans' reference group in assisting the QVC to perform its function of advising the Minister on veterans' matters.

The committee suggests that, if established, the QVC give consideration to creating advisory committees to assist with the functions of managing Anzac Square and administering the Trust Fund.

3.2 Governance arrangements

3.2.1 Membership

The Bill provides that the QVC would have a membership of up to eight people, comprising of:

- two ex-officio members, consisting of
 - the chief executive of the department (or an employee of the department nominated by the chief executive), and
 - the chief executive officer of BCC (or a council employee nominated by the chief executive officer), and
- not more than six members appointed by the Governor in Council (*appointed members*).

⁸⁵ Submission 11, p 3.

⁸⁶ Department, correspondence, 26 May 2021, p 2.

⁸⁷ Department, public hearing transcript, Brisbane, 24 May 2021, p 23.

The six *appointed members* may include:

- not more than two members nominated by *veterans' organisations* (defined as an entity established to support persons who have service for the ADF, or support members of the veterans' community⁸⁸), and
- not more than four people nominated by the Minister.

Before making a nomination, the Minister must be satisfied the person has the qualifications or experience in at least one of the following areas: corporate governance; business or financial management; heritage conservation; or another area the Minister considers relevant or necessary to support the QVC in performing its functions.⁸⁹

The Bill provides that the Governor in Council may appoint an *appointed member*, recommended by the Minister, to be the Chairperson of the QVC.⁹⁰ Council members would hold office for a term, not longer than four years (but may be re-appointed) and *appointed members* are to be paid the remuneration and allowances as decided by the Governor in Council.⁹¹

Members of the QVC would be protected from civil liability for any act done, or omission made, honestly and without negligence.⁹²

The department advised that 'The size and composition of the QVC takes into account the diverse functions and responsibilities imposed on the statutory body, the required skill set of the QVC members to support its range of functions, and the need for the QVC to remain efficient'.⁹³

3.2.2 Nominations by veterans' organisation

The Bill provides that the Minister may give a veterans' organisation a notice stating a reasonable period within which it may nominate a person for appointment to the QVC. If the veteran's organisation does not nominate a person within the period stated in the notice, the Minister may nominate a veteran, the veteran is taken to have nominated for appointment to the QVC.⁹⁴

The department advised that:

Clause 14 of the Bill provides the Minister with the discretion to determine which veterans' organisations may nominate a person to be a member of the QVC. The Ex-Service Organisation Mapping Project identified hundreds of ex-service organisations in Queensland including Returned and Services League of Australia (Queensland) Sub-Branches, Unit or Ship Associations, RAAF associations, Legacy Clubs and other support organisations. The discretion in clause 14 allows for the Minister to vary the representation of veterans' organisations on the QVC which provides the opportunity for different ex-service organisations to be involved in the QVC.⁹⁵

3.2.3 Eligibility, disqualification and removal from office

The Bill provides that a person is not eligible for appointment as a member of the QVC, if they are currently a member of the Legislative Assembly, or a councillor of a local government.⁹⁶

⁸⁸ Bill, sch 1.

⁸⁹ Bill, cl 13.

⁹⁰ Bill, cl 18.

⁹¹ Bill, cl 16 and 17.

⁹² Bill, cl 50.

⁹³ Department, correspondence, 4 May 2021, p 3.

⁹⁴ Bill, cl 14.

⁹⁵ Department, correspondence, 4 May 2021, p 3.

⁹⁶ Bill, cl 15.

A person is disqualified from becoming, or continuing as, an *appointed member*, if they:

- have a conviction, other than a spent conviction, for an indictable offence
- do not consent to the Minister requesting a report about their criminal history
- are insolvent under administration, or
- are disqualified from managing corporations because of the *Corporations Act 2001* (Cth), part 2D.6.⁹⁷

Under clause 19 of the Bill, the Minister has the discretion to consider the circumstances of the indictable offence or insolvency and give written approval for the person to become or continue as an appointed member of the QVC.⁹⁸ The department advised that a similar power is given to the relevant Minister under the *Grammar Schools Act 2016* and Queensland university legislation, such as the *University of Queensland Act 1998*.⁹⁹

At the public briefing, the department provided the following examples of when the Minister may use the discretion provided by the Bill:

Having the discretion to take into account a person's prior convictions acknowledges that not all states have a spent conviction regime. There could be a circumstance where someone has committed an offence as a 17-, 18- or 19-year-old and that is still appearing on their record in their 50s, even though they have not otherwise offended and they have served the appropriate time. It allows the minister to take into account the circumstances of that and to consider whether or not they would still be appropriate for appointment.

...

There might be a situation where somebody has been involved in a company that has gone into administration. The reasons and the circumstances around why that company has gone into administration may not be something that they had direct control over, but it might be something that means they are disqualified from managing corporations, so it allows the minister to take into account those sorts of thing as well.¹⁰⁰

The Bill provides that an *appointed member's* office becomes vacant if the member: completes a term of office; resigns office; stops being eligible for appointment; is disqualified from continuing as an appointed member; does not consent to the Minister requesting a criminal history report; is removed from office by the Governor in Council; is absent, without the Chairperson's permission from three consecutive meetings; and, if nominated by a veterans' organisation, stops being a representative of that organisation.¹⁰¹ The Minister may approve a leave of absence for a member and appoint another person to act in the office during the period of leave as required.¹⁰²

The Bill provides that the Minister may, with the written consent of the person concerned, ask the Police Commissioner for a written criminal history report about the person to help determine whether a person should be disqualified from becoming or continuing as an appointed member. The Police Commissioner must comply with any such request.¹⁰³

The Bill also requires *appointed members* to immediately give notice to the Minister if they become insolvent under administration, are disqualified from managing corporations or are convicted of an

⁹⁷ Bill, cl 19; explanatory notes, p 10.

⁹⁸ Bill, cl 19.

⁹⁹ Department, correspondence, 4 May 2021, p 3.

¹⁰⁰ Department, public briefing transcript, Brisbane, 30 April 2021, p 6.

¹⁰¹ Bill, cl 22.

¹⁰² Bill, cl 21.

¹⁰³ Bill, cl 23.

indictable offence, unless they have a reasonable excuse. Non-compliance with this requirement is an offence attracting a maximum penalty of 100 penalty units.¹⁰⁴

To ensure criminal history information remains confidential, the Bill provides that a person who possesses criminal history information due to administering the Act must not unlawfully use or disclose the criminal history information – an offence attracting a maximum penalty of 100 penalty units. A person who possess a criminal history report is also required to destroy the report as soon as practicable after it is no longer needed.¹⁰⁵

3.2.4 Council business and meetings

The Bill makes provision for the disclosure of direct or indirect interests by council members and the conduct of business and holding of council meetings, including the keeping of minutes, quorum and voting rules and procedures.¹⁰⁶

Clause 27 provides that the QVC Chairperson must convene a council meeting at least four times each year and if requested, in writing, by the Minister or three or more QVC members.¹⁰⁷

3.2.5 Submitters' views and department's response

3.2.5.1 *Veteran representation on the QVC*

The majority of submitters raised concerns that, under the current proposals, veterans and representatives of the veterans' community were underrepresented on the QVC.¹⁰⁸

The DFVAQ stated that 'The Veteran membership of the council must be increased to over 50% to achieve any credibility amongst the veteran community and indeed, the general public'.¹⁰⁹ Similarly, the BDWV stated that '... if there are two veterans on that council, it is not a veterans' council. Veterans would not have a strong voice on that council'.¹¹⁰ RSL Queensland stated that 'It is important that the members of the council clearly understand veterans' issues and the views of veterans. Having two veterans in a membership of eight does not allow for this'.¹¹¹

Submitters made a number of different recommendations to increase the number of veteran representatives on the QVC. Submitters' recommendations included:

- all members of the QVC should be veterans or representatives of the veterans' community¹¹²
- a minimum of four, but preferably five, veteran representatives nominated from the veterans' community¹¹³
- a minimum of three, but preferably four, veteran representatives, including one female veteran and one representative of war widows/widowers and dependants¹¹⁴

¹⁰⁴ Bill, cl 20 and 24.

¹⁰⁵ Bill, cl 25.

¹⁰⁶ Bill, cl 26-33.

¹⁰⁷ Bill, cl 27.

¹⁰⁸ Submissions 1, 2, 5, 6, 7, 8, 9, 10, 11 and 12.

¹⁰⁹ Submission 8, p 9.

¹¹⁰ BDWV, public hearing transcript, Brisbane, 24 May 2021, p 2.

¹¹¹ RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 14.

¹¹² Submission 2; Mr O'Kearney, public hearing transcript, Brisbane, 24 May 2021, p 5.

¹¹³ Submission 8, p 9.

¹¹⁴ Submission 6, p 2.

- a minimum of five veterans, with three persons nominated by veterans' organisations and two persons who were full-time members of the ADF and are now in civilian employment,¹¹⁵ and
- a minimum of four veterans, including the Presidents of RSL, a representative from Legacy Club, a young veteran and a female veteran.¹¹⁶

The DFWAQ noted that the equivalent legislation in Victoria, provides that 'the ex-service community are to make up the majority of the membership of the Victorian Veterans Council'.¹¹⁷

Submitters, including Mr Craig, Mr O'Kearney, Mr Shortridge, DFWAQ and RSL Queensland, considered that the Chairperson of the QVC should also be a veteran.¹¹⁸

At the public briefing on 30 April 2021, committee members queried the remuneration to be paid to appointed members. In response, the department advised that 'We have not considered what band they would fit in under the remuneration procedures. ... there is consideration given to what level the council fits in in terms of those remuneration procedures'.¹¹⁹

In relation to submitters' concerns, the department stated:

Various submitters have raised concerns that the bill limits the representation of veterans on the Queensland Veterans' Council. The bill provides for the membership of the council to include two ex officio members, two members nominated by veterans' organisations and four other appointed members with the necessary skills and experience to support the council in the performance of its functions as a statutory body. In relation to the four other appointed members, the bill provides the minister with the discretion to consider a broad range of skills or experience that the minister considers relevant or necessary for the Queensland Veterans' Council to perform its functions. There is no limit on the number of veterans who can occupy the position of appointed members. The membership of the council as outlined in the bill provides a contemporary governance structure. The veterans group will support the council in its advisory role to the minister on veterans' matters. In addition, the council is able to form other committees to advise on specific matters.¹²⁰

The department also stated:

The membership of the QVC is aimed at it being a governance body. Because of the responsibilities that the QVC will have in relation to being a statutory body, the financial reporting obligations, the responsibilities for managing the accounts and things like that, it is a governance structure that has been adopted rather than a representational structure. The representational structure comes through with the veterans reference group. There is a focus on skills and experience and what you can bring to that governance structure.¹²¹

In addition, the department advised that:

Also government policy currently is to ensure there is diversity and equity on boards. It is a requirement under government policy in the cabinet handbook that all significant appointments include consideration of diversity of membership on boards.¹²²

¹¹⁵ Submission 9, p 4.

¹¹⁶ Submission 12, p 1.

¹¹⁷ Submission 8, p 9.

¹¹⁸ Submissions 1, 2, 5, 8, 9 and 12.

¹¹⁹ Public briefing transcript, Brisbane, 30 April 2021, p 5.

¹²⁰ Department, public hearing transcript, Brisbane, 24 May 2021, p 19.

¹²¹ Department, public hearing transcript, Brisbane, 24 May 2021, p 21.

¹²² Department, public hearing transcript, Brisbane, 24 May 2021, p 23.

In response to the recommendation that the Chairperson of the QVC should be a veteran, the department stated:

The Bill requires that the chairperson must be chosen from the 'appointed members' and thereby ensures that the ex-officio members cannot be appointed as the Chairperson.¹²³

Additionally, at the public hearing, the department noted that the AD Act is silent on whether the chair of the Anzac Day Trust must be a veteran.¹²⁴ The department advised that:

By not prescribing that the Chairperson must be a veteran, the Minister is provided with the opportunity to appoint a range of people including a widow of a veteran, a partner of a veteran, a child of a veteran, another member of the veterans' community or another non-veteran member.¹²⁵

In addition, the department stated:

It is my understanding that most chairpersons of the Anzac Day Trust have been veterans. However, there was a period of several years where the chairperson was a civilian and not a representative of any ex-service organisation. I think that was around 2007 for a period of five or six years. I would have to get the exact dates, but it is my understanding that the person was not a representative from an ex-service organisation. I have it here: 2007 to 2013.¹²⁶

3.2.5.2 *Appointment of ex-officio members*

Concerns were also raised by submitters about the appointment of ex-officio members on the QVC. Mr Craig stated that BCC should only be represented by the CEO and not a delegate.¹²⁷

Mr O'Kearney queried the need for a public servant to be on the QVC, noting that the chief executive of the department or delegate should form part of the executive team but not the QVC itself, to avoid influencing the outcome of QVC decisions.¹²⁸ Mr O'Kearney stated that the requirement to have a BCC representative on the QVC should be replaced with a requirement to have an additional ex-service community member.¹²⁹

DFAWQ considered that if BCC and government department employees are to be on the QVC, they should be non-voting members. DFAWQ considered that the inclusion of a departmental executive or employee, with voting rights, may create a conflict of interest when voting on the provision of independent advice on veterans' issues which may be inconsistent with government policy.¹³⁰

The department advised that:

It is not unusual for ex-officio members to be appointed to government bodies, including statutory bodies.

The Bill provides for the appointment of the chief executive of the department in which the Bill, if passed, will be administered. This allows for the inclusion on the statutory body the department that provides the administrative and operational support to the QVC and improves communication between the QVC and the department.

The Bill provides for the chief executive of the BCC or their nominee to be a member of the QVC. As the long-term trustee of Anzac Square, it is appropriate that the QVC have a BCC representative because:

¹²³ Department, correspondence, 26 May 2021, pp 8-9.

¹²⁴ Department, public hearing transcript, Brisbane, 24 May 2021, p 22.

¹²⁵ Department, correspondence, 26 May 2021, p 9.

¹²⁶ Department, public hearing transcript, Brisbane, 24 May 2021, p 22.

¹²⁷ Submission 1, p 2.

¹²⁸ Submission 2, p 4.

¹²⁹ Submission 2, p 4.

¹³⁰ Submission 8, p 10.

- a) BCC has had a longstanding history as trustee of Anzac Square;
- b) Anzac Square is located within the BCC local government area;
- c) BCC local laws will apply to Anzac Square and a BCC presence on the QVC will ensure that the QVC will be aware of any changes to local laws that may apply to Anzac Square.¹³¹

3.2.5.3 Qualifications and experience of appointed members

Mr Craig suggested that the list of qualifications and experience at clause 13(3) of the Bill should be expanded to include museum curation (including audio visual display and associated technology) and veterans' affairs or defence force experience.¹³²

Mr O'Kearney suggested that the specified qualifications and experience in the Bill are unnecessary, and that whilst expert advice could be requested by the QVC in these areas, it is more important to include veterans on the QVC.¹³³

The Queensland Heritage Council stated that the inclusion of heritage within the defined skills will foster wise decisions by the QVC that recognise and maintain the cultural heritage values of Anzac Square.¹³⁴

The explanatory notes state that the proposed structure allows both veterans and non-veterans with the necessary skills and expertise to be appointed as members of the QVC. Providing the opportunity for non-veteran members of the community with the appropriate skills and experience to be appointed to the QVC reflects the historical origins of Anzac Square as the broader community's response to the First World War and Anzac Square's purpose as a War Memorial for all Queenslanders.¹³⁵

At the public briefing, the department stated that there is no limit on the number of veterans that may be appointed to the six positions that are occupied by appointed members, provided they have the necessary skills and expertise to support the QVC in the performance of its functions.¹³⁶

The department stated that the proposed membership of the QVC ensures an appropriate governance structure.¹³⁷ The department also advised that the Bill provides that the QVC may establish advisory committees to advise on matters relating to its functions and engage experts to advise on particular matters, if required.¹³⁸

3.2.5.4 Members nominated by veterans' organisation

Submitters raised queries about which veterans' organisations would be approached by the Minister to nominate persons to be members of the QVC.¹³⁹ Mr Craig noted that there are many such organisations with varying agendas which may distract from the purpose of the QVC.¹⁴⁰

In relation to this issue, Mr O'Kearney stated:

...there now over 3,000 organisations providing services to the veteran community. At present there are at least 12 major organisations all having different objectives. e.g. the RSL mainly provides service to

¹³¹ Department, correspondence, 26 May 2021, p 9.

¹³² Submission 1, p 3.

¹³³ Submission 2, p 5.

¹³⁴ Submission 3, p 2.

¹³⁵ Explanatory notes, p 3.

¹³⁶ Department, public briefing transcript, Brisbane, 30 April 2021, p 2.

¹³⁷ Department, public briefing transcript, Brisbane, 30 April 2021, p 5.

¹³⁸ Department, correspondence, 26 May 2021, p 11.

¹³⁹ Submissions 1, 2, 9 and 12.

¹⁴⁰ Submission 1, p 2.

those who have served. Legacy only provides service to the next of kin of those who served. At present the War Widows organisation which has a very narrow function and objective is the largest DVA Supportive group.

Depending on which organisation the Minister selects to be Council members could make a difference to the decision-making process.¹⁴¹

Mr O’Kearney suggested that a good balance would be to have RSL Queensland, Legacy and four other veterans.¹⁴² At the public hearing, Mr Craig stated:

There are something like 3,500 ex-service organisations in Australia and pretty much all of those are represented in Queensland, so the pool from which to draw potential veteran members of the council is huge. A good number—but it is not a huge number—of the 3,500 organisations have been around for a long time and have established management practices and structures and have a deal of experience in coping with veterans affairs.

A good number of those organisations, possibly the majority, have not been around for a long time, do not have an awful lot of people and tend to be single-issue focused. Thus, I think we will have to craft an arrangement where those who know the veterans community can recommend to the minister organisations that would add to the council both the skills and the knowledge that are required. One mechanism for doing it could be the veterans review group. If that was appointed carefully, it would have a good view of which veterans organisations might be best placed to provide the sort of advice and support we are talking of and could make that recommendation to the minister. That loops back to if the veterans review group is not appointed then we are really flying blind.¹⁴³

Legacy Brisbane stated that there should be a balance struck between nominated veterans, and that QVC veteran council members should not necessarily have to be nominated by a recognised service organisation:

This is where the balance needs to be about understanding individual issues but very contemporary issues of those transitioning out of the Defence Force who then gain employment within the community who equally have the skills that the council is after. They may not be a member of the RSL. They may not be a member of Legacy, and that is a personal choice. Certainly their voices should not be silenced based on their membership to an organisation.

We need to celebrate those who are willing to step forward and be part of better service delivery, better integration and better collaboration from very much a personal perspective as well as an organisational perspective. At the end of the day, once the council membership is articulated and known and the skill sets are established, we should not be blinkered by what membership they have in the ex-service community.¹⁴⁴

RSL Queensland supported the approach adopted in clause 14 of the Bill for the Minister to give notice to veterans’ organisations. RSL Queensland suggested that to ensure the best candidates for the role, the positions should be advertised through the major ex-service organisations, with nominees subject to a recruitment process.¹⁴⁵ At the public hearing, RSL Queensland supported a defined appointment process, stating:

RSL Queensland supports an approach that gives credible interested ESOs [ex-service organisations] an opportunity to have an involvement in the council. We hold the view that the ex-service members of both the Queensland Veterans’ Council and the veterans reference group should be selected via a transparent process, thereby opening up the council and the reference group to a wider range of ESO members who

¹⁴¹ Submission 2, p 5.

¹⁴² Submission 2, p 4.

¹⁴³ Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 8.

¹⁴⁴ Legacy Brisbane, public hearing transcript, Brisbane, 24 May 2021, p 18.

¹⁴⁵ Submission 9, p 5.

have the required skills. We certainly support the veterans reference group but are seeking to have a more transparent process for ensuring there is a good cross-section of membership.¹⁴⁶

Mr O’Kearney suggested that the Assistant Minister to the Premier for Veterans’ Affairs, Trade and COVID Economic Recovery should ‘... sit down with a number of organisations and talk out what qualities they want in the people who sit on the Veterans’ Council’.¹⁴⁷

In response, the department stated:

The Bill provides the Minister with the discretion to determine which veterans’ organisations to approach. The discretion for the Minister to choose which veterans’ organisations may nominate a person for appointment allows the Minister to vary the representation of veterans’ organisations on the QVC over time and provides the option for a broad range of veterans’ organisations to be involved in the QVC. This is important given the large number of veterans’ organisations in Queensland.¹⁴⁸

3.2.6 Committee comments

The committee acknowledges the concerns raised by stakeholders that, under the provisions of the Bill, veterans and representatives of the veterans’ community are underrepresented on the QVC.

The committee notes the department’s advice that particular skills are necessary to ensure the effective management of an independent statutory body, and comply with financial obligations, and that the proposed membership of the QVC ensures that appropriate governance arrangements are in place. The department has advised that the QVC is a governance structure rather than a representative structure, and that the representational structure comes through with the veterans’ reference group. The committee also notes that the Bill does not limit the number of veterans who may be appointed to the six appointed member positions, provided that they have the necessary skills and experience.

The committee also acknowledges the need for flexibility in the process for veterans’ organisations nominating persons to become members of the QVC. The committee encourages the department to adopt an open and transparent appointment process, which enables both members and non-members of ex-service organisations to apply to become a member of the QVC.

Given the important role that the QVC will play in relation to ensuring that veterans have a strong voice in the management and maintenance of Anzac Square, that funds from the Trust Fund are allocated appropriately to veterans’ organisations and providing advice to the Minister on veterans’ matters, the committee considers that it is vital that veterans and representatives of the veterans’ community comprise at least 50 per cent of the QVC membership.

Accordingly, the majority of the committee recommends that the Bill be amended to provide that at least 50 per cent of the members of the QVC must be veterans or representatives of the veterans’ community. The committee considers that this approach will provide sufficient flexibility to ensure that members of the QVC have the necessary governance skills and experience, whilst providing a strong voice for veterans on the QVC.

¹⁴⁶ RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 14.

¹⁴⁷ Mr O’Kearney, public hearing transcript, Brisbane, 24 May 2021, p 5.

¹⁴⁸ Department, correspondence, 26 May 2021, p 8.

Recommendation 2

The committee recommends that clause 13 of the Queensland Veterans' Council Bill 2021 be amended to provide that at least 50 per cent of the members of the Queensland Veterans' Council must be veterans or representatives of the veterans' community.

3.3 Veterans' reference group

The Bill makes provision for the establishment of a veterans' reference group. Clause 34 of the Bill provides that the Minister may establish a veterans' reference group and, following consultation with the QVC, may approve the terms of reference for the veterans' reference group.¹⁴⁹

The Bill provides that the functions of a veterans' reference group are to:

- advise the QVC on any veterans' matter referred to the group
- help the QVC to identify and consult with the veterans' community, veterans' organisations and other community organisations (ie an entity, other than a veterans' organisation, that provides services and support to the veterans' community) when preparing advice for the Minister, and
- help the QVC to advise the Minister about veterans' matters.¹⁵⁰

The membership of a veterans' reference group is decided by the Minister. However the Minister must ensure the group consists of:

- the *appointed members* of the QVC, nominated by a veterans' organisation, and
- not more than eight other members of the *veterans' community*¹⁵¹, with knowledge of or skills in one or more of the following areas: veterans' welfare; veterans' health; military service; veterans' transition from military service; veterans' employment; veterans' aged care; matters that affect veterans' partners, widows and dependants, and other matters that affect the wellbeing of the veterans' community.¹⁵²

The Bill provides that two *appointed members* of the QVC, nominated by a veterans' organisation would be the co-chairs of any veterans' reference group. The Bill also provides that the term of office of members is two years (but may be reappointed), members are not entitled to remuneration and a person ceases to be a member, if the veterans' organisation that nominated them gives notice to the Minister that the person no longer represents the organisation.¹⁵³

¹⁴⁹ Bill, cl 34.

¹⁵⁰ Bill, cl 35.

¹⁵¹ The term *veterans' community* is defined, at Schedule 1 of the Bill, as 'all veterans and all people who have a direct link to veterans including, for example, surviving partners, dependants and parents of veterans'.

¹⁵² Bill, cl 36.

¹⁵³ Bill, cl 37.

3.3.1 Submitters' views and department's response

Submitters raised concerns that the Bill provides the Minister with the discretion to establish a veterans' reference group, rather than it being mandatory.¹⁵⁴

Mr Craig considered that the wording of clause 34 provides no guarantee, and in the absence of more certain language, it is possible that a future Minister may decide not to appoint a veterans' reference group, which would deprive the QVC of knowledgeable advice.¹⁵⁵

At the public hearing, BDWV stated that:

The reference group is a must if the government really wants to hear the important voices of veterans. There is a huge veterans group out in the community, all with diverse views. If they all come through the reference group, the government will get a good, balanced and interesting point of view on veterans' matters. In our view, the reference group is the real nuts and bolts of the bill. That should be front and centre. It should be a must, and it must be all veterans. That way the minister will be getting veterans' advice, and that must be a 'must' rather than a 'maybe'.¹⁵⁶

The BDWV added that 'the veterans' reference group, should in fact actually be the Queensland Veterans' Council. Being all veterans, they could administer the Anzac Day Trust'.¹⁵⁷

Similarly, RSL Queensland stated:

It should be an absolute requirement that there be a veterans reference group because they are working more at the ground level as to what are the actual issues on the ground with veterans and what needs to be done, whereas the council is sort of functioning at a higher more planning level. I think it is absolutely essential that the state government get feedback into the system, into the process, of what the issues on the ground are for veterans. What you would be looking for in that reference group are the ones who are actually working with advocacy issues, the provision of care issues, aged care or whatever the case may be, where they can provide various insights into what is going on from their own experience.

I fully support that. I would like to see—and I know this is not consistent with all the other submissions—that there is a clear line of communication between the Veterans' Council and the veterans reference group so that the Veterans' Council can go to the reference group and say, 'What do you think about this and what is your recommendation from the experience and the knowledge that you have?'.¹⁵⁸

RSL Queensland proposed that the major veterans' organisations should be invited to provide nominations for the veterans' reference group with a selection process to follow to ensure that selected members have the required collective skills.¹⁵⁹

Australian War Widows Queensland raised concerns that their voice would not be adequately heard under the representation arrangements set out in the Bill, and requested that War Widows Queensland be nominated as a member of the veterans' reference group.¹⁶⁰ The BDWV stated that at least one of the members of the veterans' reference group should be from a 'women's veteran/serving or ex-serving organisation'.¹⁶¹

¹⁵⁴ Submissions 1 and 12, Mr Cox, public hearing transcript, Brisbane, 24 May 2021, p 17; BDWV, public hearing transcript, Brisbane, 24 May 2021, p 3; Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 7; RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 16; Legacy Brisbane, public hearing transcript, Brisbane, 24 May 2021, p 17.

¹⁵⁵ Submission 1, p 3; Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 7.

¹⁵⁶ BDWV, public hearing transcript, 24 May 2021, p 3.

¹⁵⁷ BDWV, public hearing transcript, 24 May 2021, p 2.

¹⁵⁸ RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 16.

¹⁵⁹ Submission 9, p 6.

¹⁶⁰ Submission 4, p 4.

¹⁶¹ Submission 6, p 2

The DFVAQ and Royal Australian Regiment Association (RARA) raised concerns that the governance structure proposed in the Bill would mean that advice to government from veterans and veterans' organisations, via the veterans' reference group, would be filtered by the QVC.¹⁶² The RARA noted that the QVC may comprise of six non-veteran members and two veteran members, thereby excluding the appointed veteran members from having a majority vote on decisions that affect veterans' well-being.¹⁶³

Mr Shortridge stated that as members of the veterans' reference group '... are volunteers, there is no guarantee that they will be able to react in a timely manner to QVC requirements and as they are generally retired, they may simply not be available when required'.¹⁶⁴ RSL Queensland queried whether the veterans' reference group would receive administrative support from the department.¹⁶⁵

At the public briefing, the department stated that, the veterans' reference group is integral to the obligation of the QVC to consult with the veterans' community and the intention is that it will be established.¹⁶⁶ In relation to the composition of the veterans' reference group, the department stated:

Under section 36 the representation is decided by the minister and the minister may choose whatever means they wish to ensure that the group has that representation. The minister may go through a process or the department may go through a process of advertising the roles or potentially seeking input or nominees from veterans organisations. There would not be any sort of limit as to how they would do that. There could be an expression of interest. It just depends on what the proposal is that is put forward to the minister and endorsed by the minister. I would not see there would be any limit put on advertising that broadly. Also government policy currently is to ensure there is diversity and equity on boards. It is a requirement under government policy in the cabinet handbook that all significant appointments include consideration of diversity of membership on boards.¹⁶⁷

The department advised that clause 36 provides that the veterans' reference group must have members with knowledge of, or skills and expertise, in particular areas, including matters that affect veterans' partners, widows and dependants.¹⁶⁸

In response to concerns that the advice provided by the veterans' reference group would be filtered by the QVC prior to it being provided to the Minister, the department stated:

The Bill provides that the two veterans appointed under section 13 (2)(a) serve on the QVC and as co-chairs of the Veterans' Reference Group. This allows for coordination and consistency between the two groups.

As outlined in the introductory speech, clause 41 of the Bill provides the Minister with the power to issue a Statement of Expectations which may, for example, be used to set expectations around the level of consultation and engagement with the Queensland veterans' community.

Using this example, the power to issue a Statement of Expectations allows the Minister to set clear guidelines on how the QVC is to interact with the Veterans' Reference Group, how consultation with the veterans' community is to be undertaken, and how the outcomes of that consultation are to be reported back to the Minister.

¹⁶² Submissions 8 and 10.

¹⁶³ Submission 10, p 2.

¹⁶⁴ Submission 5, p 2.

¹⁶⁵ Submission 9, p 6.

¹⁶⁶ Department, public briefing transcript, Brisbane, 30 April 2021, p 3.

¹⁶⁷ Department, public hearing transcript, Brisbane, 24 May 2021, p 23.

¹⁶⁸ Department, correspondence, 26 May 2021, p 10.

The Bill requires that the Statement of Expectations be included in the annual report for the QVC. This means that the Statement of Expectations will be made public and ensures there is transparency in relation to the Minister's expectations of the performance of the QVC's functions.¹⁶⁹

The department advised that the veterans' reference group would receive administrative support through the Office for Veterans.¹⁷⁰

3.3.2 Committee comments

The committee acknowledges the strong views expressed by submitters about the importance of establishing a veterans' reference group, which is able to provide independent, comprehensive advice to the QVC and, ultimately, the Minister.

The committee notes the department's view that the veterans' reference group is integral to the QVC's consultation role and the intention is to establish a veterans' reference group.

Given the integral role of the veterans' reference group in the provision of advice to the Minister on veterans' matters, the majority of the committee recommends that the word 'may' in clause 34(1) of the Bill be amended to 'must' to require the Minister to establish a veterans' reference group.

Recommendation 3

The committee recommends that clause 34 of the Queensland Veterans' Council Bill be amended to provide that the Minister must establish a veterans' reference group.

3.4 Administrative support and advisory committees

The Bill provides that the chief executive of the department must ensure that the QVC has the administrative support services reasonably required to perform its functions effectively and efficiently. The Bill provides the following examples of administrative support:

- implementing QVC approved policies, procedures and plans relating to the management, maintenance and preservation of Anzac Square
- establishing and maintaining effective connections between the Minister, BCC and QVC
- making payments, including payments from the Trust Fund, and
- coordinating the management of the QVC's functions.¹⁷¹

The department stated that 'This arrangement provides adequate powers for the relevant department to assist the QVC with legislative reporting obligations, the daily operation of Anzac Square and management of the Fund'. The department advised that a similar provision requiring the relevant department to provide administrative support is currently in the AD Act'.¹⁷²

At the public hearing, the department clarified that administrative support would be provided by the Office for Veterans. The department advised that the Office of Veterans is already funded, and stated:

The Office for Veterans, which is a unit within the Department of the Premier and Cabinet, will provide the administrative support for the QVC. We certainly already have someone allocated within that team to support the Anzac Day Trust. It is currently supported by the Office for Veterans. There will be people allocated to support the work of the council.¹⁷³

¹⁶⁹ Department, correspondence, 26 May 2021, pp 9-10.

¹⁷⁰ Department, correspondence, 26 May 2021, p 4.

¹⁷¹ Bill, cl 39.

¹⁷² Department, correspondence, 4 May 2021, pp 3-4.

¹⁷³ Department, public hearing transcript, Brisbane, 24 May 2021, p 22.

The Bill provides that the QVC may establish one or more advisory committees, as it considers appropriate, to advise on matters relating to the QVC's functions.¹⁷⁴

3.5 Ministerial oversight and powers

The department advised that the QVC will be responsible for the performance of its functions and will undertake strategic planning, operational planning and budgeting, and prepare and submit audited annual reports.¹⁷⁵ The Bill includes a number of provisions to ensure Ministerial oversight of the QVC.

The Bill provides that, if the Minister considers it appropriate, the Minister may ask the QVC to carry out a review of a matter relevant to the QVC and give the Minister a written report. The QVC must comply with any such request and the Minister may publish the report in the way the Minister considers appropriate.¹⁷⁶

The Minister may also provide the QVC with a written statement of expectations for the performance by the QVC of its functions. The QVC must have regard to a statement of expectations when performing its functions. The statement of expectation may provide for:

- the QVC's strategic or operational activities
- the nature and scope of the QVC's activities proposed to be carried out for a particular period
- information required to be given to the Minister by the QVC
- the way the QVC must report to the Minister about its activities, or
- the sharing of information with a government entity.¹⁷⁷

The Minister may also, by notice, ask the QVC to give the Minister documents or information related to its functions. The QVC must comply with any such request.¹⁷⁸

3.6 Funding arrangements, budgets and annual reporting

The explanatory notes advise that, as part of the 2019-20 State Budget, the Queensland Government committed \$2.7 million over five years and \$2.4 million per annum ongoing to establish the Office for Veterans and provide for the ongoing curation and oversight of Anzac Square.¹⁷⁹

The Bill provides that the QVC must develop and adopt a budget for each financial year. The QVC must give the budget to the Minister, at least two months before the start of the financial year. The Minister may approve or refuse to approve the budget. The QVC may also submit amendments to the budget to the Minister for approval.¹⁸⁰

The QVC must include additional information in its annual reports, prepared under the *Financial Accountability Act 2009*, including details of any statement of expectations given by the Minister and any actions taken by the QVC and documents or information requested by the Minister.¹⁸¹

¹⁷⁴ Bill, cl 38.

¹⁷⁵ Department, correspondence, 4 May 2021, p 4.

¹⁷⁶ Bill, cl 40.

¹⁷⁷ Bill, cl 41.

¹⁷⁸ Bill, cl 42.

¹⁷⁹ Explanatory notes, p 4.

¹⁸⁰ Bill, cl 44.

¹⁸¹ Bill, cl 43.

3.6.1 Submitters' views and department's response

A number of submitters raised concerns that the proposed funding of the QVC would not be sufficient for the QVC to discharge all of the proposed functions, in particular the management and maintenance of Anzac Square.¹⁸²

Mr Craig raised concerns that the \$2.4 million allocated for the Office for Veterans and the establishment of the QVC does not provide adequate funding for curation, maintenance and oversight of Anzac Square. Mr Craig noted that Anzac Square has no Concept of Operations or Strategic Plan from which an operating budget can be established.¹⁸³

Mr Craig suggested that BCC should contribute to the operating costs of Anzac Square, noting that arrangements in Victoria and NSW require the relevant local councils to provide support for the maintenance of the parklands for the respective State War Memorials.¹⁸⁴

Similarly, RSL Queensland queried whether BCC and the Queensland Government would share budget responsibility for the general maintenance of Anzac Square. RSL Queensland and Mr Craig also sought clarification about who would be responsible for the ongoing funding and day-to-day maintenance of Anzac Square, eg mowing and rubbish collection.¹⁸⁵ In addition, Mr Craig queried whether the QVC would be permitted to accept donations.¹⁸⁶

RSL Queensland also commented on the funding for the Bill:

...we have requested clarification of the funding arrangements for the Queensland Veterans' Council to undertake the important work it does in relation to the maintenance and development of Anzac Square. The identified funding does not appear to anticipate any development or major maintenance of a memorial nor is it clear how the routine maintenance of this historic and spectacular memorial will be funded and carried out, what arrangements will be required with the Brisbane City Council and what are the projected costs. We need to be reassured that Anzac Square will continue to be that special site for our veterans, residents and visitors alike.¹⁸⁷

In response to the concerns raised by submitters, the department advised that:

In the 2019-20 State Budget, the Queensland Government announced additional funding of \$2.7 million over five years, and \$2.4 million per annum ongoing to establish an Office for Veterans and provide for the ongoing curation and oversight of Anzac Square.

Total funding allocation is \$9.7 million over five years which includes \$6.9 million internally met by the department from 2018-19.

As indicated at the public hearing this funding includes:

- the cost of the Office for Veterans
- the costs for the Queensland Veterans' Council
- maintenance and operation of the Anzac Square parklands, and
- the operation, including curation, of the Anzac Square Memorial Galleries.¹⁸⁸

¹⁸² Submissions 1, 2 and 9.

¹⁸³ Submission 1, p 1.

¹⁸⁴ Submission 1, p 1.

¹⁸⁵ Submission 9, p 3; Mr Craig, public hearing transcript, Brisbane, 24 May 2021, p 7.

¹⁸⁶ Submission 1, p 2.

¹⁸⁷ RSL Queensland, public hearing transcript, Brisbane, 24 May 2021, p 14.

¹⁸⁸ Department, correspondence, 26 May 2021, p 3.

The department stated that:

The current budget was developed based on information provided by BCC. As Trustee of Anzac Square, BCC continues to meet the costs of maintaining and operating the parklands. The current costs as advised by the BCC were included in the budget.

Currently there is an agreement in place between BCC, the Department of the Premier and Cabinet and the State Library of Queensland to support the operation of the Anzac Square memorial galleries. Under this agreement, the State through the Department of the Premier and Cabinet funds all costs associated with the operation of the memorial galleries including curatorial support and a funding allocation for the refresh of curatorial content.

The operational budget for the Office for Veterans includes funding to provide the secretariat support for the QVC and the Anzac Day Trust.

Some costs associated with the operation of Anzac Square are yet to be confirmed, such as costs associated with depreciation and ongoing asset maintenance of the heritage structures.

Subject to passage of the Bill, once the QVC is established, the Office for Veterans will work with the QVC to determine these costs. If any additional funding is required in the future, this would be considered as part of the usual government budget process.¹⁸⁹

¹⁸⁹ Department, correspondence, 26 May 2021, pp 3-4.

4 Compliance with the *Legislative Standards Act 1992*

4.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992* (LSA) states that ‘fundamental legislative principles’ (FLP) are the ‘principles relating to legislation that underlie a parliamentary democracy based on the rule of law’. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals, and
- the institution of Parliament.

The committee has examined the application of the fundamental legislative principles to the Bill. The committee brings the following to the attention of the Legislative Assembly.

4.1.1 Rights and liberties of individuals

Section 4(2)(a) of the LSA requires that legislation has sufficient regard to the rights and liberties of individuals.

4.1.1.1 *Clauses 19 to 25 – criminal history and disclosure of information – right to privacy*

Clause 19 provides that a person is disqualified from becoming, or continuing as, an appointed member of the QVC, if the person:

- has a conviction, other than a spent conviction, for an indictable offence
- is an insolvent under administration, or
- is disqualified from managing corporations.

Clause 19(4) allows the Minister to otherwise give approval for a person to be an appointed member of the QVC, even where that person is convicted or insolvent, either prior to the person’s appointment or while they are currently a member.

To this end, the Bill requires an appointed member to disclose particular matters about disqualification and for the Minister to obtain a criminal history report.

Clause 20 provides that a member of the QVC must give notice to the Minister about being an insolvent under administration or disqualified from managing corporations.

Clause 23 empowers the Minister to ask the commissioner of police for a written report about the criminal history of, and brief description of the circumstances of any conviction of a potential or current QVC member.

Clauses 20 and 23 raise issues of fundamental legislative principle relating to the rights and liberties of individuals, particularly regarding an individual’s right to privacy with respect to their personal information.¹⁹⁰

The right to privacy, and the disclosure of private or confidential information are relevant to a consideration of whether legislation has sufficient regard to the rights and liberties of the individual.

The requirement to disclose personal information by an appointed member, or the Minister obtaining the criminal history about the member, will impact on a person’s right to privacy and confidentiality.

¹⁹⁰ LSA, s 4(2)(a).

The committee notes that in considering similar provisions in Bills relating to a person's criminal history, committees have considered whether adequate safeguards are included in the Bill, such as whether:

- the criminal history can only be obtained with consent
- there are strict limits on further disclosure of that information, and
- the criminal history information must be destroyed when it is no longer required for the purpose for which it was obtained.¹⁹¹

Consideration has also been given in the past to the extent of information covered by the term 'criminal history', including for example, whether the term extends to charges that do not result in convictions, and to 'spent' convictions, and convictions that are quashed or set aside, and convictions which are 'not recorded'.

The committee notes that the Bill contains the following safeguards:

- a person's criminal history can only be obtained with their consent
- there are limits on disclosure and an offence for unauthorised disclosure
- there is a requirement for the destruction of the information as soon as practicable after the information is no longer needed, and
- the convictions included in a criminal history report do not extend to spent convictions.¹⁹²

Clause 25 of the Bill goes some way to addressing confidentiality issues regarding criminal history information by making it an offence for a person who possesses criminal history information to directly or indirectly disclose confidential information or criminal history information to another person, unless the disclosure is:

- in the performance of a function or exercise of a power under the Act
- otherwise permitted by law, or
- made with consent of the person to whom the information relates.

Clause 25 sets the maximum penalty for an unauthorised disclosure at 100 penalty units (\$13,345).

A member is required to immediately give notice to the Minister about being an insolvent under administration or disqualified from managing corporations, unless the person has a reasonable excuse. This in effect, removes any meaningful consent. Similarly, under clause 24, an appointed member convicted of an indictable offence during their appointment, is required to give notice to the Minister about the conviction, unless the person has a reasonable excuse.

The explanatory notes, in relation to the criminal history requirement, provide the following justification:

...the power for the Minister to obtain criminal history information is necessary to ensure the suitability of individuals appointed to government bodies. Similarly, the obligation imposed on appointed members to disclose if they are convicted of an indictable offence is necessary to ensure the integrity of the QVC. The Bill includes safeguards to protect an individual's criminal history information. The Bill provides that the Minister may only exercise the power under clause 23 with the written consent of the individual (clause 23(2)).¹⁹³

¹⁹¹ See for example, Transportation and Utilities Committee, Report No. 13, 55th Parliament – *Plumbing and Drainage and Other Legislation Amendment Bill 2015*, March 2016, p 24.

¹⁹² Bill, cl 19, 23 and 25.

¹⁹³ Explanatory notes, p 4.

Committee comment

The committee recognises the necessity of providing certain information to the Minister to assess a person's suitability for membership of the QVC and to ensure members behave ethically and lawfully. The committee also acknowledges that it is important for the Minister to be aware of matters that may impact on the integrity of the statutory body.

The committee considers that the Bill contains sufficient safeguards to protect a person's private information and ensure that such information is only used for legitimate purposes.

The committee notes that it could be argued that any person who does not want their criminal history accessed or to disclose their information relating to insolvency and disqualification from managing corporations, can decline to provide consent or the information and withdraw their application (or vacate their position). At the same time, the committee notes that this effectively prevents a person from becoming or continuing to be a member, since a person is disqualified from becoming, or continuing to be a member if the person does not give consent.¹⁹⁴

The committee considers that, on balance, the provisions have sufficient regard to the rights and liberties of individuals.

4.1.1.2 Clauses 20, 24 and 25 - penalties should be reasonable and proportionate

As outlined above, clause 20 requires a member of the QVC to give notice to the Minister about being an insolvent under administration or disqualified from managing corporations. Similarly, clause 24 requires an appointed member who is convicted of an indictable offence during the term of their appointment to give notice to the Minister about the conviction.

Clause 25 prohibits a person from using, directly or indirectly, or disclosing criminal history information to another person, unless the use is specifically permitted.

Any non-compliance with clauses 20, 24 and 25 is an offence with a maximum penalty of 100 penalty units (\$13,345).

Whether legislation has sufficient regard to the rights and liberties of individuals depends on whether penalties and other consequences imposed by legislation are proportionate and relevant to the actions to which the consequences relate.¹⁹⁵ A penalty should be proportionate to the offence:

In the context of supporting fundamental legislative principles, the desirable attitude should be to maximise the reasonableness, appropriateness and proportionality of the legislative provisions devised to give effect to policy.

... Legislation should provide a higher penalty for an offence of greater seriousness than for a lesser offence. Penalties within legislation should be consistent with each other.¹⁹⁶

In relation to the penalties imposed in clauses 20 and 24, the explanatory notes set out the purpose of the obligations (and, by extension, the penalties):

The obligation for members to disclose certain matters that relate to their suitability reinforces the expectation that members are to behave ethically and legally and ensures that the Minister is aware of matters that may impact on the integrity of the statutory body. Imposing such an obligation on members is reasonable and there is a strong public interest in ensuring that there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, to public office.¹⁹⁷

¹⁹⁴ Bill, cl 19(2).

¹⁹⁵ LSA, s 4(2)(a).

¹⁹⁶ Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental Legislative Principles: The OQPC Notebook*, p 120.

¹⁹⁷ Explanatory notes, p 5.

The explanatory notes state:

It is noted that similar provisions requiring a person to disclose certain matters are found in other Queensland legislation including for example, *Health and Wellbeing Queensland Act 2019*; *Hospital Foundations Act 2018*; *Jobs Queensland Act 2015*; and *Cross River Rail Delivery Authority Act 2016*, all of which impose a penalty where a person fails to disclose a conviction relating to an indictable offence. In addition, Queensland university legislation such as *University of Queensland Act 1998* and *Queensland University of Technology Act 1998* include provisions that impose a penalty where a person fails to disclose a conviction relating to an indictable [sic] offence or a disqualification from managing corporations under the Corporations Act. Including the offences in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.¹⁹⁸

While the explanatory notes do not indicate the quantum of penalties in the above examples, the committee notes that for a failure of a person to disclose or give notice of a conviction of an indictable offence, a maximum penalty of 100 penalty units applies in the following Acts:

- *University of Queensland Act 1998*
- *Queensland University of Technology Act 1998*
- *Jobs Queensland Act 2015*
- *Cross River Rail Delivery Authority Act 2016*
- *Hospital Foundations Act 2018*
- *Health and Wellbeing Act 2019*, and
- *Personalised Transport Ombudsman Act 2019*.

In relation to the offence in clause 25, the explanatory notes state:

This offence is included in the Bill to protect the rights of the person about whom the information relates and provide an important safeguard against the unnecessary disclosure of a person's protected information. The penalty is set at a level to provide the appropriate deterrence and is consistent with the similar offences in Queensland legislation. On this basis the inclusion of the offence in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.¹⁹⁹

The Acts mentioned above also contain provisions prohibiting misuse of criminal history information that attract a maximum penalty of 100 penalty units.

The explanatory notes do not provide a justification for the penalties. However, the maximum penalties imposed are equivalent to other similar provisions in a number of existing Acts.

Committee comment

The committee is satisfied that the penalties imposed are proportionate to penalties in other similar situations where a person fails to disclose information relevant to the appointment to a board position. Accordingly, the committee considers that the provisions have sufficient regard to the rights and liberties of individuals.

¹⁹⁸ Explanatory notes, p 5.

¹⁹⁹ Explanatory notes, p 5.

4.1.1.3 Clause 81 – general rights and liberties of individuals – ordinary activities should not be unduly restricted

Clause 81 amends the AD Act to insert transitional provisions for the *Queensland Veterans Council Act 2021*. The ANZAC Day Trust and its board of trustee are abolished, with each person holding office being removed, without compensation.

The reasonableness and treatment of individuals is relevant in deciding whether legislation has sufficient regard to the rights and liberties of individuals.

The committee notes that the removal of people from the Board, without compensation, might be seen as interfering with a person's right to participate in ordinary community activities, including being a member of the Anzac Day Trust.

Committee comment

The committee is satisfied that any impact on a person's rights and liberties is relatively minor and that any limitation of a person's rights and liberties is relatively minor. Accordingly, the committee considers that the provisions have sufficient regard to the rights and liberties of individuals.

4.1.1.4 Clauses 20 and 24 - reversal of onus of proof

As stated above, clause 20 requires a member of the QVC to give notice to the Minister about being an insolvent under administration or disqualified from managing corporations, unless they have a reasonable excuse. Clause 24 requires an appointed member who is convicted of an indictable offence during the term of their appointment to give notice to the Minister about the conviction, unless they have a reasonable excuse.

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether the legislation does not reverse the onus of proof in criminal proceedings without adequate justification.²⁰⁰

Legislation should not reverse the onus of proof in criminal matters, and it should not provide that it is the responsibility of an alleged offender in court proceedings to prove innocence:

For a reversal to be justified, the relevant fact must be something inherently impractical to test by alternative evidential means and the defendant would be particularly well positioned to disprove guilt.²⁰¹

Generally, in criminal proceedings:

- the legal onus of proof lies with the prosecution to prove the elements of the relevant offence beyond reasonable doubt, and
- the accused person must satisfy the evidential onus of proof for any defence or excuse he or she raises and, if the accused person does satisfy the evidential onus, the prosecution then bears the onus of negating the excuse or defence beyond reasonable doubt.²⁰²

Such 'reasonable excuse' provisions are discussed in some detail in the Office of the Queensland Parliamentary Counsel (OQPC), *Principles of good legislation: Reversal of onus of proof*. The committee notes that discussion starts with the following statement:

If legislation prohibits a person from doing something 'without reasonable excuse' it would seem in many cases appropriate for the accused person to provide the necessary evidence of the reasonable excuse. While there is no Queensland case law directly on point, the Northern Territory Supreme Court has held that the onus of proving the existence of a reasonable excuse rested with the defendant on the basis that the reasonable excuse was a statutory exception that existed as a separate matter to the general prohibition... That approach is consistent with the principles used to determine whether a provision

²⁰⁰ LSA, s 4(3)(d).

²⁰¹ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 36.

²⁰² OQPC, *Principles of good legislation: Reversal of onus of proof*, p 3.

contains an exception to the offence or whether negating the existence of the reasonable excuse is a matter to be proved by the prosecution once the excuse has been properly raised ...

... [It] is understood that in Queensland, 'reasonable excuse provisions' are drafted on the assumption that the *Justices Act 1886*, section 76 will apply and place both the evidential and legal onus on the defendant to raise and prove the existence of a reasonable excuse. On the other hand, ... departments have often taken the view in their Explanatory Notes that a provision containing an exemption where a reasonable excuse exists is an excuse for which only the evidential onus lies with the accused.²⁰³

The OQPC discussion concludes:

It seems likely that in most cases a reasonable excuse will constitute a statutory exception to be proved by the defendant. However, in the absence of an express statement as to the allocation of the onus, the question will ultimately need to be determined by a court having regard to the established rules of statutory interpretation.²⁰⁴

Elsewhere, the OQPC has noted:

Generally, for a reversal to be justified, the relevant fact must be something inherently impractical to test by alternative evidential means and the defendant would be particularly well positioned to disprove guilt.

For example, if legislation prohibits a person from doing something 'without reasonable excuse', it is generally appropriate for a defendant to provide the necessary evidence of the reasonable excuse if evidence of the reasonable excuse does not appear in the case for the prosecution.²⁰⁵

In considering the issue regarding similar provisions in other Bills, explanatory notes justify the reversal of the onus of proof on the basis that establishing the defence would involve matters which would be within the defendant's knowledge or on which evidence would be available to them.²⁰⁶

In relation to the Bill, the explanatory notes justify the reversal of the onus in the 'reasonable belief' provision in the proposed section on a similar basis:

Reversing the onus of proof in these circumstances is appropriate as the person subject to the offence is best placed to provide the relevant information that would support the reasonable excuse defence. In these circumstances and having regard to the underlying policy intent of the offence provisions to ensure the integrity of the membership of the QVC reversing the onus of proof is considered appropriate and reasonable and not a breach of the fundamental legislative principles.²⁰⁷

Committee comment

In the circumstances, the committee considers that the above justification has merit. It can reasonably be anticipated that the relevant information that would support the reasonable excuse defence would be peculiarly within the knowledge of a person, and it is reasonable for the person, who is holding a position of responsibility to disclose this information.

Accordingly, the committee considers that the provisions have sufficient regard to the rights and liberties of individuals.

²⁰³ OQPC, *Principles of good legislation: Reversal of onus of proof*, p 25.

²⁰⁴ OQPC, *Principles of good legislation: Reversal of onus of proof*, p 26.

²⁰⁵ OQPC, *Fundamental Legislative Principles: the OQPC Notebook*, p 36.

²⁰⁶ For a recent example, see Fisheries (Sustainable Fisheries Strategy) Amendment Bill 2018, explanatory notes, p 17.

²⁰⁷ Explanatory notes, p 6.

4.1.1.5 Clause 50 – immunity from proceedings

Clause 50 provides protection from civil liability for the Minister and members of the QVC for an act or omission made honestly and without negligence in the performance of their functions under the proposed legislation. Where this provision prevents liability attaching to a person, liability instead attaches to the State.²⁰⁸

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation does not confer immunity from proceeding or prosecution without adequate justification.²⁰⁹

A person who commits a wrong when acting without authority should not be granted immunity. Generally a provision attempting to protect an entity from liability should not extend to liability for dishonesty or negligence. The entity should remain liable for damage caused by the dishonesty or negligence of itself, its officers and employees. The preferred provision provides immunity for action done honestly and without negligence ... and if liability is removed it is usually shifted to the State.²¹⁰

One of the fundamental principles of law is that everyone is equal before the law, and each person should therefore be fully liable for their acts or omissions. Notwithstanding that, the committee notes that the conferral of immunity is appropriate in certain situations.²¹¹

The explanatory notes state:

... the potential breach of this fundamental legislative principle is justifiable on the basis that the provision operates to attach civil liability to the State instead. This is the standard approach to immunity found in Queensland legislation.²¹²

Committee comment

The committee notes that immunity clauses such as the above are quite common in legislation. Such provisions generally serve to allow public servants, officials, statutory officers and the like, to make decisions and exercise powers and functions without being unduly concerned that they may be held personally liable for acts done or omissions made in the course of carrying out their duties, providing that those actions or omissions are made honestly and without negligence or malice.

The committee also notes that the proposed shifting of liability to the State for actions or omissions of officials means aggrieved persons are able to make a claim against the State for loss or damage suffered as a result of actions taken by officials under this Act.

The committee notes that a similar clause was included in the Hospital Foundations Bill 2018 and in the Personalised Transport Ombudsman 2019 Bill. In both instances, the committees reporting on the Bills were satisfied that any breaches of fundamental legislative principle were justified.

Accordingly, the committee considers that the provisions have sufficient regard to the rights and liberties of individuals.

²⁰⁸ Bill, cl 50(2).

²⁰⁹ LSA, s 4(3)(h).

²¹⁰ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 64.

²¹¹ OQPC, *Fundamental Legislative Principles: The OQPC Notebook*, p 64; Scrutiny of Legislation Committee, *Alert Digest 1 of 1998*, p 5, para 1.25.

²¹² Explanatory notes, p 6.

4.2 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a Bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

5 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a Bill must consider and report to the Legislative Assembly about whether the Bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the Bill.²¹³

A Bill is compatible with human rights if the Bill:

- does not limit a human right, or
- limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with section 13 of the HRA.²¹⁴

The HRA protects fundamental human rights drawn from international human rights law.²¹⁵ Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee has examined the Bill for human rights compatibility. The committee considers that the Bill is compatible with the HRA and that any limits on human rights in the Bill have been sufficiently justified. The committee brings the following issues to the attention of the Legislative Assembly.

5.1 Human rights compatibility

The following clauses of the Bill raise potential human rights issues:

- clauses 15, 19 and 20 – eligibility to be a member of the QVC – Right to take part in public life (HRA, section 23)
- clauses 20, 23, 24 and 25 – criminal history and disclosure of information – right to privacy and reputation (HRA, section 25)
- clauses 24, 25 and 51 – issues regarding criminal responsibility – right to liberty and security of person (HRA, section 29), and
- clauses 20 and 24 – reversal of onus of proof – rights in criminal proceedings (HRA, section 32).

5.1.1 Nature of the human rights

5.1.1.1 *Taking part in public life – section 23 of the HRA*

The requirement that persons be ‘eligible’ to take part in public life in section 23 and the requirements of *arbitrariness* and *illegality* for violations of the rights in section 25 of the HRA mean that the rights in those sections will not be violated by clauses 15, 19, 23, 24 and 25 of the Bill. This means that there is, therefore, no need to rely on the limitation provision in section 13 of the HRA. It is noted that there is Victorian jurisprudence against this view. If this position is not supported, then there would appear to be no difficulty in justifying these clauses under section 13(2) of the HRA.

The meaning of ‘eligible’ in the equivalent provision of the Victorian Charter is considered in Alistair Pound and Kylie Evans’ *Annotated Victorian Charter of Rights*.²¹⁶

²¹³ HRA, s 39.

²¹⁴ HRA, s 8.

²¹⁵ The human rights protected by the HRA are set out in sections 15-37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included; HRA, s 12.

²¹⁶ Alistair Pound and Kylie Evans, *Annotated Victorian Charter of Rights*. (2nd ed, Thomson Reuters, 2018), pp 173-176. Eligibility to participate in public service or public office is considered at p 176, where the

5.1.1.2 Right to privacy and reputation – section 25 of the HRA

The committee notes that it might be questioned whether there are reasonable expectations of privacy regarding the disqualifying criteria set out in the Bill.

However, the lack of arbitrariness is supported by the existence of a discretion in clause 19 of the Bill to discount potentially disqualifying criteria in relation to potential or current members of the QVC.

5.1.1.3 Right to liberty and security of a person – section 29 of the HRA

It is not clear how, in general terms, the imposition of penalties for non-disclosure of the presence of disqualifying criteria violates section 29 of the HRA. The committee notes that the penalties envisaged by the Bill could be readily justified under section 13(2) of the HRA.

5.1.1.4 Rights in criminal proceedings – section 32 of the HRA

The reversals of the evidential and legal onus in clauses 20 and 24 do appear to limit the rights in section 32 of the HRA. Nonetheless, the committee considers that the reversals appear to be reasonable limitations that are ‘demonstrably justified in a free and democratic society based on human dignity, equality and freedom’ as required by section 13 of the HRA.

5.1.2 Nature and purpose of the limitation

The committee considers that any limitations proposed in the Bill are for the purpose of maintaining public confidence in an important public institution that performs important public functions.

5.1.3 Relationship between the limitations and its purposes

The committee considers that there appears to be a direct and proportional relationship between this purpose and any limitations regarding the incorporation of disqualifying criteria, the requirements of disclosure of information regarding disqualifying criteria, the imposition of penalties for non-disclosure (including the reversal of the evidentiary and legal onus) and penalties for unjustifiably disclosing confidential information.

5.1.4 Whether there are less restrictive and reasonably available ways to achieve the purpose

The committee considers that no less restrictive alternative to achieve the Bill’s purpose appears to be reasonably available. The absence of less restrictive reasonably available alternatives is demonstrated by the examples of similar requirements in comparable legislation and constitutional instruments.

5.1.5 Importance of the purpose of the limitation

The committee considers that the importance of eligibility criteria for public service and public office and the requirement that interferences with privacy must not be arbitrary are expressly recognised in sections 23 and 25 of the HRA.

5.1.6 Importance of preserving the human right

The committee does not believe the Bill is incompatible with the rights to participate in public service or public office or the right to privacy. In any event, the various exceptions provided by the Bill acknowledge the importance of these rights. In relation to clause 25, the criminal responsibility proposed itself appears to be intended to protect the human right to privacy of other persons.

decision of the Victorian Civil and Administrative Tribunal in *Victorian Electoral Commission (Anti-Discrimination Exemption)* [2009] VCAT 2191, is discussed. On the relationship between qualifications regarding particular human rights and general limitation provisions, see p 115.

5.1.7 Balance between the importance of the purpose of the limitation and the importance of preserving the human right

Based on the HRA and the relevant international and national jurisprudence, the committee believes that any human rights limitations arising under the Bill can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.²¹⁷

5.2 Statement of compatibility

Section 38 of the HRA requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights.

A statement of compatibility was tabled with the introduction of the Bill as required by section 38 of the HRA. The statement contained a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

²¹⁷ See generally *Innes v Electoral Commission of Queensland* (No 2) [2020] QSC 293; *Victorian Electoral Commission (Anti-Discrimination Exemption)* [2009] VCAT 2191; *Kracke v Mental Health Review Board* (2009) 29 VAR 1; [2009] VCAT 646; *WBM v Chief Commissioner of Police* (2010) 27 VR 469; *WBM v Chief Commissioner of Police* (2012) 43 VR 446; *Victoria Police Toll Enforcement v Taha* (2013) 49 VR 1.

Appendix A – Submitters

Sub #	Submitter
1	Andrew Craig
2	Daniel O’Kearney
3	Queensland Heritage Council
4	Australian War Widows Queensland
5	Robert Shortridge
6	Bundaberg District Women Veterans Inc.
7	Royal Australian Air Force Association, Queensland Division
8	Defence Force Welfare Association (Queensland)
9	RSL Queensland
10	The Royal Australian Regiment Association
11	Stewart Cameron CSC
12	The Legacy Club of Brisbane Limited

Appendix B – Officials at public departmental briefing

Department of the Premier and Cabinet

- Filly Morgan, Deputy Director-General, Corporate and Government Services
- Kirrily Magill, Executive Director, Office for Veterans
- Kate Molomby, Director, Appointments and Constitutional Services

Appendix C – Witnesses at public hearing

Bundaberg District Women Veterans Inc.

- Jennifer Waldron, President

Private capacity

- Daniel O’Kearney

Private capacity

- Andrew Craig

Private capacity

- Stewart Cameron CSC

Defence Force Welfare Association (Queensland Incorporated)

- John Lowis, President

RSL Queensland

- Margaret Jenyns, Head of Veterans Services Support

Legacy Club of Brisbane

- Brendan Cox, Chief Executive Officer

Department of the Premier and Cabinet

- Filly Morgan, Deputy Director-General, Corporate and Government Services
- Kirrily Magill, Executive Director, Office for Veterans
- Kate Molomby, Director, Appointments and Constitutional Services

Appendix D – Attendees at site visit to Anzac Square

Committee members

- Corrine McMillan MP, Member for Mansfield, Chair
- Stephen Bennett MP, Member for Burnett, Deputy Chair
- Cynthia Lui MP, Member for Cook
- Robert Skelton MP, Member for Nicklin

Department of the Premier and Cabinet

- Filly Morgan, Deputy Director-General, Corporate and Government Services
- Kirrily Magill, Executive Director, Office for Veterans
- Kate Molomby, Director, Appointments and Constitutional Services

State Library of Queensland

- Linda Barron, Director, Visitor and Information Services
- Alice Rawkins, Team Leader, Anzac Square and Volunteers Projects

Brisbane City Council

- Wade Fitzgerald, Major Projects and Asset Coordination Manager, Natural Environment, Water and Sustainability, City Planning and Sustainability
- Aashish Lal, Senior Project Manager, City Projects Office, Brisbane Infrastructure

Statement of Reservation

Queensland Veterans' Council Bill 2021

Statement of Reservation

The Opposition members of the Community Support and Services Committee (the committee) make the following statement of reservation to Report No. 6, 57th Parliament – Queensland Veterans' Council Bill 2021 (the Report).

The committee received 12 submissions during its examination of the Queensland Veterans' Council Bill 2021 (the Bill), the vast majority of which raised significant concerns about the proposals. These concerns included:

- the department's inadequate consultation during the development of the Bill
- the focus on Anzac Square and not the welfare of veterans and their families
- the membership of the Queensland Veterans' Council (QVC), including the underrepresentation of veterans and appointment of public servants with voting rights
- the adverse impact on the Anzac Day Trust, and
- uncertainty around funding for the QVC to discharge its various functions.

We share these serious concerns about the Bill and make the following comments.

Inadequate consultation on the Bill

The Opposition members of the committee have serious concerns about the consultation undertaken on the Bill. The inadequate consultation on the Bill was raised by several submitters at the public hearing on 24 May 2021, including Bundaberg District Women Veterans Inc., Defence Force Welfare Association – Queensland (DFWAQ), RSL Queensland and the Legacy Club of Brisbane.

We raised this issue with the Department of the Premier and Cabinet (the department) at the public hearing on 24 May 2021, and asked what had gone wrong with the consultation process and if stakeholders' views had been disregarded. In response, the department advised that 'None of the people who participated [in the consultation] raised concerns about the potential structures and responsibilities and functions of the QVC'.¹ This statement is inconsistent with the views submitters expressed to the committee.

Focus on Anzac Square and not the welfare of veterans

Opposition members of the committee share submitters' views that the QVC's functions are too broad and overly focus on the management of Anzac Square, to the detriment of the welfare of veterans and their families. As expressed by Mr Daniel O'Kearney (the former Chair of the Queensland Veterans' Advisory Council), at the public hearing, the Bill '... removes a 100-year-old faith in the veterans' community to manage the funds of the Anzac Day Trust' and 'It mixes bricks and mortar with the welfare of people'.² Mr O'Kearney added that:

The biggest problem with what this bill calls a veterans council is that it really is trying to run together two Acts – about Anzac Square, to look after a static thing which has different requirements, and about looking after people's welfare. That is where I think the whole confusion has come about'.³

Mr Andrew Craig made a similar point, stating that '... the bill attempts to conflate three elements, all of which require different skills and methods of operation'.⁴ To resolve this issue, Mr Stewart Cameron suggested '... that the management and conservation and significant aspects of Anzac

¹ Department, public hearing transcript, Brisbane, p 21.

² Mr O'Kearney, public hearing transcript, Brisbane, p 4.

³ Mr O'Kearney, public hearing transcript, Brisbane, p 4.

⁴ Mr Craig, public hearing transcript, Brisbane, p 7.

Square need to be treated as a separate entity’ and the veterans community should be treated as a separate issue.⁵ DFWAQ echoed this view, stating that:

... Anzac Square deserves focus by itself. It has clear boundaries and clear bricks and mortar responsibilities, but that is purely an enabler for the commemorative events
....

The other side, advice and the allocation of funds to meet veteran needs, I believe there should be a separate entity.⁶

We share the legitimate concerns of submitters about the focus of the QVC. We note that the report suggests that the QVC, if established, should consider setting up advisory committees to assist with the management of Anzac Square and administration of the Anzac Day Trust. However, the Bill should go much further and require that separate entities be created to perform these very different functions.

Membership of the QVC

The most significant concern raised by submitters was the underrepresentation of veterans on the QVC. The Bill only guarantees that there will be two veterans on the QVC out of a membership of eight. As noted by the Bundaberg District Women Veterans Inc. ‘... if there are two veterans on that council, it is not a veterans council. Otherwise, it is just a civilian organisation’.⁷

Mr Craig rightly pointed out that ‘I find it hard to see how the Veterans’ Council can have credibility when it may well be that there are only two veterans representatives on the council’. We also agree with Mr Craig that the chairperson of the QVC should be a veteran.⁸ RSL Queensland considered that

It is important that the members of the council clearly understand veterans’ issues and the views of veterans. Having two veterans in a membership of eight does not allow for this.

RSL Queensland supports having a former member of the ADF, either ESO or civilian employee, as chair for the Queensland Veterans’ Council meetings.⁹

We support recommendation 2 of the report that the Bill be amended to provide that at least 50 per cent of the members of the QVC must be veterans or representatives of the veterans’ community. But this recommendation should go much further given the vital importance of ensuring that veterans have a strong voice on the QVC and can provide leadership on veterans’ matters. We, therefore, recommend that the Bill be amended to require that the QVC must be chaired by a representative of a recognised ex-service organisation. The Bill should also be amended to specifically increase the number of members on the QVC nominated by recognised ex-service organisations.

Clause 17 of the Bill provides that appointed members of the QVC would be paid remuneration and allowances. We question the appropriateness of paying remuneration to members, as it may impact on their ability to provide unbiased advice and compromise their impartiality. We also note the department’s inability to provide any information about the level of remuneration members would receive. When questioned about remuneration levels at the public briefing on 30 April 2021, the department could not provide a figure and instead stated ‘To be honest, we have not got to that point yet. We have not considered what band they would fit in under the remuneration procedures’.¹⁰

⁵ Mr Cameron, public hearing transcript, Brisbane, pp 10-11.

⁶ DFWAQ, public hearing transcript, Brisbane, p 13.

⁷ Bundaberg District Women Veterans Inc., public hearing transcript, Brisbane, p 2.

⁸ Mr Craig, public hearing transcript, Brisbane, p 2.

⁹ RSL Queensland, public hearing transcript, Brisbane, p 14.

¹⁰ Department, public briefing transcript, Brisbane, 30 April 2021, p 5.

Given our concerns about its appropriateness, and lack of details about the level of remuneration, we consider that the Bill should be amended to remove remuneration for members of the QVC. Instead they should receive reasonable reimbursement for their expenses only.

We also have significant concerns about clause 13(1)(a) and (b), which provide that the chief executives or employees of the department and Brisbane City Council are to be members of the QVC. As noted by DFQAQ, in its submission, as an employee, subject to government policy direction, there is a conflict of interest in a department official voting on and providing independent advice on veterans' issues, which may be at odds with government policy.¹¹

The Opposition members of the committee call for the Bill to be amended to provide that the representatives of the department and Brisbane City Council should only provide advice to the QVC, and not have membership and voting rights.

Impact on Anzac Day Trust Fund

The Bill ignores and removes the 100-year-old faith in the veterans' community to manage the Anzac Day Trust Fund. We note that currently the Trust Fund is administered by four people, at least three of whom must come from the veterans' community. The Bill rips up this history and tradition, and provides that non-veterans will be in charge of the Trust Fund.

As Mr O'Kearney observed at the public hearing '... people who have no understanding of the veterans community will now be making decisions on where that trust money goes'.¹² DFQAQ also questioned the reason for changing the current system.¹³

The Opposition members of the committee share submitters' concerns and call for the Bill to be amended to ensure that decisions about the activities of the Anzac Day Trust can only be made by veteran members of the QVC.

Uncertainty around funding

Finally, we have significant concerns about the lack of detail about the funding of the QVC, in particular to perform the function of managing and maintaining Anzac Square. The department advised that the \$2.4 million per annum budget allocation, referenced in the explanatory notes, includes the cost of the Office for Veterans, Queensland Veterans' Council, the maintenance and operation of the Anzac Square parklands, and the operation, including the curation, of the Anzac Square memorial galleries.

There is little to no detail, however, about depreciation, future capital costs and the ongoing asset maintenance of the heritage structures at Anzac Square. Without these details, it is difficult to judge the real, ongoing costs of the proposals in this Bill.



Mr Stephen Bennett MP

Member for Burnett



Mr Jon Krause

Member for Scenic Rim

¹¹ DFQAQ, submission 8.

¹² Mr O'Kearney, public hearing transcript, Brisbane, p 5.

¹³ DFQAQ, public hearing transcript, Brisbane, p 12.

