

Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019

Explanatory Notes

FOR

Amendments To Be Moved During Consideration In Detail By The Honourable Stirling Hinchliffe MP

Title of the Bill

The short title of the Bill is the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 (the Bill).

Objectives of the Amendments

The objectives of the amendments are to:

- remove conflict of interest and registers of interest provisions so that further work can be undertaken following recommendations made by the Crime and Corruption Commission (CCC) on 6 September 2019 in relation to how these matters are addressed at the State level
- remove new provisions which provide that councillors and election participants, including candidates, are deemed to have knowledge of the source of an electoral gift or loan for the purpose of a proceeding for an offence against the conflict of interest provisions or an offence relating to a gift or loan made to an election participant, respectively
- remove amendments to the voting methodology for mayoral and single councillor elections
- remove provisions in the Bill which would allow the independent assessor to investigate the conduct of local government employees in certain circumstances
- remove amendments to the penalties applying for the offence of failing to give a return under part 6 of the *Local Government Electoral Act 2011* (LGEA) within the time required and provide that an elected councillor's office becomes vacant if a summary

return about gifts, loans and electoral expenditure is not given to the Electoral Commission Queensland within specified periods

- provide that amendments about local government changes for multi-member divisions will commence by proclamation rather than on assent
- insert a transitional provision to provide that elector information from the last local government quadrennial election 2016 will be available
- clarify the timeframes for giving how-to-vote cards to the electoral commission for approval prior to distributing the how-to-vote cards
- other amendments to meet the policy objectives of the Bill, clarify the operation of electoral funding and financial disclosure amendments, align with the *Electoral Act 1992* (EA) and correct minor errors.

Achievement of the Objectives

Conflicts of interest and registers of interests

The Bill amends the *Local Government 2009* (LGA) and *City of Brisbane Act 2010* (COBA) to clarify and further strengthen how councillors' conflicts of interest are managed and to introduce new requirements relating to registers of interests to align with the requirements that apply to State Members of Parliament for statement of interests.

On 6 September 2019, the CCC made a number of recommendations to improve Cabinet's decision-making processes and for legislative reform to reduce corruption risks. Amendments to the Bill will remove the conflict of interest and registers of interest provisions so that further work can be undertaken in relation to these recommendations to determine whether they are appropriate to implement at local government level.

Deeming councillors and election participants to have knowledge of the original source of a gift or loan

To implement the Government's response to recommendations 7 and 21 of the CCC report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (Belcarra Report) the Bill (clauses 51, 144, 244 and 246) provides that, for proceedings for certain offences and for incomplete returns under part 6 of the LGEA, a councillor or an election participant is deemed to know, unless the contrary is proven, that the gift or loan was made to the councillor or participant, and the identity of the entity that is the source of the gift or loan.

No similar provisions apply to members of State Parliament or participants in State elections. To meet the policy objective of the Bill of consistency between the Local Government and State electoral and governance frameworks, amendments will remove these provisions.

Voting methodology

The Bill amends the LGEA to mandate full-preferential voting for mayoral and single councillor elections. Amendments will remove these provisions of the Bill. Following further consideration of the issue and stakeholder feedback, optional-preferential voting will be retained for the reasons including:

- optional-preferential voting in local government has been in place for over 25 years; and

- the Inquiry Report of the independent panel: *A review of the conduct of the 2016 local government elections, the referendum and the Toowoomba South by-election* recommended retention of the optional-preferential voting system for local government elections at least until after the 2020 quadrennial elections.

Councillor complaints framework

Under chapter 5A of the LGA, the independent assessor has the function of investigating and dealing with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the independent assessor by the CCC, corrupt conduct.

The Bill (clauses 16, 70, 71, 73, 77, 79, 80, 93 – 99, 125 and 140) makes amendments to the LGA councillor complaints framework to streamline investigations under chapter 5A of the LGA by providing that the assessor must investigate the conduct of a local government employee if (a) the conduct is the subject of a complaint referred to the assessor by the CCC, and (b) the conduct is connected to the conduct of a councillor that is the subject of a complaint referred to the assessor by the CCC.

The Bill had proposed new provisions which would have allowed the independent assessor to also investigate the conduct of local government employees but these provisions will be omitted.

Vacancy of office - summary returns

As part of the implementation of the Government's response to recommendation 30 of the Belcarra Report, clause 196(1) of the Bill amends the maximum penalty that applies for the offence in section 195(1) of the LGEA of failing to give a return under part 6 of the LGEA within the time required. The new maximum penalty was 20 penalty units if the person took all reasonable steps to give the return in the time required, or 100 penalty units otherwise. Clauses 13 and 121 of the Bill also prescribed this offence as an integrity offence in the LGA and COBA if paragraph (b) of the offence applies.

The policy intent is to not amend the penalties that apply for the offence in section 195(1) or prescribe the offence as an integrity offence.

Instead, the Government's response to recommendation 30 that penalties for the funding and disclosure offences in the LGEA should include removal from office for councillors is achieved by amendments providing that the office of an elected councillor will become vacant if the councillor does not comply with the requirement to submit a summary return under the LGEA within the required period for the election or a longer period allowed by the Minister.

If the agent for a group of candidates of which the councillor was a member or a political party which endorsed the candidature of the councillor fails to give the summary return in the required period, the Electoral Commission Queensland (ECQ) will notify the councillor. The councillor must give the summary return within 30 days of the date of the notice or a longer period allowed by the Minister.

If a councillor requests a longer period from the Minister, the request must be made before the end of the required period or the 30 days after the date of the notice from ECQ (relevant period) as appropriate. If the Minister has not decided the request by the end of the relevant period, the relevant period is taken to be extended until the date of the notice of the Minister's decision.

Also, for councillors who were elected as members of a group of candidates or endorsed by a political party, the following notification provision will apply:

- ECQ must give a copy of a return ECQ receives from the agent to the councillor

- ECQ must give a copy of the agent's reminder notice to the councillor if ECQ has not received a summary return from the agent within 10 weeks after polling day, or the day a poll would have been held.

Local government change – multi-member divisions

The Bill (clauses 56 – 59) amends the LGA to clarify that a local government change under the LGA includes a change of the number of councillors for a division and provides that each division of a local government area must have a reasonable proportion of electors for each councillor to be elected for the division. The Bill provides that these amendments will commence on assent.

The amendment provides that the amendments will commence by proclamation. It is proposed that the provisions will commence after the 2020 quadrennial election.

Elector information

The Bill (clause 219) provides for the ECQ to provide election and elector information on request, to align with proposed amendments to the EA. The Economics and Governance Committee Report on the Bill (No. 26 56th Parliament) at page 94 suggested that 'a transitional provision, to articulate the date from which elector information from previous elections would be available, may be of benefit'. The policy objective is achieved by amendments which provide that elector information can be requested and given under section 101A in relation to the 2016 quadrennial election and any subsequent election.

Major policy decisions during a caretaker period

Under the LGA section 90B and COBA section 92B, a local government is prohibited from making a major policy decision during a caretaker period for the local government unless the Minister gives approval. The Bill (clauses 122(3) and 14(4)) amends the definition of 'major policy decision' in the LGA and the COBA (schedules 4 and 2 respectively) to prescribe additional decisions as major policy decisions, including decisions under the *Planning Act 2016* (Planning Act) on development applications that include a variation request or change applications that include a change to a variation approval.

It is not intended that a local government should be prohibited from making a decision about certain development applications involving variation requests or certain change applications involving variation approvals, which are generally consistent with the infrastructure arrangements foreseen in the planning scheme or do not commit or extend the commitment of the local government in assessing consequential development against varied levels of assessment or assessment benchmarks.

Therefore, the policy objective is achieved by amending the definition of 'major policy decision' to effectively allow local governments to make decisions under the Planning Act about certain development applications involving variation requests or certain change applications involving variation approvals that align with this intent or are otherwise minor in nature, during a caretaker period.

Electoral funding and financial disclosure

The LGEA part 6 provides for electoral funding and disclosure requirements.

Sections 126 and 127 (as amended by the Bill, refer clauses 186 and 187) provide for candidates and groups to operate dedicated campaign accounts. The Bill (clause 238) amends the LGEA to require disclosure of electoral expenditure by candidates, groups of candidates, registered political parties and associated entities, in addition to third parties. The Bill includes in new

section 124 (Expenditure return—candidate, groups of candidates or registered political party) a requirement for a return for a candidate or group of candidates to be accompanied by a copy of a bank statement for the dedicated account of the candidate or group for the disclosure period (refer section 124(3)(d)).

The policy objective is achieved by amending the LGEA to provide for the bank statement to be provided with the summary expenditure return by candidates and groups under new section 125 and not the real-time return under section 124. A consequential amendment to the cross reference to section 124(3)(d) in clause 240 of the Bill is also made.

The Bill also makes amendments to align the LGEA with the EA. The policy objectives are achieved by amendments aligning clause 222 of the Bill with current EA section 201 (meaning of gift) with respect to the meaning of uncharged interest on a loan in EA section 201(3).

Clause 253 of the Bill amends the definition of candidate in the LGEA schedule 2. Clause 251 includes a transitional provision (section 217) requiring a ‘catch-up’ return by councillors and others not a candidate immediately before commencement. The requirements of section 217(3) of the Bill are not clear for appointed councillors and other candidates within section 217(1)(b). The policy objective is achieved by amendments to the transitional provisions. They provide further details of gift and loan returns required to be given within 14 days after commencement by persons becoming candidates on commencement.

The amendments also provide for gift and loan returns by agents for groups of persons who become candidates on commencement and give a record of membership of a group of candidates to the electoral commission after commencement. The return must be given within 14 days after appointment of the agent.

It is intended that new timeframes for returns in the last seven days before polling day be implemented by regulation. The policy objective is achieved by amendments providing that a disclosure deadline, for a return, means the day, or the time, prescribed by regulation for the giving of the return.

Clause 240 of the Bill provides for publication of returns and other documents by ECQ. Section 128(4) provides for circumstances where information must be deleted from the copy of the return or document to be published. The policy intent is achieved by amendments providing that the address of an individual elector is to be deleted if the ECQ is informed by the person giving the return that an individual identified in the return is a silent elector or an elector in the Commonwealth or another State with status equivalent or similar to a silent elector.

Operational electoral matters

The Bill makes amendments to align the LGEA with the EA and proposed amendments in the Electoral and Other Legislation Amendment Bill 2019. The policy objectives are achieved by further aligning:

- clause 170 of the Bill with Electoral and Other Legislation Amendment Bill 2019 clause 22 (Adjournment of poll) by providing that a poll may be adjourned if the returning officer is satisfied it is likely to be obstructed, in addition to interrupted, and
- clause 172 of the Bill with Electoral and Other Legislation Amendment Bill 2019 clause 23 (Supply of electoral rolls and ballot papers) by providing for when ballot papers are ‘available’.

Clause 192 of the Bill provides for earlier ECQ approval of a how-to-vote card under LGEA section 179 prior to polling day, as the LGEA provides for mobile polling booths and pre-polling booths. Currently the timeframes for submission of the card are linked only to polling

day. The policy objectives are achieved by amendments providing further clarity and corresponding with operational requirements by requiring the ECQ to approve the card within certain timeframes.

A minor amendment is made to the definition of ‘silent elector’ in clause 253 of the Bill, to align with the EA.

Regulation-making powers

Section 252 of the COBA and section 270 of the LGA provide that the Governor in Council may make regulations under those Acts.

Section 106 of the COBA and section 109 of the LGA provide that a councillor must ensure the councillor’s discretionary funds are used in accordance with the requirements prescribed under a regulation. Section 252(2)(h) of the COBA and section 270(2)(i) of the LGA provide that a regulation may be made about a meeting of a local government or its committees.

The policy objective is achieved by amending the COBA and LGA by broadening the scope of the existing regulation-making power about discretionary funds and expanding the scope of the regulation-making power about local government meetings to include other meetings of councillors, such as informal meetings and empowering local governments to make a policy about these meetings.

Minor drafting amendments

The amendments will also make minor drafting amendments including to correct section numbers, cross-references, typographical errors and location commands.

Alternative Ways of Achieving Policy Objectives

There are no alternative ways to achieve the policy objectives.

Estimated Cost for Government Implementation

There are no significant costs for implementation of the amendments. Any costs will be met within normal budgetary processes.

Consistency with Fundamental Legislative Principles

Potential breaches of the fundamental legislative principles (FLPs) set out in the *Legislative Standards Act 1992* (LSA) are addressed below.

Rights and liberties of individuals

The FLPs include requiring that legislation has sufficient regard to rights and liberties of individuals (LSA section 4(2)(a)).

Vacancy of office - summary returns

Whether legislation has sufficient regard to the rights and liberties of individuals includes whether, for example, legislation makes a person responsible for actions or omissions over which the person may have no control and whether consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied. The amendments propose that a councillor’s office will become vacant if the councillor or agent for a

group of candidates or political party fails to submit a return under section 117, 180, 120 or 125 of the LGEA within specified periods (refer amendments 13, 17, 63 and 67).

Under the LGEA section 42 a group of candidates must appoint an agent for the group. The instrument appointing the agent must be signed by all members of the group and by the agent. Similarly, a political party is required under the EA to have an agent.

An agent for a group of candidates has various responsibilities under the LGEA in relation to the group, including submitting returns about electoral funding. The Bill provides in new section 125 LGEA that an agent for a political party and a group of candidates is responsible for submitting a return about electoral expenditure incurred by the party and the group. The agent commits an offence under the LGEA section 195(1) if the agent fails to give the return within the time required. Candidates, by joining groups or accepting a party's endorsement, are aware that their agents will be carrying out particular functions under the LGEA on their behalf.

The summary returns are required to be submitted within 15 weeks of polling day for the election and the candidate should work with their agent to ensure that this timeframe is met. The amendments provide a number of safeguards to ensure that a councillor is informed about returns to be submitted by agents. If a return is submitted by an agent, ECQ will be required to inform both the chief executive officer of the local government and the councillor. Further, the existing requirement for ECQ to send a reminder notice to the candidate or agent if a return has not been received within 10 weeks will be extended to require ECQ to also send the reminder to a councillor who was a member of a group of candidates or endorsed by a political party if a return has not been received from the agent.

In the event that an agent does not submit a return within the required period, ECQ will notify the councillor of the agent's failure to submit the return and the councillor will then have 30 days from the date of the notice or a longer period allowed by the Minister to submit the return themselves.

While the consequences for non-compliance with the requirements are serious, they are considered reasonably proportionate and commensurate to the seriousness of the non-compliance. The amendments include a number of safeguards to ensure that councillors are informed at key points in relation to returns to be submitted by their agent and to provide an opportunity for a councillor to submit the return themselves if their agent fails to do so. This will ensure that a councillor will not lose office as a result of actions or omissions over which they have no control.

The amendments promote the public interest ahead of the private interests of councillors and enhance local government transparency, accountability and integrity. The amendments will ensure that councillors declare all electoral gifts, loans and expenditure, at the beginning of their term of office.

Elector information

Amendment 126 provides that elector information can be requested and given under section 101A of the LGEA in relation to the 2016 quadrennial election and any subsequent election. The potential breach of the FLPs for new section 101A that legislation should not adversely affect rights and liberties by allowing political parties, groups of candidates and elected councillors access to the personal information of voters was addressed in the explanatory notes for the Bill. The potential breach is justified on the basis that making this information available will assist the analysis of the demographics and patterns of voting at polling booths and changes in those demographics and patterns over time. It will also assist in communicating relevant information to electors (for example, where the location of polling booths changes between elections). The

information will also assist political participants to communicate with electors. The provision is also consistent with the approach in New South Wales, Victoria and the Commonwealth and is accompanied by a suitable offence provision to ensure the information is not misused.

Institution of Parliament

The FLPs also require legislation to have sufficient regard to the institution of Parliament (LSA section 4(2)(b)). Whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons (LSA section 4(4)(a)); and sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (LSA section 4(4)(b)). Amendments 3 and 45 will insert new regulation-making powers into the LGA and COBA to allow regulations to be made about:

- matters relating to discretionary funds;
- meetings of councillors, other than meetings of the local government or its committees, where councillors discuss local government matters (informal meetings); and
- empowering local governments to make and adopt a policy about these meetings.

Currently, the *Local Government Regulation 2012* and the *City of Brisbane Regulation 2012* prescribe various matters about the use of discretionary funds and the conduct of formal local government meetings, including, for example, procedural matters about notices of meetings, frequency and how business must be conducted at a local government meeting. Therefore, it is appropriate that additional matters about discretionary funds and conduct of informal meetings are also prescribed in a regulation. As part of regulating informal meetings, it is appropriate to also provide that a regulation may subdelegate to local governments the making of a policy about informal meetings which will enable each local government to make a policy appropriate for their size, location and administrative circumstances and is similar to the current power of local governments to adopt meeting procedures under section 150G of the LGA. Further, a regulation, when made, will sufficiently subject the exercise of the delegated legislative power to Parliamentary scrutiny.

Amendment 29 will also provide for a regulation to provide for ways to record particulars of orders made about unsuitable meeting conduct. The *Local Government Regulation 2012* and the *City of Brisbane Regulation 2012* provide for particular matters about local government meetings, including keeping of minutes. Therefore, it is appropriate for a regulation to also provide for how information about unsuitable meeting conduct orders are to be recorded if there are no minutes of the meeting. This will ensure that records are kept of these important matters for all meetings to enhance transparency and accountability.

Consultation

Consultation on the Bill itself was extensive, with significant consultation undertaken with the Local Government Association of Queensland (LGAQ), local governments, mayors and councillors. Consultation in relation to the amendments has been undertaken with some councils, the LGAQ, the ECQ and the CCC. Further consultation with the LGAQ on various specific elements of the proposed changes was also undertaken.

Stakeholders were generally supportive of the amendments.

Notes on provisions

Amendment 1 **Clause 7 (Replacement of ch 6, pt 2, div 5A (Dealing with councillors' personal interests in council matters))**

Amendment 1 omits clause 7 of the Bill to remove the provisions about councillors' conflicts of interest inserted into the *City of Brisbane Act 2010*.

Amendment 2 **Clause 8 (Amendment of s 178 (What this division is about))**

Amendment 2 omits clause 8 as a result of the removal of the provisions in the Bill about councillors' conflicts of interest.

Amendment 3 **After clause 11**

Amendment 3 inserts new clause 11A after clause 11 to amend section 252(2) of the *City of Brisbane Act 2010* to:

- expand the regulation-making power under subsection 252(2)(h) to include meetings of councillors other than council and committee meetings, such as informal meetings at which councillors discuss council matters;
- insert new subsection 252(2)(i), as renumbered by clause 11A(4), to expressly provide that a regulation may empower the council to make and adopt a policy about meetings of councillors other than council and committee meetings; and
- insert new subsection 252(2)(k), as renumbered by clause 11A(4), to provide a general regulation-making power for matters relating to discretionary funds.

Amendment 4 **Clause 12 (Insertion of new ch 8, pt 10)**

Amendment 4 amends clause 12 to omit transitional provisions relating to councillors' conflicts of interest.

Amendments 5 and 6 **Clause 13 (Amendment of sch 1 (Serious integrity offences and integrity offences))**

Amendments 5 and 6 amend clause 13. Amendment 5 omits amendments relating to councillor conflicts of interest offences referenced in schedule 1 (Serious integrity offences and integrity offences).

Amendment 6 omits the reference to section 195(1)(b) of the *Local Government Electoral Act 2011* in schedule 1 (Serious integrity offences and integrity offences).

Amendments 7 to 9 **Clause 14 (Amendment of sch 2 (Dictionary))**

Amendments 7 to 9 amend clause 14.

Amendment 7 omits amendments relating to councillor conflicts of interests in schedule 2 (Dictionary) of the *City of Brisbane Act 2010*.

Amendment 8 inserts a definition of ‘discretionary funds’ into schedule 2 (Dictionary) of the *City of Brisbane Act 2010*.

Amendment 9 amends the definition of ‘major policy decision’ in the *City of Brisbane Act 2010*, as amended by clause 14, to effectively exclude particular decisions under the *Planning Act 2016* about certain development applications involving variation requests and certain change applications that include variation approvals that are considered generally consistent with the infrastructure arrangements foreseen in the planning scheme or do not commit or extend the commitment of the local government in assessing consequential development against varied levels of assessment or assessment benchmarks. Additionally, the provisions exclude change application assessments under section 81 of the *Planning Act 2016* which involve changing a variation approval, that are considered minor in nature.

Amendment 10 **Clause 16 (Amendment of s5 (Relationship with Local Government Act))**

Amendment 10 amends clause 16 (new example 4) to remove reference to the conduct of council employees. The proposed new powers for the independent assessor to investigate particular conduct of council employees are being removed from the Bill.

Amendment 11 **Clause 33 (Amendment of s 177T (Duty to report another councillor’s prescribed conflict of interest or declarable conflict of interest))**

Amendment 11 omits clause 33 as a result of the removal of provisions about councillors’ conflicts of interest in the Bill.

Amendment 12 **Clause 41 (Insertion of new ch 8, pt 10, div 3)**

Amendment 12 renumbers new chapter 8, part 10, division 3 as a result of the omission of transitional provisions about councillor conflicts of interest in clause 12.

Amendment 13 **Clause 45 (Amendment of s 162 (When a councillor’s office becomes vacant))**

Amendment 13 omits clause 45 as a result of the omission of clause 48 which provided for a new requirement in relation to registers of interest.

The amendment also amends section 162 of the *City of Brisbane Act 2010* to provide that a councillor’s office becomes vacant if the councillor ceases to be a councillor under new section 174 (Failure to give particular returns under Local Government Electoral Act 2011).

Amendment 14 **Clause 48 (Insertion of new s 173AA)**

Amendment 14 omits clause 48 to remove the new obligation for councillors to inform the chief executive officer of particulars of interests at the start of the councillor’s term.

Amendment 15 **Clause 49 (Amendment to s 173B (Obligation of councillor to correct register of interests))**

Amendment 15 omits clause 49 to remove amendments in relation to the obligation of councillors to correct their registers of interests.

Amendment 16 **Clause 50 (Insertion of new s 174)**

Amendment 16 omits clause 50 to remove the new obligation for councillors to inform the chief executive officer annually about registers of interests.

Amendment 17 **After clause 50**

Amendment 17 inserts new clause 50A. New clause 50A inserts new sections 174 and 175 into the *City of Brisbane Act 2010*. New section 174 provides that if a person who is an elected councillor fails to give a summary return within the required period or a longer period allowed by the Minister the person ceases to be a councillor on the day immediately after the required period or longer period ends.

However, if under the *Local Government Electoral Act 2011* an agent was required to give the summary return on behalf of the person and the agent fails to give the return within the required period, the person must give notice to the Minister as soon as practicable after the date of the notice given to the person under the *Local Government Electoral Act 2011*, section 130C about the agent's failure to give the return. The notice to the Minister must state that the agent failed to give the summary return within the required period and that the person intends to give the return. The person must give the summary return within 30 days of the date of the notice or a longer period allowed by the Minister. The person ceases to be a councillor if the person does not give the summary return within that period.

New section 175 provides for how the Minister can allow a longer period for the person to give a summary return and for the extension of the required period or the period mentioned in section 174(4)(a) if the Minister has not decided about the longer period by the end of the period.

Amendment 18 **Clause 51 (Insertion of new s177Y)**

Amendment 18 omits clause 51 to remove the presumption that the councillor is taken to know that a gift or loan was given to them and the source of the gift or loan, in a proceeding for an offence against a conflict of interest provision relating to a gift or loan given or made to a councillor.

Amendment 19 **Clause 53 (Amendment of sch 1 (Serious integrity offences and integrity offences))**

Amendment 19 omits clause 53(1) so that the offence in section 173B(2) (Obligation of councillor to correct register of interests) will continue to be an integrity offence.

Amendment 20 **Clause 54 (Amendment of sch 2 (Dictionary))**

Amendment 20 omits an amendment to the dictionary of the *City of Brisbane Act 2010* as a result of the removal of provisions of the Bill relating to registers of interests.

Amendment 21 **Clause 56 (Replacement of ch2, pt 2, hdg (Divisions of local government areas))**

Amendment 21 omits clause 56. The amendment in clause 56 is inserted into part 3, division 3, subdivision 2 of the Bill which commences by proclamation by amendment 60.

Amendment 22 **Clause 57 (Amendment of s 15 (Division of local government areas))**

Amendment 22 omits clause 57. The amendment in clause 57 is inserted into part 3, division 3, subdivision 2 of the Bill which commences by proclamation by amendment 60.

Amendment 23 **Clause 58 (Amendment of s 16 (Review of divisions of local government areas))**

Amendment 23 omits clause 58. The amendment in clause 58 is inserted into part 3, division 3, subdivision 2 of the Bill which commences by proclamation by amendment 60.

Amendment 24 **Clause 59 (Amendment of s 17 (What this part is about))**

Amendment 24 omits clause 59. The amendment in clause 59 is inserted into part 3, division 3, subdivision 2 of the Bill which commences by proclamation by amendment 60.

Amendment 25 **Clause 70 (Replacement of ch 5A, hdg (Councillor conduct))**

Amendment 25 omits clause 70 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 26 **Clause 71 (Amendment of s150B (Overview of chapter))**

Amendment 26 omits clause 71(1), (2) and (3) of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 27 **Clause 72 (Amendment of s 150C (Definitions for chapter))**

Amendment 27 omits clause 72 as a result of the removal of conflict of interest provisions in the Bill.

Amendment 28 **Clause 73 (Amendment of ch 5A, pt 2, hdg (Conduct at local government meetings))**

Amendment 28 omits clause 73 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 29 **Before clause 74**

Amendment 29 inserts new clause 73A into the Bill. Clause 73A amends section 150I of the *Local Government Act 2009* to provide that details about orders about unsuitable meeting

conduct must be recorded in the minutes of the meeting, or, if minutes are not required for the meeting, in another way prescribed by regulation.

Amendment 30 **Clause 74 (Amendment of s 150L (What is misconduct))**

Amendment 30 makes consequential amendments to clause 74 as a result of that the removal of the new conflict of interest provisions.

Amendment 31 **Clause 77 (Amendment of ch 5A, pt 3, div 4, hdg (Investigation of councillor conduct))**

Amendment 31 omits clause 77 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 32 **Clause 79 (Insertion of new s150TA)**

Amendment 32 omits clause 79 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 33 **Clause 80 (Amendment of s150V (Investigative powers))**

Amendment 33 omits clause 80 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendments 34 and 35 **Clause 93 (Amendment of s150AY (Functions of investigators))**

Amendments 34 and 35 amend clause 93. Amendment 34 omits clause 93(1) of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 35 omits clause 93(2) second dot point and clause 93(3) as a result of the removal of the conflict of interest provisions.

Amendment 36 **Clause 94 (Amendment of s150CH (Power to require information))**

Amendment 36 omits clause 94 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 37 **Clause 95 (Amendment of s150CJ (Power to require attendance))**

Amendment 37 omits clause 95 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 38 **Clause 96 (Amendment of s150CK (Notice about confidentiality))**

Amendment 38 omits clause 96(1) of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 39 **Clause 97 (Amendment of s150CN (Compensation))**

Amendment 39 omits clause 97 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 40 **Clause 98 (Amendment of s150CU (Functions))**

Amendment 40 omits clause 98 of the Bill to remove the independent assessor's proposed new powers to investigate particular conduct of local government employees.

Amendment 41 **Clause 99 (Amendment of s150DB (Conflict of interest))**

Amendment 41 omits clause 99 of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendments 42 **Clause 106 (Insertion of new ch 5B)**

Amendment 42 omits clause 106 to remove the new provisions about councillors' conflicts of interest inserted into the *Local Government Act 2009*.

Amendment 43 **Clause 111 (Omission of ch 6, pt 2, div 5A (Dealing with councillors' personal interests in local government matters))**

Amendment 43 omits clause 111 so that current provisions of the *Local Government Act 2009* relating to conflicts of interest will not be omitted.

Amendment 44 **Clause 112 (Amendment of s 182E (When suspension of councillor ends))**

Amendment 44 makes a minor correction to clause 112 to insert the word 'section'.

Amendment 45 **After clause 119**

Amendment 45 inserts new clause 119A (Amendment of s 270 (Regulation-making power)) after clause 119 to amend section 270(2) of the *Local Government Act 2009* to:

- expand the regulation-making power under subsection 270(2)(i) to include meetings of councillors other than local government and committee meetings, such as informal meetings at which councillors discuss local government matters;

- insert new subsection 270(2)(j), as renumbered by clause 119A(4), to provide that a regulation may empower the local government to make and adopt a policy about meetings of councillors other than local government and committee meetings; and
- insert new subsection 270(2)(m), as renumbered by clause 119A(4), to provide a general regulation-making power for matters relating to discretionary funds.

Amendment 45 also inserts new clause 119B (Amendment of s 316 (Definitions for pt 12)) which inserts a note in section 316 of the *Local Government Act 2009* about the renumbering of section 150R(3), which is referred to in section 316.

Amendments 46 to 48 Clause 120 (Insertion of new ch 9, pt 14)

Amendments 46 to 48 amend clause 120. Amendment 46 makes a minor drafting amendment to a cross reference in section 331(6) of the *Local Government Act 2009* inserted by clause 120.

Amendment 47 makes a consequential amendment to the heading of new chapter 9, part 14 as a result of Amendment 48. Amendment 48 omits transitional provisions relating to conflict of interest provisions.

Amendments 49 and 50 Clause 121 (Amendment of sch 1 (Serious integrity offences and integrity offences))

Amendments 49 and 50 amend clause 121. Amendment 49 omits clause 121(1) and (2) as a result of removing the conflict of interest provisions.

Amendment 50 omits the reference to section 195(1)(b) of the *Local Government Electoral Act 2011* in schedule 1 (Serious integrity offences and integrity offences) of the *Local Government Act 2009*.

Amendments 51 to 54 Clause 122 (Amendment of sch 4 (Dictionary))

Amendments 51 to 54 amend clause 122.

Amendment 51 omits clause 122(1) and (2) as a result of the removal of the conflict of interest provisions.

Amendment 52 inserts a definition of ‘discretionary funds’ into schedule 4 (Dictionary) of the *Local Government Act 2009*.

Amendment 53 amends the definition of ‘major policy decision’ in the *Local Government Act 2009*, as amended by clause 122, to effectively exclude particular decisions under the *Planning Act 2016* about certain development applications involving variation requests and certain change applications that include variation approvals that are considered generally consistent with the infrastructure arrangements foreseen in the planning scheme or do not commit or extend the commitment of the local government in assessing consequential development against varied levels of assessment or assessment benchmarks. Additionally, the provisions exclude change application assessments under section 81 of the *Planning Act 2016* which involve changing a variation approval, that are considered minor in nature.

Amendment 54 relocates the replacement of the definition of ‘senior executive employee’ as a result of the omission of clause 122(1) and (2).

Amendment 55 **Clause 125 (Amendment of s 150C (Definitions for chapter))**

Amendment 55 omits the definition of ‘local government employee’ from section 150C of the *Local Government Act 2009* as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 56 **Clause 128 (Amendment of s 150L (What is misconduct))**

Amendment 56 amends clause 128 as a result of the removal of the conflict of interest provisions.

Amendment 57 **Clause 133 (Amendment of s 150AY (Functions of investigators))**

Amendment 57 amends clause 133 as a result of the removal of conflict of interest provisions.

Amendment 58 **Clause 136 (Amendment of s 162 (When a councillor’s office becomes vacant))**

Amendment 58 amend clause 136 to correct minor errors by replacing references to section 162 with section 162(1).

Amendment 59 **Clause 140 (Amendment of sch 4 (Dictionary))**

Amendment 59 omits clause 140(3) of the Bill as proposed new powers for the independent assessor to investigate particular conduct of local government employees are being removed from the Bill.

Amendment 60 **After Clause 141**

Amendment 60 inserts new clauses 141A (Replacement of ch 2, pt 2, hdg (Divisions of local government areas)), 141B (Amendment of s 15 (Division of local government areas)), 141C (Amendment of s 16 (Review of divisions of local government areas)) and 141D (Amendment of s 17 (What this part is about)).

These amendments are relocated from clauses 56 to 59 which are omitted by amendments 21 to 24. The amendments are required to commence the provisions relating to divisions of local governments by proclamation, rather than on assent.

Amendment 61 **Clause 143 (Amendment of s 150AY (Functions of investigators))**

Amendment 61 omits clause 143 as a result of the removal of the registers of interests provisions in the Bill.

Amendment 62 **Clause 144 (Insertion of new s 150FB)**

Amendment 62 omits clause 144 to remove the presumption that the councillor is taken to know that a gift or loan was given to them and the source of the gift or loan, in a proceeding for an offence against a conflict of interest provision relating to a gift or loan given or made to a councillor.

Amendment 63 **Clause 145 (Amendment of s 162 (When a councillor's office becomes vacant))**

Amendment 63 omits clause 145 as a result of the omission of clause 148 to remove the new obligation of councillors to inform the chief executive officer of particulars of interests at the start of the councillors' term.

The amendment also amends section 162 of the *Local Government Act 2009* to provide that a councillor's office becomes vacant if the councillor ceases to be a councillor under new section 172 (Failure to give particular returns under Local Government Electoral Act).

Amendment 64 **Clause 148 (Insertion of new s 171AA)**

Amendment 64 omits clause 148 to remove the new obligation of councillors to inform the chief executive officer of particulars of interests at the start of the councillor's term.

Amendment 65 **Clause 149 (Amendment of s 171B (Obligation of councillor to correct register of interests))**

Amendment 65 omits clause 149 to remove amendments in relation to the obligation of councillors to correct their registers of interests.

Amendment 66 **Clause 150 (Insertion of new s 172)**

Amendment 66 omits clause 150 to remove the new obligation for councillors to inform the chief executive officer annually about registers of interests.

Amendment 67 **After clause 150**

Amendment 67 inserts new clause 150A. New clause 150A inserts new sections 172 and 173 in the *Local Government Act 2009*. New section 172 provides that if a person who is an elected councillor fails to give a summary return within the required period or a longer period allowed by the Minister the person ceases to be a councillor on the day immediately after the required period ends.

However, if under the *Local Government Electoral Act 2011* an agent was required to give the summary return on behalf of the person and the agent fails to give the return within the required period, the person must give notice to the Minister as soon as practicable after the date of the notice given to the person that the agent failed to give the return. The notice to the Minister must state that the agent failed to give the summary return within the required period and that the person intends to give the return. The person must give the summary return within 30 days from the date of the notice or a longer period allowed by the Minister. The person ceases to be a councillor if the person does not give the summary return within that period.

New section 173 provides for how the Minister can allow a longer period for the person to give a summary return and for the extension of the required period or the period mentioned in section 172(4)(a) if the Minister has not decided about the longer period by the end of the period.

Amendment 68 **Clause 152 (Amendment of sch 1 (Serious integrity offences and integrity offences))**

Amendment 68 omits clause 152(1) so that the offence in section 171B(2) (Obligation of councillor to correct register of interests) will continue to be an integrity offence.

Amendment 69 **Clause 153 (Amendment of sch 4 (Dictionary))**

Amendment 69 omits an amendment to the dictionary of the *Local Government Act 2009* as a result of the removal of provisions of the Bill relating to registers of interests.

Amendment 70 **Clause 169 (Insertion of new s52A)**

Amendment 70 amends clause 169. It makes a drafting correction to new section 52A of the *Local Government Electoral Act 2011* to replace the words ‘while it was suspended to have’ with ‘booth while it was suspended to’.

Amendment 71 **Clause 170 (Replacement of s53 (Adjournment of poll))**

Amendment 71 amends clause 170. It makes a drafting correction to new section 53 of the *Local Government Electoral Act 2011* to insert the words ‘or obstructed’ after ‘interrupted’. The change aligns with the wording of clause 22 (Adjournment of poll) of the Electoral and Other Legislation Amendment Bill 2019.

Amendments 72 to 73 **Clause 172 (Amendment of s58 (Distribution of ballot paper and voters roll))**

Amendments 72 to 73 amend clause 172.

Amendment 72 corrects the heading for the amendment of section 58 of the *Local Government Electoral Act 2011* to replace ‘paper’ with ‘papers’.

Amendment 73 clarifies that for section 58 of the *Local Government Electoral Act 2011* a ballot paper is available at a polling booth if it can be reproduced under new section 58A.

Amendment 74 **Clause 175 (Amendment of s69 (Who must complete a declaration envelope))**

Amendment 74 amends clause 175. It makes a minor amendment to describe the example in amended section 69 of the *Local Government Electoral Act 2011* as being ‘Example of a reason beyond an elector’s control’ to reflect drafting preference.

Amendments 75 to 77 **Clause 192 (Amendment of s179 (Giving of how-to-vote cards to electoral commission))**

Amendments 75 to 77 amend clause 192.

Amendments 75 to 77:

- remove the references to a specific time and day and provide for a how-to-vote card to be given to the electoral commission after the start of the election period and at least 7 business days before the how-to-vote card is to be distributed on a day when votes may be cast for the election.
- provide that the electoral commission must, within 5 business days after receiving the required number of how-to-vote cards and the relevant statutory declaration, decide to accept or reject the how-to-vote card and inform the person who authorised the how-to-vote card of the decision.
- remove the reference to a specific time and day and provides for a revised how-to-vote card to be given to the electoral commission at least 2 business days before the how-to-vote card is to be distributed on a day when votes may be cast for the election.
- provide that in relation to a revised how-to-vote card, the electoral commission must, within 2 business days after receiving the required number of how-to-vote cards and the relevant statutory declaration, decide to accept or reject the revised how-to-vote card; and inform the person who authorised the revised how-to-vote card of the decision; and, if the revised how-to-vote card is rejected, give the person who authorised the revised how-to-vote card written reasons for the rejection.
- provide that the returning officer must ensure a how-to-vote card is available as soon as practicable after the electoral commission accepts it.

Amendment 78 **Clause 196 (Amendment of s195 (Offences about returns))**

Amendment 78 omits the new maximum penalties inserted by clause 196 for the offence in section 195(1) of the *Local Government Electoral Act 2011*.

Amendment 79 **Clause 199 (Insertion of new pt 11, div 4)**

Amendment 79 amends clause 199 to correct the heading of new part 11, division 4 of the *Local Government Electoral Act 2011*. The word ‘State’ is replaced with ‘Stage’.

Amendment 80 **Clause 204 (Amendment of s 40 (Disposal of deposits generally))**

Amendment 80 omits clause 204 as a result of the removal of the amendments to voting methodology.

Amendments 81 and 82 **Clause 205 (Amendment of s41 (Record of membership in group of candidates))**

Amendments 81 and 82 amend clause 205. Amendment 81 amends section 41 of the *Local Government Electoral Act 2011* to provide that the section applies if 2 or more candidates propose to engage in group campaign activities for an election.

Amendment 82 makes a consequential amendment to relocate new subsections inserted by clause 205(2).

Amendment 83 **Clause 209 (Amendment of s 65 (System of voting))**

Amendment 83 omits clause 209 so that the system of voting at an election for a local government area divided into single-member divisions or for a mayor remains as optional-preferential voting.

Amendment 84 **Clause 214 (Amendment of s83 (How electors must record a vote on a ballot paper – optional-preferential voting))**

Amendment 84 omits clause 214 as a result of the removal of voting methodology amendments.

Amendment 85 **Clause 215 (Amendment of s 86 (Formal and informal ballot papers – optional-preferential voting))**

Amendment 85 omits clause 215 as a result of the removal of voting methodology amendments.

Amendment 86 **Clause 216 (Amendment of s 92 (Preliminary counting of ordinary votes))**

Amendment 86 omits clause 216 as a result of the removal of voting methodology amendments.

Amendment 87 **Clause 217 (Amendment of s 95 (Official counting of ordinary votes))**

Amendment 87 omits clause 217 as a result of the removal of voting methodology amendments.

Amendment 88 **Clause 218 (Amendment of s 97 (Counting of votes for optional-preferential system))**

Amendment 88 omits clause 218 as a result of the removal of voting methodology amendments.

Amendments 89 to 92 **Clause 220 (Amendment of s106 (Definitions for part))**

Amendments 89 to 92 amend clause 220.

Amendment 89 omits the definition of ‘disclosure date’ from the *Local Government Electoral Act 2011* section 106.

Amendment 90 inserts in the *Local Government Electoral Act 2011* section 106 a definition of ‘disclosure deadline’. For a return, it means the day, or the time, prescribed by regulation for the giving of the return.

Amendment 91 corrects the cross-reference in the definition of ‘source’ of a loan in section 106 of the *Local Government Electoral Act 2011*. The term is defined in new section 121A(2) inserted by clause 235.

Amendment 92 makes a minor correction to the definition of ‘third party’ for an election in section 106 of the *Local Government Electoral Act 2011* to omit ‘for’.

Amendments 93 and 94 Clause 222 (Replacement of s107 (Meaning of gifts))

Amendments 93 and 94 amend clause 222.

Amendment 93 corrects amended section 107 of the *Local Government Electoral Act 2011* as inserted by clause 222 to replace ‘or’ with ‘and’ in relation to the term ‘uncharged interest’ for the meaning of ‘gift’.

Amendment 94 corrects a minor typographical error in the amended section 107(5).

Amendment 95 After clause 229

Amendment 95 inserts new clauses 229A and 229B. Clause 229A(1) amends the *Local Government Electoral Act 2011* section 117(2) and clause 229B(1) amends section 118(2) to change disclosure ‘date’ to disclosure ‘deadline’.

Clause 229A(2) amends the *Local Government Electoral Act 2011* section 117(7) to correct a subsection reference.

Clause 229B(2) also amends the *Local Government Electoral Act 2011* section 118(7) to provide that if the electoral commission receives a summary return from an agent for a group of candidates and any of the candidates were successful in an election, the commission must give a copy of the return to the chief executive officer and each of the successful candidates.

Amendment 96 Clause 230 (Insertion of new s 118A)

Amendment 96 amends clause 230 to change disclosure ‘date’ to disclosure ‘deadline’ in the *Local Government Electoral Act 2011* new section 118A(2).

Amendment 97 Clause 233 (Amendment of s 120 (Loans to candidates or groups of candidates))

Amendment 97 amends clause 233. The amendment changes disclosure ‘date’ to disclosure ‘deadline’ in section 120(2) and section 120(4) of the *Local Government Electoral Act 2011*.

Amendment 97(2) reinserts the amendment to section 120 in clause 233.

Amendment 97(3) amends section 120 to require the electoral commission to give a copy of a return under subsection (7) from a successful candidate or an agent for a group of candidates, any of whom were successful in the election, to the chief executive officer. If the return is from an agent, the electoral commission must also give a copy of the return to each successful candidate in the group.

Amendment 98 Clause 235 (Insertion of new pt 6, div 3, sdiv 3)

Amendment 98 makes a minor correction to the meaning of ‘source’ of a loan in clause 235.

Amendment 99

Clause 236 (Insertion of new pt 6, div 3, sdiv 4 hdg)

Amendment 99 amends clause 236. The amendment corrects a location command for the insertion of new part 6, division 3, subdivision 4 (Notification obligations). The new subdivision is inserted after section 121C, as inserted by the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019*.

Amendments 100 to 106

Clause 238 (Replacement of pt 6, div 4 (Disclosure by third parties))

Amendments 100 to 106 amend clause 238.

Amendment 100 changes disclosure ‘date’ to disclosure ‘deadline’ in the *Local Government Electoral Act 2011* section 124(3).

Amendments 101 and 102 remove the requirement to submit a copy of a bank statement for a candidate’s or group’s dedicated account with a real time return for electoral expenditure.

Amendment 103 provides that a copy of a bank statement for a candidate’s or group’s dedicated account must be provided with a summary expenditure return. It also reinserts the requirement for the return to state the total amount of electoral expenditure incurred during the disclosure period and replaces ‘electoral participant’ with ‘election participant’.

Amendment 104 replaces ‘electoral participant’ with ‘election participant’ in clause 238 section 125(4).

Amendment 105 amends new section 125 of the *Local Government Electoral Act 2011* to require the electoral commission to give a copy of a return under subsection (2) from a successful candidate, an agent for a group of candidates, any of whom were successful in the election, or an agent for a registered political party that endorsed a successful candidate to the chief executive officer. If the return is from an agent, the electoral commission must also give a copy of the return to each successful candidate in the group or endorsed by the party.

Amendment 106 changes disclosure ‘date’ to disclosure ‘deadline’ in the *Local Government Electoral Act 2011* section 125A(3)(b).

Amendments 107 to 109

Clause 240 (Amendment of s128 (Register of gifts))

Amendments 107 to 109 amend clause 240. Under amended section 128 of the *Local Government Electoral Act 2011* the electoral commission must delete certain information from a return or document being published. Amendment 107 clarifies clause 240 by providing that the address of an individual elector is to be deleted if the electoral commission is informed, by the person giving the return, that an individual identified in the return is a silent elector or an elector whose status is equivalent or similar to a silent elector under a law of the Commonwealth or another State.

Amendment 108 clarifies that the electoral commission must publish a copy of a return or document from which the street address but not the suburb, town, city or other locality, including the State of each individual identified in the return has been deleted.

Amendment 109 amends a cross-reference to reflect that a bank statement for a candidate's or group's dedicated account is to be provided with the summary return under section 125(3)(b) of the *Local Government Electoral Act 2011* and not the real time return under section 124(3)(d) of the *Local Government Electoral Act 2011*.

Amendments 110 to 114 Clause 243 (Insertion of new s130A)

Amendments 110 to 114 amend clause 243. Amendment 110 corrects a numbering error. Clause 243 inserts new section 130A, however the *Local Government Electoral Act 2011* already contains a section 130A. New section 130A is amended to section 130B.

Amendments 111 and 112 insert references to section 162 and new 172 of the *Local Government Act 2009* and section 162 and new 174 of the *City of Brisbane Act 2010* into new section 130B(2)(c) of the *Local Government Electoral Act 2011*. This will require that a reminder notice given under section 130B must include these provisions, or a general outline of them, to the extent they are relevant to the requirement to give the return.

Amendment 113 amends new section 130B by omitting reference to section 131(6) and 162A of the *Local Government Electoral Act 2011*. These sections are omitted as a result of the removal of provisions deeming election participants to have knowledge of the source of an electoral gift or loan.

Amendment 114 amends new section 130B of the *Local Government Electoral Act 2011* to provide that if the person to whom a reminder notice about a requirement for a return must be given is an agent for a group of candidates or a registered political party that endorsed a candidate, the electoral commission must also give a copy of the notice to each successful candidate who is a member of the group or endorsed by the party.

Amendment 115 After clause 243

Amendment 115 inserts new clause 243A. New clause 243A inserts new section 130C into the *Local Government Electoral Act 2011* which applies if an agent for a group of candidates or registered political party that endorsed a candidate fails, within the required period, to give a summary return required to be given under division 3 or 4 of part 6 of the *Local Government Electoral Act 2011* and one or more candidates in the group or endorsed by the party were elected as councillor.

The electoral commission must, as soon as practicable after the required period, give a notice to each successful candidate in the group of candidates or endorsed by the party, stating that the agent has failed to give the return; that the candidate is required to give the return and the provision under which the return is required to be given; and the following provisions or a general outline, to the extent they are relevant to the requirement to give the return – section 174(3) and (4) of the *City of Brisbane Act 2010* and section 172(3) and (4) of the *Local Government Act 2009*.

A summary return means a return required to be given under section 117(4), section 118(4), section 120(7) or section 125(2) of the *Local Government Electoral Act 2011*.

Amendment 116 **Clause 244 (Amendment of s131 (Inability to complete returns))**

Amendment 116 omits clause 244 to remove the presumption that, for section 131, a person required to give a return or particulars required for the preparation of the return knows, unless the contrary is proven, that a gift or loan was made to an election participant and the identity of the entity that is the source of the gift or loan.

Amendment 117 **Clause 246 (Insertion of new s162A)**

Amendment 117 omits clause 246 to remove the presumption that in a proceeding for an offence against the *Local Government Electoral Act 2011* relating to a gift or loan made to an election participant, the election participant knows, unless the contrary is proven, that a gift or loan was made to the election participant and the identity of the entity that is the source of the gift or loan.

Amendments 118 to 126 **Clause 251 (Insertion of new pt 11, div 4, sdiv 2)**

Amendments 118 to 126 amend clause 251.

Amendment 118 amends the heading of new section 217 to replace ‘councillors’ with ‘candidates - gifts.’

Amendment 119 clarifies that the provision applies to a person who immediately before the commencement was not a candidate and, on the commencement, is a candidate.

Amendment 120 makes a minor drafting correction to replace ‘candidate’ with ‘person’.

Amendment 121 provides that within 14 days after the commencement the person must give a return under the *Local Government Electoral Act 2011* section 117(2) and (4) as in force immediately before the commencement, for the person’s pre-commencement disclosure period. The amendment clarifies references to ‘candidate’, ‘relevant details’, ‘required period’, ‘disclosure date’, ‘disclosure period’ ‘gift’ and ‘value of a gift’ for applying section 117.

Amendment 122 clarifies that the requirement to give the return does not apply to a person if, before the commencement, a disclosure period would not have started under the *Local Government Electoral Act 2011* section 114 or 115 as in force immediately before commencement. It also does not apply in relation to a gift that is the subject of a return given before the commencement.

Amendment 123 replaces ‘candidate’ with ‘person’ in the *Local Government Electoral Act 2011* new section 217(5), for consistency.

Amendment 124 provides a definition of ‘pre-commencement disclosure period’. The period starts when the disclosure period would have started for the person under the *Local Government Electoral Act 2011* section 114 or 115 as in force immediately before the commencement and ends immediately before commencement.

Amendment 125 inserts new section 217A (Disclosure obligations for agent for group of candidates – gifts). It applies in relation to a person representing a group of persons who

immediately before the commencement were not candidates, on the commencement are candidates and after the commencement give a record of membership of the group to the electoral commission under the *Local Government Electoral Act 2011* section 41. It applies if the person is appointed as the agent for the group after the commencement.

The disclosure period for the group is taken to start on the day group gives the record of membership to the electoral commission. Within 14 days after the appointment the person must give a return under the *Local Government Electoral Act 2011* section 118(2) and (4) as in force immediately before the commencement for the group's pre-commencement disclosure period.

The amendment clarifies references to 'group of candidates', 'relevant details', 'required period', 'disclosure date', 'disclosure period', 'gift' and 'value of a gift' for applying section 118. Part 9, division 5 of the *Local Government Electoral Act 2011* (Offences relating to electoral funding and financial disclosure) applies in relation to the person and to each member of the group. The amendment provides a definition of 'pre-commencement disclosure period'. The period starts when the disclosure period would have started for the group under the *Local Government Electoral Act 2011* section 116 as in force immediately before the commencement and ends immediately before the day the group gives the record of membership to the electoral commission.

Amendment 125 also inserts new section 217B (Disclosure obligations for candidates – loans). It applies to a person who immediately before the commencement was not a candidate and, on the commencement, is a candidate. It provides that, for part 6, the disclosure period for the person is taken to start on the commencement.

The amendment provides that within 14 days after the commencement the person must give a return under the *Local Government Electoral Act 2011* section 120(2) and (7) as in force immediately before the commencement, for the person's pre-commencement disclosure period. The amendment clarifies references to 'candidate', 'required period', 'disclosure date', and 'disclosure period' for applying section 120.

It clarifies that the requirement to give the return does not apply to a person if, before the commencement, a disclosure period would not have started under the *Local Government Electoral Act 2011* section 114 or 115 as in force immediately before commencement. It also does not apply in relation to a loan that is the subject of a return given before the commencement. Part 9, division 5 of the *Local Government Electoral Act 2011* (Offences relating to electoral funding and financial disclosure) applies in relation to the person.

The amendment provides a definition of 'pre-commencement disclosure period'. The period starts when the disclosure period would have started for the person under the *Local Government Electoral Act 2011* section 114 or 115 as in force immediately before the commencement and ends immediately before commencement.

Amendment 125 also inserts new section 217C (Disclosure obligations for agent for group of candidates – loans). It applies in relation to a person representing a group of persons who immediately before the commencement were not candidates, on the commencement are candidates and after the commencement give a record of membership of the group to the electoral commission under section 41. It applies if the person is appointed as the agent for the group after the commencement.

The disclosure period for the group is taken to start on the day the group gives the record of membership to the electoral commission. Within 14 days after the appointment, the person must give a return under the *Local Government Electoral Act 2011* section 120(4) and (7) as in force immediately before the commencement for the group's pre-commencement disclosure period. The amendment clarifies references to 'group of candidates', 'required period', 'disclosure date', and 'disclosure period' for applying section 120. Part 9, division 5 of the *Local Government Electoral Act 2011* (Offences relating to electoral funding and financial disclosure) applies in relation to the person and to each member of the group.

The amendment provides a definition of 'pre-commencement disclosure period'. The period starts when the disclosure period would have started for the group under the *Local Government Electoral Act 2011* section 116 as in force immediately before the commencement and ends immediately before the day the group gives the record of membership to the electoral commission.

Amendment 126 inserts new section 219 which provides that elector information can be requested and given under *Local Government Electoral Act 2011* section 101A in relation to the 2016 quadrennial election and any subsequent election.

Amendments 127 to 130 Clause 253 (Amendment of sch 2 (Dictionary))

Amendment 127 inserts a new definition of 'group of candidates' into schedule 2 (Dictionary) of the *Local Government Electoral Act 2011*.

Amendment 128 amends the definition of 'silent elector' in schedule 2 (Dictionary) of the *Local Government Electoral Act 2011* to refer to the relevant provisions of the *Electoral Act 1992*.

Amendment 129 inserts new clause 253(3A) to provide a definition of disclosure deadline.

Amendment 130 omits amendments to definitions of 'formal ballot paper', 'how-to-vote card' and 'informal ballot paper' as a result of removing the voting methodology amendments from the Bill.