



# QUEENSLAND PARLIAMENT **COMMITTEES**

## **Queensland Productivity Commission Bill 2024**

Governance, Energy and Finance Committee



**Report No. 1**

**58<sup>TH</sup> Parliament, JANUARY 2025**



## **Governance, Energy and Finance Committee**

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All references and webpages are current at the time of publishing.

## **Acknowledgements**

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## Chair's Foreword

This report presents a summary of the Governance, Energy and Finance Committee's examination of the Queensland Productivity Commission Bill 2024.

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*.

On behalf of the committee, I thank those individuals and organisations who made written submissions on the Bill. I also thank Queensland Treasury and our Parliamentary Service staff.

I commend this report to the House.



Michael Crandon MP

Chair

## Executive Summary

On 28 November 2024, the Queensland Productivity Commission Bill 2024 (Bill) was introduced by the Honourable David Janetzki MP, Treasurer, Minister for Energy and Minister for Home Ownership and was referred to the Governance, Energy and Finance Committee (committee) for detailed consideration.

The objective of the Bill is to establish the Queensland Productivity Commission (Commission) as an independent statutory body, formalising its operational independence from government.

The Bill provides for the Commission to:

- undertake inquiries into economic and social issues, regulatory matters or legislation as directed by the Minister
- undertake research into economic and social issues, regulatory matters or legislation as directed or approved by the Minister or on its own initiative
- administer, monitor and review regulatory matters as directed by the Minister, and
- provide advice to the Minister as requested.

Stakeholders and subscribers were invited to make written submissions on the Bill, with the committee receiving 21 submissions. A public briefing was held on 11 December 2024 with representatives of Queensland Treasury. This was followed by a public hearing held on 17 December 2024 in Brisbane to speak with submitters and Queensland Treasury representatives.

The key issues raised during the committee's examination of the Bill, included:

- establishment of the Commission, particularly its functions and governance
- conduct of inquiries, research and administration of regulatory matters under direction, particularly in relation to confidentiality, performance and the power to require information
- research conducted on the Commission's own initiative, particularly in relation to independence and transparency
- Ministerial directions and reporting.

The committee is satisfied that the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament, and that any limitations of human rights, as set out in the *Human Rights Act 2019*, are reasonable and justifiable. The explanatory notes 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.

The committee made one recommendation, found at page vi of this report. The committee recommended the Bill be passed.

## Recommendations

<b>Recommendation 1 .....</b>	<b>4</b>
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**The committee recommends that the Bill be passed.**



## Glossary

<b>AEP</b>	Australian Energy Producers
<b>AIP</b>	Australian Institute for Progress
<b>Commission</b>	Queensland Productivity Commission
<b>HIA</b>	Housing Industry Association
<b>HRA</b>	<i>Human Rights Act 2019</i>
<b>LSA</b>	<i>Legislative Standards Act 1992</i>
<b>MBQ</b>	Master Builders Queensland
<b>MPQ</b>	Master Plumbers' Association of Queensland
<b>QCGO</b>	Queensland Cane Growers Organisation
<b>QCU</b>	Queensland Council of Unions
<b>QLS</b>	Queensland Law Society
<b>QPC</b>	Queensland Productivity Commission
<b>QREC</b>	Queensland Renewable Energy Council
<b>REIQ</b>	Real Estate Institute of Queensland
<b>UDIA</b>	Urban Development Institute of Australia

## 1. Overview of the Bill

The Queensland Productivity Commission Bill 2024 (Bill) was introduced by the Honourable David Janetzki MP, Treasurer, Minister for Energy and Minister for Home Ownership (Treasurer) and was referred to the Governance, Energy and Finance Committee (committee) by the Legislative Assembly on 28 November 2024.

### 1.1. Aims of the Bill

The objective of the Bill is to establish the Queensland Productivity Commission (Commission or QPC) as an independent statutory body, formalising its operational independence from government.

According to the explanatory notes, the Bill provides for the Commission to:

- undertake inquiries into economic and social issues, regulatory matters or legislation as directed by the Minister
- undertake research into economic and social issues, regulatory matters or legislation as directed or approved by the Minister or on its own initiative
- administer, monitor and review regulatory matters as directed by the Minister, and
- provide advice to the Minister as requested.<sup>1</sup>

### 1.2. Context of the Bill

#### 1.2.1. Role of productivity

According to the Treasurer, Queensland's standard of living is derived from its productivity.<sup>2</sup> Queensland Treasury (Treasury) further explained that:

Productivity improvements play an important role in addressing current and emerging economic and demographic challenges. Productivity growth can address cost of living challenges by raising economic capacity and real wages and reducing prices. It will also make the State's industries more competitive, helping to build a dynamic and resilient economy.<sup>3</sup>

In the Treasurer's introductory speech, he referred to productivity in Queensland slowing 'before going into neutral and then in many sectors into reverse'.<sup>4</sup> Evidence from Treasury showed that 'over the most recent completed productivity cycle (2017–18 to 2021–22), labour productivity grew only 0.6% per year, much lower than the longer-term average of 1.7%'.<sup>5</sup>

The Queensland Government made an election commitment to introduce legislation before the end of 2024 to re-establish the Queensland Productivity Commission to address the impacts of low productivity growth.<sup>6</sup>

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<sup>1</sup> Explanatory notes, p 2.

<sup>2</sup> Queensland Parliament, Record of Proceedings, 28 November 2024, p 81.

<sup>3</sup> Queensland Treasury, correspondence, 6 December 2024, p 1.

<sup>4</sup> Queensland Parliament, Record of Proceedings, 28 November 2024, p 81.

<sup>5</sup> Queensland Treasury, correspondence, 6 December 2024, p 1.

<sup>6</sup> Queensland Parliament, Record of Proceedings, 28 November 2024, p 81.

According to Treasury, ‘the Productivity Commission model is proven at the national level and in other states’.<sup>7</sup> Treasury also advised that ‘the functions and structure of the QPC largely mirror those of the Australian Productivity Commission’ and the QPC would be ‘focussed on undertaking inquiries, research and providing advice on matters relating to productivity, industry and regulatory issues’, amongst other broader functions.<sup>8</sup>

### **1.2.2. Roles and functions of the Queensland Productivity Commission**

The explanatory notes state the Commission is being established to assist the Queensland Government with ‘improving the productivity and economic performance of the economy by providing independent, expert policy advice on issues relating to productivity’.<sup>9</sup>

In performing its functions, the Bill states that the Commission should have particular regard to productivity and economic growth and improving living standards in Queensland.<sup>10</sup>

The Commission’s role is described as advisory only; it will have no decision-making capacity. Any policy action arising from the recommendations of the Commission will ultimately be a matter for government.<sup>11</sup>

According to the explanatory notes, the Commission will be funded through the re-allocation of existing resources from within the Queensland Treasury portfolio (including staffing costs, salaries of commissioners, accommodation and overhead costs).<sup>12</sup>

The Treasurer advised that a comprehensive review of the construction and building industry will be the Commission’s first task. The Commission will also be tasked with delivering Queensland’s first intergenerational equity report, outlining the key issues Queenslanders face across generational lines and the long-term policy solutions that are needed.<sup>13</sup>

The following key issues were raised during the committee’s examination of the Bill, which are discussed in Section 2 of this Report:<sup>14</sup>

- establishment of the Commission, particularly its functions and governance
- conduct of inquiries, research and administration of regulatory matters under direction, particularly in relation to confidentiality, performance and the power to require information
- research conducted on the Commission’s own initiative, particularly in relation to independence and transparency
- Ministerial directions and reporting.

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<sup>7</sup> Queensland Treasury, correspondence, 6 December 2024, p 1.

<sup>8</sup> Queensland Treasury, correspondence, 6 December 2024, p 1.

<sup>9</sup> Explanatory notes, p 2.

<sup>10</sup> Queensland Productivity Commission Bill 2024 (Bill), cl 3.

<sup>11</sup> Explanatory notes, p 2.

<sup>12</sup> Explanatory notes, p 2.

<sup>13</sup> Record of proceedings, 28 November 2024, p 82.

<sup>14</sup> Note that this section does not discuss all consequential, minor, or technical amendments.

### 1.3. Inquiry process

During its examination of the Bill, the committee:

- invited written submissions on the Bill from the public, identified stakeholders and email subscribers, and received 21 submissions (a list of submitters is provided at Appendix A)<sup>15</sup>
- received a written briefing on the Bill from Treasury prior to a public briefing with departmental officials from Treasury on 11 December 2024 (a list of officials who appeared at the briefing is provided at Appendix B)
- requested and received written advice from Treasury on issues raised in submissions and other matters
- held a public hearing with stakeholders on 17 December 2024 (a list of the witnesses who participated in the hearing is provided at Appendix C).

The submissions, written advice, and transcripts of the briefing and hearing are available on the committee's webpage.

### 1.4. Legislative compliance

The committee's deliberations included assessing whether the Bill complies with the requirements for legislation as contained in the *Parliament of Queensland Act 2001*, the *Legislative Standards Act 1992* (LSA),<sup>16</sup> and the *Human Rights Act 2019* (HRA).<sup>17</sup>



#### 1.4.1. Legislative Standards Act 1992

Assessment of the Bill's compliance with the LSA identified issues relating to the general rights and liberties of individuals with regard to the penalties introduced by the Bill. Further discussion of this issue can be found in section 2 of this report.

Matters relating to the rights of individuals that could be considered in an analysis of fundamental legislative principles were not addressed if those rights are protected under the *Human Rights Act 2019*. See section 1.4.2 for reference to these matters.<sup>18</sup>

<sup>15</sup> The committee issued its call for submissions on 29 November 2024 and required submissions to be provided by 12:00pm, 6 December 2024.

<sup>16</sup> Legislative Standards Act 1992 (LSA).

<sup>17</sup> Human Rights Act 2019 (HRA).

<sup>18</sup> For example, the Bill potentially limits the right to privacy because it requires the disclosure of criminal history and other personal information by individuals seeking to be appointed as a commissioner.

**Committee comment**

The committee is satisfied the Bill gives sufficient regard to the rights and liberties of individuals and the institution of Parliament. Any relevant considerations of fundamental legislative principles are discussed in section 2 of this report.

Explanatory notes were tabled with the introduction of the Bill. The notes 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.

**1.4.2. Human Rights Act 2019**

Assessment of the Bill's compatibility with the HRA identified issues with the following, which are analysed further in Section 2:

- the right to privacy and reputation – criminal history and conflict of interest provisions (see section 2.7.1)
- the right to take part in public life – commissioner appointments (see section 2.7.2)
- the right to privacy and reputation – power to require information (see section 2.7.3).

**Committee comment**

The committee found that the Bill is compatible with human rights, and that any limitations are reasonably and demonstrably justified. Any relevant considerations of human rights issues are discussed in section 2 of this report.

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.

**1.5. Should the Bill be passed?**

The committee is required to determine whether or not to recommend that the Bill be passed.

**Recommendation 1**

The committee recommends that the Bill be passed.

## 2. Examination of the Bill

The majority of submitters to the Inquiry supported the establishment of an independent productivity commission. The reasons given for this support included the need for independent research, evidence-based regulatory review and thorough public consultation on issues relating to productivity.<sup>19</sup> However, submitters also raised a number of issues in relation to the Bill, including the proposed Commission's governance, functions and powers, independence and the treatment of confidential information.

This section discusses key themes which were raised during the committee's examination of the Bill.

### 2.1. Establishment of the Queensland Productivity Commission

#### 2.1.1. Functions and governance of the Commission

The Bill establishes the Commission as a statutory body with the following functions:

- undertake inquiries into economic and social issues, regulatory matters or legislation as directed by the Minister
- undertake research into economic and social issues, regulatory matters or legislation as directed or approved by the Minister, or on its own initiative
- administer, monitor and review regulatory matters as directed by the Minister
- provide advice to the Minister as requested.<sup>20</sup>

The administering, monitoring and reviewing of regulatory matters may include Queensland Government policies such as the government's regulatory impact analysis requirements and regulator performance framework, and may include the Commission providing training, guidance and advice in relation to those policies.<sup>21</sup>

The Bill also makes provision for the Commission's meetings and minutes, along with the establishment of committees to assist in the performance of the Commission's functions.

In terms of governance, the Bill establishes a board as the governing body of the Commission.<sup>22</sup> The board is to be composed of a full-time Productivity Commissioner, who will lead the organisation, and up to 3 other full-time or part-time commissioners, depending on the Commission's work program.<sup>23</sup>

The Governor in Council may appoint a commissioner to be the Productivity Commissioner on the recommendation of the Minister. A person may be appointed as the Productivity Commissioner at the same time as they are appointed as a commissioner.<sup>24</sup>

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<sup>19</sup> See, for example, submissions 1, 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 21.

<sup>20</sup> Bill, cls 8 & 9.

<sup>21</sup> Explanatory notes, p 2.

<sup>22</sup> Bill, cl 12.

<sup>23</sup> Bill, cl 15; Record of proceedings, 28 November 2024, p 82.

<sup>24</sup> Bill, cl 18.

The Productivity Commissioner holds office for the term stated in the person's instrument of appointment, while the term of appointment for a commissioner must be no longer than 3 years. However, a commissioner may be reappointed at the end of their term and may be reappointed as Productivity Commissioner.<sup>25</sup>

A commissioner must notify the Minister of any conflict of interest that may arise in the commissioner's duties and must then remove themselves from involvement in the matter, unless the Minister directs otherwise. However, non-disclosure does not automatically invalidate a board decision, or the involvement of the commissioner concerned.<sup>26</sup>

The Bill outlines other provisions for commissioners including on matters such as the preservation of rights, vacancy in office, resignation and removal of commissioners.

A prospective or current commissioner may be disqualified from becoming or continuing as a commissioner for a number of reasons, including if the person is an insolvent under administration, has been disqualified from managing corporations, or the person has a conviction, other than a spent conviction, for an indictable offence. Disqualification may also occur if the person does not consent to the Minister requesting a report about the person's criminal history.<sup>27</sup> An analysis of these provisions' compatibility with human rights can be found in section 2.7 of this report.

### **2.1.2. Criminal history report and conviction of an indictable offence**

In deciding if a person is disqualified from becoming or continuing as a commissioner, the Minister may ask the police commissioner for a criminal history report on the person, provided the person has consented to the request being made. Before using such information, the Minister must disclose the information to the person and allow them a reasonable opportunity to make representations to the Minister about the information.<sup>28</sup>

A person possessing the criminal history information must not use or, directly or indirectly, disclose to another person the information unless the use or disclosure is permitted under the proposed Act. The maximum penalty for contravening this provision is 100 penalty units (\$16,130).<sup>29</sup>

Commissioners are required to immediately give notice to the Minister if they are convicted of an indictable offence during their term of appointment. Failure to give notice is an offence with a maximum penalty of 100 penalty units (\$16,130).<sup>30</sup> However, the offence will not apply if the person has a reasonable excuse for not providing the Minister with notice of the conviction.<sup>31</sup>

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<sup>25</sup> Bill, cl 16, 18.

<sup>26</sup> Bill, cl 25.

<sup>27</sup> Bill, cl 20.

<sup>28</sup> Bill, cl 27.

<sup>29</sup> Bill, cl 29. The value of a penalty unit is \$161.30 as of 1 July 2024; Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

<sup>30</sup> Bill, cl 28.

<sup>31</sup> Bill, cl 28(2).

An analysis of the application of fundamental legislative principles to these penalties can be found in section 2.6 of this report. An analysis of these provisions' compatibility with human rights can be found in section 2.7 of this report.



### 2.1.3. Stakeholder submissions and department advice

A number of submitters raised issues in relation to the functions and governance of the Commission.

#### i. Scope of the Commission's functions

A number of stakeholders commented on the proposed functions of the Commission.

Some stakeholders submitted that the scope of the Commission's functions was too broad. For example, the McKell Institute observed that the Commission's functions as stated in the Bill did not indicate the type of work the inquiry would undertake, nor appear to encompass advice on design and implementation of regulation (per the previous Productivity Commission).<sup>32</sup> It suggested that the Commission 'should take an expansive and global view of its work, focusing not just on small matters of deregulation but on economic diversification, the adequacy of the education system and new economic opportunities for the State.'<sup>33</sup> To this end, the McKell institute recommended that government should consider a specific Charter or Statement of Expectations to guide the Commission's work.<sup>34</sup>

The Institute of Public Affairs echoed this sentiment, calling for a legislated charter with more direct language in the Bill to specialise the Commission's functions, focusing on:

- promoting economic growth and productivity by measuring and identifying opportunities to cut red tape
- promoting efficiency of government by regular review of government bodies, including identifying opportunities to abolish or rationalise inefficient or unnecessary government bodies
- reviewing and scrutinising the integrity and quality of scientific research underlying policy development in Queensland.<sup>35</sup>

Similarly, Business Chamber Queensland and the Queensland Renewable Energy Council recommended the Commission have the following as its areas of focus:

- delivering the public service efficiently and effectively<sup>36</sup>
- cost of doing business<sup>37</sup>
- regulatory burden and compliance<sup>38</sup>

<sup>32</sup> Submission 21, p 7.

<sup>33</sup> Submission 21, p 11.

<sup>34</sup> Submission 21, p 11.

<sup>35</sup> Submission 20, pp 2-3.

<sup>36</sup> Submission 19, p 2.

<sup>37</sup> Submission 19, p 2.

<sup>38</sup> Submission 19, p 2.



- workforce productivity<sup>39</sup>
- identifying regulatory gaps and overlaps<sup>40</sup>
- encouraging evidence-based policymaking<sup>41</sup>
- business innovation, leading practice and resilience.<sup>42</sup>

The Queensland Council of Unions (QCU) went further on its concerns about the broad nature of the functions, stating that the Bill as drafted appears to establish a statutory body to provide centralised policy and legislative advice on any government business,<sup>43</sup> expanding the Commission's purpose and functions beyond those of its predecessor and beyond a focus on productivity.<sup>44</sup> The QCU told the committee 'the only meaningful reference to productivity in the bill is a matter of the commission ... "having particular regard to"; it does not even say they must have particular regard to it'.<sup>45</sup> To address this, the QCU recommended amending clauses 3, 9 and 37 to specify that the Commission's advice, inquiries and research should relate to 'productivity, economic growth and improving living standards in Queensland'.<sup>46</sup>

The QCU also raised concerns that 'as currently drafted the QPC may be used to circumvent existing statutory review or Parliamentary processes to consider legislation or regulations'.<sup>47</sup>

In contrast, there was also support for the Commission's functions being kept broad to meet particular purposes. For example, the Science Integrity Alliance and Queensland Cane Growers Organisation Ltd supported the functions being broad to allow the Commission to have the scope to investigate issues such as 'the veracity of scientific evidence behind economic and social issues'<sup>48</sup> and 'the agriculture sector and in particular the sugar and bioenergy industry'.<sup>49</sup>

The Housing Institute of Australia (HIA) submitted that 'while there is scope to broaden the functions under s.9(2), the listed functions under (1) are somewhat reactive when compared with those of the NSW Productivity and Equality Commission'.<sup>50</sup> The HIA suggested 'there may be the opportunity to empower the QPC to take a more proactive approach to improving productivity in Queensland by reframing its functions in the Bill'.<sup>51</sup>

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<sup>39</sup> Submission 19, p 2.

<sup>40</sup> Submission 13, p 2.

<sup>41</sup> Submission 13, p 2.

<sup>42</sup> Submission 19, p 2; submission 13, p 2.

<sup>43</sup> Submission 8, p 2.

<sup>44</sup> Submission 8, p 1.

<sup>45</sup> Public hearing transcript, Brisbane, 17 December 2024, p 22.

<sup>46</sup> Submission 8, pp 4-6.

<sup>47</sup> Submission 8, p 4.

<sup>48</sup> Submission 10, p 2.

<sup>49</sup> Submission 17, p 1.

<sup>50</sup> Submission 18, p 1.

<sup>51</sup> Submission 18, p 1.

The Queensland Cane Growers Organisation, Australian Energy Producers (AEP) and Business Chamber Queensland referred to the broad mandate of the Commission and recommended the Commission be sufficiently resourced to allow the Commission to do its work.<sup>52</sup> For example, AEP suggested the Commission be allocated a distinct budget allocation, in terms of staffing numbers and funding, in order to be able to meet both categories of research (Minister directed and self-initiated) without compromise. AEP also suggested that the Minister's direction or Commission's research proposal consider the resources necessary to do justice to the proposed scope of the work.<sup>53</sup>

Some submitters advocated for the Commission to focus on or incorporate specific interests, which included:

- undertaking audits of the scientific evidence used for public policy decisions via a 'Science Integrity Unit'<sup>54</sup>
- gender equality and the well-being of women and girls in Queensland, including equal access to employment opportunities for women, the need for targeted consultation with women and girls during research and inquiries, gender-specific considerations regarding privacy and confidentiality, and a gender lens in assessing policies, laws and regulations.<sup>55</sup>

ii. Department advice

Treasury stated that the functions of the QPC, as provided in clause 9 of the Bill, are closely aligned with the scope of functions undertaken by the former QPC. However, Treasury noted that the scope of functions is narrower in one regard, in that the Bill does not provide for the QPC to have a role in competitive neutrality matters, which are now within scope of the Queensland Competition Authority's remit.<sup>56</sup> Treasury advised that any consideration of the merits of revising the wording in this clause in the Bill is a matter for government.<sup>57</sup> Similarly, consideration of the need for a legislated charter or statement is also a matter for government.<sup>58</sup>

In response to concerns about the Commission's functions being too broad, Treasury advised the government has emphasised and clause 3 'clearly indicates that in undertaking its functions the QPC is to have regard to productivity, economic growth and improving living standards in Queensland.'<sup>59</sup>

Treasury also advised that the Bill 'does not give the QPC any power to disrupt or circumvent existing parliamentary processes or the functions of existing bodies', and that 'its functions are

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<sup>52</sup> Submission 17, p 2; submission 15, p 2; submission 19, p 5.

<sup>53</sup> Submission 15, p 2.

<sup>54</sup> Science Integrity Alliance, submission 10, p 1; Institute of Public Affairs, submission 20, p 4.

<sup>55</sup> Soroptimists International, submission 7, p 2.

<sup>56</sup> Queensland Treasury, correspondence, 13 December 2024, p 5.

<sup>57</sup> Queensland Treasury, correspondence, 13 December 2024, p 11.

<sup>58</sup> Queensland Treasury, correspondence, 13 December 2024, p 11.

<sup>59</sup> Public hearing transcript, Brisbane, 17 December 2024, p 29.

complementary to existing bodies and processes, and, as outlined in the Explanatory Notes, it has no decision-making powers'.<sup>60</sup>

In response to the issue of resourcing, Treasury advised the budget allocation for the QPC is a matter for government.<sup>61</sup>

In response to comments that the functions outlined in the Bill are reactive, and should be reframed to be more proactive, Treasury advised:

Through the function of being able to undertake self-initiated research (Clause 37), the Bill provides the QPC the opportunity to take a proactive role in meeting the purpose of the Act. The QPC would also be expected to pro-actively identify opportunities to boost productivity growth within the scope of the terms of reference for specific inquiries or requests for research or advice to be undertaken by the QPC, noting the Bill specifically states that, in undertaking its functions, the QPC must have particular regard to productivity, economic growth and improving living standards in Queensland.<sup>62</sup>

Treasury advised that the areas of focus recommended for the QPC appear to align closely with the QPC's remit to undertake its functions with particular regard to productivity, economic growth and improving living standards for Queensland, or are within the scope of the QPC's intended functions, including its roles in relation to regulation.<sup>63</sup>

In regard to the Commission's regulatory review function in particular, Treasury advised the roles to be undertaken (to be outlined in a Direction from the Treasurer) are intended to be similar to the key functions to those currently carried out by the Office of Productivity and Red Tape Reduction within Queensland Treasury. As indicated in the explanatory notes to the Bill, Treasury stated it is expected this would include administering existing Queensland Government policies such as the government's regulatory impact analysis requirements and regulator performance framework, and providing training, guidance and advice to agencies in relation to those policies.<sup>64</sup>

On the specific interests identified by stakeholders, Treasury advised 'the ability to appoint a commissioner for a specific inquiry, review or research may allow for enhanced scrutiny of scientific issues' and also that 'the power of the QPC to establish Committees where appropriate may also provide appropriate avenues for the QPC to seek specific scientific expertise to inform its inquiries and research where appropriate'.<sup>65</sup> Similarly, Treasury advised it would be expected that submissions could be provided by interested stakeholders on issues of specific relevance, which could include gender equality.<sup>66</sup>

### iii. Establishment of committees

Australian Energy Producers and the Property Council of Australia welcomed the inclusion of the power for the Commission to establish committees to assist its work, with the Property Council of Australia stating, 'engagement with relevant stakeholders, industries and their representatives

<sup>60</sup> Queensland Treasury, correspondence, 13 December 2024, p 5.

<sup>61</sup> Queensland Treasury, correspondence, 13 December 2024, p 8.

<sup>62</sup> Queensland Treasury, correspondence, 13 December 2024, p 9.

<sup>63</sup> Queensland Treasury, correspondence, 13 December 2024, pp 7, 10.

<sup>64</sup> Queensland Treasury, correspondence, 13 December 2024, p 7.

<sup>65</sup> Queensland Treasury, correspondence, 13 December 2024, p 11.

<sup>66</sup> Queensland Treasury, correspondence, 13 December 2024, p 4.

will be critical in ensuring economic and social issues impacting Queensland are well understood'.<sup>67</sup>

The Master Plumbers Association of Queensland (MPQ) raised questions about the Commission's power to establish committees to assist in the performance of its functions. The MPQ's questions related to the formation and structure of the committees, as well the criteria used to decide a committee's membership and whether they will remain consistent across inquiries or be adapted to the specific circumstances.

iv. Department advice

Treasury responded to the MPQ's questions stating the 'formation, membership and representation of specific committees that may be formed is a matter for the QPC to determine as required to undertake its functions.'<sup>68</sup> Treasury noted that the Bill gives the QPC flexibility on how committees are formed, their membership, and the role and duration of these committees.<sup>69</sup>

v. Experience of the board and role of the Productivity Commissioner

Some submitters raised the issue of the experience of the Commission's board members. For example, the Queensland Renewable Energy Council submitted that the Bill should stipulate the minimum skills for the role of Productivity Commissioner, such as having a legal/legislative background.<sup>70</sup>

The Housing Industry Association (HIA) also referred to the knowledge and experience of board members and the Commission's first review which has been identified as a comprehensive review of the Queensland building and construction industry. The HIA submitted that, given the QPC will not be restricted to considering matters related to a particular industry, it may not be appropriate to detail experience or qualifications within the legislation. However, the HIA submitted that consideration should be given to the QPC's first task and ensuring board members are suitably experienced and qualified, ideally including residential building industry knowledge and experience.<sup>71</sup>

Queensland Cane Growers Organisation similarly submitted that commissioners should have an understanding of the productivity challenges facing regional Queenslanders.<sup>72</sup>

Business Chamber Queensland commented on the role of the Productivity Commissioner, recommending that the Productivity Commissioner take the lead role in driving economic and business outcomes for Queensland, with the Commission being the primary source of research and advice to the Minister, making the Commission the key area of accountability.<sup>73</sup>

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<sup>67</sup> Submission 3, p 1; submission 15, p 1.

<sup>68</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>69</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>70</sup> Submission 13, p 3.

<sup>71</sup> Submission 18, p 2.

<sup>72</sup> Submission 17, p 1.

<sup>73</sup> Submission 19, p 5.

## vi. Department advice

In reference to issues raised about commissioner experience, Treasury advised the Bill specifically states in Clause 15 that the Responsible Minister may recommend a person for appointment only if the Minister is satisfied the person is appropriately qualified to perform the functions of the Commissioner. As outlined in the explanatory notes to the Bill, ‘appropriately qualified’ is defined in the *Acts Interpretation Act 1954*.<sup>74</sup> Schedule 1 of the *Acts Interpretation Act 1954* provides that being appropriately qualified for appointment to an office means having the qualifications, experience or standing appropriate to perform the functions of the office.

In response to the recommendation that the Productivity Commissioner should be the primary source of advice to the Minister, Treasury advised this is outside the scope of the Bill.<sup>75</sup>

## vii. Number of commissioners and term of appointment

The Australian Energy Producers (AEP) submitted that clause 15, which provides for the composition of the board, ‘potentially allows for an oddly structured Board of just one lone Commissioner’. The AEP recommended the Bill be amended to clarify that the Board is composed of at least 2 persons, or that the appointment of the Productivity Commissioner to the Board should be an ‘ex officio appointment’.<sup>76</sup>

The Australian Institute for Progress (AIP) recommended that the Bill not stipulate the number of commissioners in the legislation, to allow for a greater number of commissioners depending on the work being undertaken by the Commission.<sup>77</sup>

The AIP also raised the term a commissioner can be appointed (3 years) and recommended that the term of a commissioner should be at least 4 years, if not longer, given the Queensland Government has 4-year terms, to give stability over changes of government.<sup>78</sup>

## viii. Department advice

In response to comments made on the number of commissioners, Treasury stated that clause 15 allows the QPC to operate with one board member, being the Productivity Commissioner, but with up to 4 persons on the Board, who may be permanent or temporary for a particular inquiry. According to Treasury, providing for just one member on the board allows the QPC to commence operations and continue to function effectively in the event there are not multiple Commissioners in place at any given point in time. Treasury added that the appointment of additional commissioners is a matter for government.<sup>79</sup>

Treasury also advised that the term of appointment of up to 3 years is considered an appropriate period of time and this is consistent with the terms of appointment generally for other state government significant appointments.<sup>80</sup>

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<sup>74</sup> Queensland Treasury, correspondence, 13 December 2024, p 7.

<sup>75</sup> Queensland Treasury, correspondence, 13 December 2024, p 10.

<sup>76</sup> Submission 15, p 2.

<sup>77</sup> Submission 16, p 2.

<sup>78</sup> Submission 16, p 2.

<sup>79</sup> Queensland Treasury, correspondence, 13 December 2024, p 8.

<sup>80</sup> Queensland Treasury, correspondence, 13 December 2024, p 8.

## ix. Criminal histories of commissioners

The AIP submitted that the sections dealing with the criminal history of commissioners ‘seems counterproductive and unnecessary’. The AIP suggested that the responsible Minister can be relied upon to take criminal histories into account.

## x. Department advice

In response to the AIP’s comments, Treasury advised that the ‘criminal history provisions equivalent to those in the Bill are used to assess the suitability of persons for appointment to statutory office in numerous Acts across the Queensland statute book’.<sup>81</sup> This includes the *Cross River Rail Delivery Authority Act 2016*, the *Forensic Science Queensland Act 2024*, and the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.<sup>82</sup>

## xi. Potential topics of inquiry

Although outside the scope of the Bill, a number of submitters raised suggestions about future topics of inquiry for the Commission, including:

- issues that affect the agricultural sector, particularly the sugar and bioenergy industry (specific topics can be found in submission 17)<sup>83</sup>
- the rental housing sector and the supply of housing and home ownership in Queensland<sup>84</sup>
- the productivity benefits of leveraging available digital technologies and Artificial Intelligence (AI), how future investment and service delivery can close the social equality gap for Queensland’s First Nations, disability and homeless demographics, and improvements to planning processes to reduce construction costs.<sup>85</sup>

## xii. Department advice

Treasury noted that these are matters for consideration by the government in considering the potential future work program for the QPC.<sup>86</sup>

## 2.2. Inquiries, research and administration of regulatory matters under a direction

### 2.2.1. Inquiries and research

The Bill sets out requirements for the inquiries and research undertaken by the Commission. These requirements include:

<sup>81</sup> Queensland Treasury, correspondence, 13 December 2024, pp 8-9.

<sup>82</sup> Queensland Treasury, correspondence, 13 December 2024, pp 8-9.

<sup>83</sup> Queensland Cane Growers Organisation, submission 17, p 1; Canegrowers Cairns Region, submission 1, p 1.

<sup>84</sup> Real Estate Institute of Queensland, submission 5, p 3.

<sup>85</sup> Alvarez and Marsal Australia, submission 9, p 1.

<sup>86</sup> Queensland Treasury, correspondence, 13 December 2024, p 2.

- that some type of public consultation must be undertaken by the Commission in relation to an inquiry, but this is subject to any requirements in the Minister’s direction about the type of public consultation to be undertaken<sup>87</sup>
- the Minister must give the Commission a written response to a Commission report within 3 months after receiving the report, and the Commission must publish the report on its website as soon as practicable after receiving the minister’s response.<sup>88</sup>

The Bill provides the Commission with the power to require an entity to give the Commission a copy of related information,<sup>89</sup> or to make related information available for inspection by the Commission.<sup>90</sup> The Commission will be able to request, and have access to, information (defined to include documents) from government agencies, including local governments and government owned corporations (relevant entities). This may require the disclosure of personal information by the relevant entities. An individual’s personal information may be disclosed to the Commission to the extent it forms part of information requested by the Commission without their consent.<sup>91</sup> A relevant entity may refuse to comply with the request if the information is:

- subject to legal professional privilege, parliamentary privilege or public interest immunity
- disclosure is prohibited under an Act, or
- disclosure of the report or information could reasonably be expected to prejudice the investigation of a contravention or possible contravention of a law in a particular case.<sup>92</sup>

An analysis of the provision providing the power to require information and its compatibility with human rights can be found in section 2.7.

### 2.2.2. Regulatory matters

If the Minister directs the Commission to administer, monitor or review a regulatory matter, the Bill requires the Commission to publish on its website any guidelines, procedures or other documents developed in relation to the regulatory matter.<sup>93</sup>

### 2.2.3. Protection of personal information

The Bill provides for the protection of information acquired by a person performing functions under or relating to the administration of the Act, including the Minister administering the Act, a Commissioner and a member of the Commission’s staff or a contractor of the Commission.<sup>94</sup>

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<sup>87</sup> Bill, cl 33.

<sup>88</sup> Bill, cl 34.

<sup>89</sup> Related information is broadly defined in clause 35 to include a document or other information that is (a) in the possession or under the control of the entity and (b) relates to the entity or a business carried out by the entity and (c) is relevant to the matter the subject of the Ministerial direction.

<sup>90</sup> Queensland Productivity Commission Bill 2024, cl 35.

<sup>91</sup> Explanatory notes, p 3.

<sup>92</sup> Bill, cl 35.

<sup>93</sup> Bill, cl 36.

<sup>94</sup> Bill, cl 39. This clause is located under the miscellaneous provisions of the Bill.



This includes criminal history reports (see section 2.1.2) and information obtained under the power to acquire information (see section 2.2.1).

The Bill makes it an offence for these persons to disclose confidential information to anyone else, or use the information, unless the use or disclosure is permitted under subsection (3). The maximum penalty for failing to comply with this requirement is 100 penalty units (see section 2.6 for a discussion on the penalty and section 2.7 for a discussion on compatibility with human rights).<sup>95</sup>



#### **2.2.4. Stakeholder submissions and department advice**

##### **i. Confidentiality of personal information**

The Queensland Law Society (QLS) raised concerns about the power to require information and the subsequent protection of that information to preserve privacy and confidentiality, particularly personal information (clause 35).

The QLS submitted that the current drafting enlivens the potential for disclosure of personal, confidential or sensitive information, without there being sufficient safeguards to preserve privacy and confidentiality. The QLS recommended the Bill be amended to provide that the protection of personal and confidential information is appropriately considered at the time of the request and that personal and confidential information may only be disclosed where it is reasonable and necessary to do so.<sup>96</sup>

The QLS also raised issues about clause 39 which provides for the use or disclosure of confidential information. One of the provisions of clause 39 is that a person identified by the Bill (such as a Minister, commissioner or staff member of the Commission) may disclose or use the confidential information to the extent the disclosure or use does not identify the person to whom the information relates or does not allow their identity to be ascertained.

The QLS questioned whether this protection is sufficient because whether the identity of the person can be 'reasonably ascertained' will depend on the specific context and circumstances and not on whether the person's identity can be known from the specific information.

The QLS called for the Bill to include a framework which considers protection of personal information and reasonable and proportionate disclosure before the information is disclosed, especially in the absence of individual consent. In particular, the QLS called for the following privacy measures:

- a relevant entity is required to identify, remove or redact personal, confidential or sensitive information, before disclosure of such information to the Commission, unless
- there is a specific decision or justification that such information is directly relevant to the inquiry or research under consideration i.e. that such disclosure is both reasonable and necessary.<sup>97</sup>

<sup>95</sup> Bill, cl 39.

<sup>96</sup> Submission 12, p 2.

<sup>97</sup> Submission 12, p 2.



The QLS also submitted that where personal information is received by the Commission, the Commission should be required to put in place reasonable protective data security measures.<sup>98</sup>

ii. Department advice

On the issue of confidentiality of personal information, Treasury advised the Bill provides protection for confidential information in clause 39. Confidential information includes information that could identify a person (personal information) under the definition provided in the Schedule 1 Dictionary, that is, information ‘about an individual whose identity is apparent, or can reasonably be ascertained, from the information’.<sup>99</sup>

The confidentiality protection in clause 39 protects confidential information, including personal information, from misuse or disclosure in alignment with the Information Privacy Principles in the *Information Privacy Act 2009*.<sup>100</sup> This clause allows the QPC to disclose de-identified information about a person but only where the identity of the person cannot be reasonably ascertained from the information.<sup>101</sup>

Treasury noted that the QPC will have to consider whether a person’s identity could reasonably be ascertained before disclosing any de-identified information about a person. The same provision is included in the *Victims’ Commissioner and Sexual Violence Review Board Act 2024* which deals with highly sensitive personal information.<sup>102</sup>

In relation to clause 35, the QPC’s powers to require the production of confidential information (including personal information) is limited in that: (1) it can only require this information from government agencies and (2) it can only require information if it is relevant to the matter subject of a Ministerial direction under clause 32(a) or (b).<sup>103</sup>

Additionally, under clause 35(4) of the Bill, in providing information to the QPC, relevant entities may refuse to comply with the notice to provide information to the QPC, for example ‘where complying with the notice could reasonably be expected to prejudice the investigation of a contravention, or possible contravention, of a law’.<sup>104</sup>

Treasury also noted that the QPC commissioners and staff will be subject to the Information Privacy Principles (IPP) in the *Information Privacy Act 2009* in relation to how it handles, uses, stores, collects and discloses personal information.<sup>105</sup> In relation to protective data security measures, Treasury advised the QPC will be subject to IPP 4 in relation to storage and security, which requires agencies to ensure personal information is protected for loss or misuse, including

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<sup>98</sup> Submission 12, p 2.

<sup>99</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>100</sup> Queensland Treasury, correspondence, 13 December 2024, pp 1, 6.

<sup>101</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>102</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>103</sup> Queensland Treasury, correspondence, 13 December 2024, p 6.

<sup>104</sup> Queensland Treasury, correspondence, 13 December 2024, p 1.

<sup>105</sup> Queensland Treasury, correspondence, 13 December 2024, p 1.

implementing security safeguards adequate to provide the level of protection that can reasonably be expected to be provided.<sup>106</sup>

### iii. Confidentiality of submissions

Two stakeholders also raised the issue of the confidentiality of submissions made to the proposed Commission. Master Builders Queensland (MBQ) referred to the types of information that may be provided to the Commission, such as commercial confidential and sensitive information, and evidence or examples about union behaviour and its impact on productivity. On the latter, MBQ raised concerns that ‘industry stakeholders will be fearful of retribution by the union if this evidence is provided without adequate protections for companies and witnesses’.<sup>107</sup>

Similarly, the Urban Development Institute of Australia (UDIA) explained that there can be ‘a strong reticence to provide identifying information for fear of retribution from other parties’, which would likely hamper Commission investigations by receiving incomplete industry feedback.<sup>108</sup>

Both the MBQ and UDIA referred to entities such as the Fair Work Ombudsman, Fair Work Commission and Australian Competition and Consumer Commission which offer the potential of submitting an anonymous report, which allows submitters to detail concerns without fear of reprisal.<sup>109</sup>

MBQ recommended the Bill include ‘provisions which allow information, evidence or examples to be provided in confidence, with the strongest possible protections for witnesses’.<sup>110</sup> The UDIA proposed that the Commission ‘establish a suitable channel to obtain specific examples and case studies on a confidential basis’, and recommended the Bill be amended to include similar protections provided by the entities mentioned above.<sup>111</sup> When asked whether information should be made available for public scrutiny if the Treasurer is making policy decisions based on Productivity Commission recommendations, the UDIA responded the information should be de-identified.<sup>112</sup>

### iv. Department advice

In response to concerns about the confidentiality of submissions, Treasury advised that ‘while not specified in the Bill, individuals or entities making submissions to the QPC can also identify confidential information within their submissions and request that the information, or the entire submission, be kept confidential.’<sup>113</sup>

Treasury advised that clause 39 of the Bill, which covers the use or disclosure of confidential information, does not only protect information that is acquired under clause 35; it protects any information that the commission acquires in performing its functions, both personal and other

<sup>106</sup> Queensland Treasury, correspondence, 13 December 2024, p 7.

<sup>107</sup> Submission 4, p 2.

<sup>108</sup> Submission 6, p 2; Public hearing transcript, Brisbane, 17 December 2024, p 3.

<sup>109</sup> Submission 4, p 2; submission 6, p 2.

<sup>110</sup> Submission 6, p 2.

<sup>111</sup> Submission 6, p 2.

<sup>112</sup> Public hearing transcript, Brisbane, 17 December 2024, p 3.

<sup>113</sup> Queensland Treasury, correspondence, 13 December 2024, p 2.

confidential information, such as commercially sensitive information, and that Treasury's understanding is that this will also protect submissions made to the commission.<sup>114</sup>

v. Effectiveness and performance

Queensland Cane Growers Organisation raised a number of issues in relation to measuring the effectiveness and performance of the Commission, submitting:

- The Bill does not make it clear how the QPC findings should be implemented or monitored for effectiveness.
- The Bill is limited in its explanation as to how stakeholders like CANEGROWERS and individual growers will be engaged in QPC reviews to ensure their concerns are adequately addressed. Will sub-committee and standing taskforce type structure be proposed?
- The Bill and explanatory notes do not provide an in-depth comparison of the QPC's intended role in association with existing bodies such as the Australian Productivity Commission or Queensland Audit Office to identify redundancies or synergies.
- The Bill and the explanatory notes do not provide clear insight as to what metrics will be used to evaluate the success of QPC interventions or reports.<sup>115</sup>

vi. Department advice

In response, Treasury advised:

The Bill clearly indicates that the QPC is an advisory body only. The Bill also stipulates that public consultation must be undertaken in relation to all inquiries under Clause 33.

The response to advice or recommendations provided by the QPC (including potential implementation and monitoring of any initiatives) will be a matter for Government

In regard to the QPC's performance and effectiveness, the Bill specifies in Clause 40 that the QPC must produce an Annual Report that must include information about how efficiently and effectively the QPC performed its functions including, for example, identifying key achievements and financial and non-financial performance.<sup>116</sup>

vii. Power to require information

Workforce Advisory Lawyers, a firm concerned with the construction industry, submitted that the Commission may need powers beyond simply requiring information during research and inquiries, and should instead be constituted as a standing inquisitorial system, akin to a coroner. This could include powers to enter, inspect, conduct an interview, and powers to require persons to answer questions at a hearing or conference. Workforce Advisory Lawyers submitted that 'without significant powers to investigate the Commission may have limited knowledge of the issues involved'.<sup>117</sup>

viii. Department advice

Treasury responded by referring to the Bill's provision which permits the QPC to require the provision of related information from government agencies, local governments and local

<sup>114</sup> Public hearing transcript, Brisbane, 17 December 2024, p 31.

<sup>115</sup> Submission 17, p 3.

<sup>116</sup> Queensland Treasury, correspondence, 13 December 2024, p 9.

<sup>117</sup> Submission 14, p 2.

government companies (clause 35). Treasury added that any consideration of broadening these powers in line with the suggestions would be a matter for government.<sup>118</sup>

### 2.3. Research conducted on Commission's own initiative

The Bill provides that the Commission may undertake self-initiated research into a matter relating to economic and social issues, regulatory matters or legislation.<sup>119</sup>

However, if the Commission intends to publish the results of that research (including analysis), the Commission must first seek the Minister's approval of the research by provision of a research proposal, including:

- information setting out whether the proposed research is relevant to economic or social issues a regulatory matter or legislation, and
- whether it is suitable to be undertaken by the Commission.

In deciding whether to approve or refuse the proposed research, the Minister may amend the research proposal.

The Commission must not publish any research undertaken on its own initiative unless the research has been approved by the Minister.



#### 2.3.1. Stakeholder submissions and department advice

##### i. Transparency, independence and consultation

Some stakeholders raised concerns about the independence of the Commission given the requirement for the Minister's approval of independent research if the report is to be published. The Queensland Council of Unions noted that 'research conducted on the commission's own initiative was not subject to approval in the 2015 act' (*Queensland Productivity Commission Act 2015*).<sup>120</sup>

The Australian Institute for Progress (AIP) submitted that these provisions reduce the Commission's independence by constraining publication of independent research. The AIP stated that to add to 'the quality and fearlessness of the advice that the government receives', the Commission should be allowed to launch its own inquiries akin to that of the Commonwealth Productivity Commission.<sup>121</sup>

Transparency was also raised as an issue by stakeholders. The Queensland Cane Growers Organisation referred to the importance of transparency given the Minister's control over the Commission's scope and publishing rights of independent research.<sup>122</sup> Similarly, the Queensland Renewable Energy Council advised it supports the relevant sections of the Bill which require public submissions and publication of research findings (where research is approved by the Minister) and recommended that any research the Commission is seeking approval from the

<sup>118</sup> Queensland Treasury, correspondence, 13 December 2024, p 8.

<sup>119</sup> Bill, cl 37.

<sup>120</sup> Public hearing transcript, Brisbane, 17 December 2024, p 22.

<sup>121</sup> Submission 16, p 2.

<sup>122</sup> Submission 17, p 2.

Minister is made public, with the statement of reasons and final decision by the Minister also made public.<sup>123</sup>

Both the Real Estate Institute of Queensland and Business Chamber Queensland referred to the importance of genuine and transparent public consultation.<sup>124</sup> Business Chamber Queensland also called for timely and meaningful responses from government.<sup>125</sup>

#### ii. Department advice

In response to the issues raised about the Commission's independent research, Treasury advised the work program of the QPC will be approved by government. Treasury also stated 'the inquiries and research undertaken will depend on the priority issues upon which the government seeks advice', and that 'the requirement to seek the Treasurer's approval for such research will ensure that the QPC is appropriately focusing its resources on priority economic, social or regulatory matters that relate to productivity, economic growth and improving living standards'.<sup>126</sup>

## 2.4. Directions and reporting

The Bill incorporates provisions regarding ministerial directions and reporting. The Bill provides:

- for the Minister to give the Commission written directions about the performance of its functions or the exercise of its powers if the Minister is satisfied it is reasonably necessary to give the direction<sup>127</sup>
- for the Commission's annual report, given to the Minister under section 63 of the *Financial Accountability Act 2009*, and what it must include
- that the Commission must, if requested by the Minister, keep the Minister reasonably informed about the performance of its functions and exercise of its powers.



### 2.4.1. Stakeholder Submissions and Department Advice

#### i. Direction on the content of a report

The Queensland Council of Unions (QCU) raised a concern that the provision regarding Ministerial direction (clause 38) does not explicitly state that a Ministerial direction cannot be about the content of a report prepared by the Commission.<sup>128</sup> To ensure the Commission's independence is safeguarded, QCU recommended the clause be amended to explicitly state that the Minister cannot give direction about a report.<sup>129</sup>

<sup>123</sup> Submission 13, p 3.

<sup>124</sup> Submission 5, p 1; submission 19, p 5.

<sup>125</sup> Submission 19, p 5.

<sup>126</sup> Queensland Treasury, correspondence, 13 December 2024, p 8.

<sup>127</sup> Bill, cl 38.

<sup>128</sup> Submission 8, p 7.

<sup>129</sup> Submission 8, pp 7-8.

ii. Department advice

Treasury advised that the Minister cannot direct the QPC about the content of any advice or recommendation given by the QPC. Treasury considers that this clause, as drafted, also includes the content or recommendations included in any report prepared by the QPC.<sup>130</sup>

## 2.5. Staffing of the Queensland Productivity Commission

Transitional provisions in the Bill relate to the transfer of employees and transfer of employee records. According to the explanatory notes, the intention is to transfer employees of Queensland Treasury who are currently carrying out roles in relation to productivity and regulatory matters within Queensland Treasury.<sup>131</sup> Hence, staff of the Office of Productivity and Red Tape Reduction and records held by Queensland Treasury will transfer to the QPC upon its establishment. The Bill specifies that employees' existing terms and conditions will be maintained.<sup>132</sup> Future employment will be undertaken by the Commission and the conditions of employment will be determined by the Commission.<sup>133</sup>

## 2.6. Compliance with fundamental legislative principles



### 2.6.1. General rights and liberties of individuals - penalties

To have sufficient regard for the rights and liberties of individuals, the consequences of legislation should be relevant and proportionate. In line with this, a penalty should be proportionate to the offence, and penalties within legislation should be consistent with each other.<sup>134</sup>

The Bill introduces 3 new penalty provisions:

- If a commissioner is convicted of an indictable offence, they must (unless they have a reasonable excuse) give notice of the conviction to the Minister. The maximum penalty is 100 penalty units (\$16,130<sup>135</sup>).
- A person<sup>136</sup> who possesses criminal history information must not use or, directly or indirectly, disclose to another person the criminal history information unless the use or disclosure is permitted under the proposed Act. The maximum penalty is 100 penalty units (\$16,130).<sup>137</sup>

<sup>130</sup> Queensland Treasury, correspondence, 13 December 2024, p 5.

<sup>131</sup> Explanatory notes, p 6.

<sup>132</sup> Explanatory notes, p 9; Bill, cl 47; Public briefing transcript, Brisbane, 11 December 2024, p 2.

<sup>133</sup> Public hearing transcript, Brisbane, 17 December 2024, p 32.

<sup>134</sup> Office of the Queensland Parliamentary Counsel (OQPC), *Fundamental legislative principles: the OQPC Notebook* (Notebook), p 120. See also LSA, s 4(2)(a).

<sup>135</sup> The value of a penalty unit is \$161.30: Penalties and Sentences Regulation 2015, s 3; *Penalties and Sentences Act 1992*, ss 5, 5A.

<sup>136</sup> For example, a person who is or has been a commissioner or another person involved in administering the proposed Act, including, for example, a public service employee. Bill, cl 29(1).

<sup>137</sup> Bill, cl 29.

- A person<sup>138</sup> who has acquired, or has access to, confidential information must not disclose the confidential information to anyone else, or use the information, other than permitted. The maximum penalty is 100 penalty units (\$16,130) (see sections 2.7.1 and 2.7.3 for further information and a discussion on the provision's compatibility with the HRA in relation to privacy).<sup>139</sup>

The explanatory notes justify the offences relating to unauthorised use or disclosure of criminal history or other confidential information on the basis of protecting the rights of the person about whom the information relates and to safeguard against unnecessary disclosure of personal information.<sup>140</sup> In addition, the explanatory notes state the penalty amount of 100 penalty units is consistent with similar penalty provisions across Queensland legislation, such as the *Victims' Commissioner and Sexual Violence Review Board Act 2024* and the *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.<sup>141</sup>

In relation to the obligation on a commissioner to disclose if they have committed an indictable offence, the explanatory notes state the penalty provision 'reinforces the expectation that directors are to behave ethically and legally and ensures that the Minister is aware of matters that may impact on the integrity of the commission.'<sup>142</sup> Further, the explanatory notes state there is a strong public interest in ensuring that there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, as commissioners.<sup>143</sup> The penalty amount of 100 penalty units is also consistent with similar offences in Queensland legislation, such as the *Health and Wellbeing Queensland Act 2019*, *Racing Integrity Act 2016* and *Brisbane Olympic and Paralympic Games Arrangements Act 2021*.<sup>144</sup> The offence will not apply if the person has a reasonable excuse for not providing the Minister with notice of the conviction.<sup>145</sup>

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<sup>138</sup> For example, a person who is or has been the Minister; or a commissioner; or a member of staff or a contractor of the commission; or any other person performing functions under or relating to the administration of the proposed Act, including, for example, a public service employee. Bill, cl 39(1).

<sup>139</sup> Bill, cl 39.

<sup>140</sup> Explanatory notes, p 6.

<sup>141</sup> Explanatory notes, pp 5, 6.

<sup>142</sup> Explanatory notes, p 8.

<sup>143</sup> Explanatory notes, p 8.

<sup>144</sup> See, for example, *Coroners Act 2003*, s 91R (100 penalty units); *Health and Wellbeing Act 2019*, s 45 (100 penalty units); *Racing Integrity Act 2016*, s 252BO (100 penalty units).

<sup>145</sup> Bill, cl 28(2).

**Committee comment**

The committee notes that offences relating to the unauthorised use or disclosure of criminal history or other confidential information are consistent with similar penalty provisions across Queensland legislation, where penalties for these types of offences usually range from 100 to 200 penalty units.

Likewise, the penalty amount of 100 penalty units if a commissioner does not give notice to the minister if convicted of an indictable offence, is also consistent with similar offences in Queensland legislation. In addition, the committee notes that this offence will not apply if the person has a reasonable excuse for not providing the Minister with notice of the conviction.

Therefore, on balance, the committee considers that the penalties for the 3 new offence provisions are relevant and proportionate.

**2.7. Compatibility with human rights****2.7.1. The right to privacy and reputation – criminal history and conflict of interest provisions**

The right to privacy protects individuals against unlawful or arbitrary interferences with their privacy, family home or correspondence. It also includes the right not to have the person's reputation unlawfully attacked.<sup>146</sup> The notion of an arbitrary interference extends to interferences which may be lawful but are unreasonable, unnecessary or disproportionate, or random or capricious.<sup>147</sup>

The Bill raises the right to privacy through proposed provisions which:

- allow the Minister to obtain<sup>148</sup> a criminal history report<sup>149</sup> of a person who is, or is seeking to be, appointed as a commissioner<sup>150</sup>
- require a commissioner to disclose any changes in their criminal history<sup>151</sup>
- require a commissioner to disclose other personal information to the Minister, such as whether they are insolvent under administration or disqualified from managing corporations because of the requirements of the *Corporations Act 2001* (Cth)<sup>152</sup>

<sup>146</sup> HRA, s 25.

<sup>147</sup> Nicky Jones and Peter Billings, *An Annotated Guide to the Human Rights Act 2019 (Qld)*, para 4.469 (p 264).

<sup>148</sup> From the Police Commissioner.

<sup>149</sup> Being a written report about the criminal history of the person and a brief description of the circumstances of a conviction mentioned in the criminal history. Bill, cl 27(1).

<sup>150</sup> Bill, cl 27.

<sup>151</sup> Bill, cl 28.

<sup>152</sup> Bill, cl 20.



- require a commissioner to disclose the nature of any direct or indirect financial or personal interest in a matter that could conflict with the performance of the commissioner's duties.<sup>153</sup>

These provisions limit the right to privacy because they allow the Minister (and potentially the Minister's staff) to obtain information about a person's criminal history as part of the appointment process and create an obligation on a commissioner to disclose additional personal information before, and during, their appointment.

According to the statement of compatibility, the purpose of the limitation on the right to privacy is to maintain the integrity of the Commission and to ensure that commissioners are (and remain) suitable for these roles of public office.<sup>154</sup> Public officials are held to a higher standard of conduct due to their role and influence on the community and it is common for their appointment process to be rigorous and contain strict eligibility criteria. A rigorous selection process also contributes towards the integrity of statutory appointments more generally.<sup>155</sup>

In regard to criminal history information specifically, the Bill itself lessens the impact on human rights by providing the individual must consent to a request by the Minister for criminal history information prior to appointment.<sup>156</sup> This means that a person is not compelled to provide the criminal history information as part of the application process. Also, before using the criminal history information, the Minister must disclose the information to the person concerned and allow them a reasonable opportunity to make representations about the information.<sup>157</sup>

In regard to the conflict of interest provisions, the statement of compatibility notes that conflicts of interest must be disclosed to 'a person with sufficient independence and seniority to determine the appropriate strategy for managing those conflicts;' that is, the Minister.<sup>158</sup> Further, the Bill requires a commissioner to disclose personal information only to the extent relevant to 'a matter being considered'.<sup>159</sup>

There are other safeguards in the Bill to protect individual privacy, including offence provisions if another person uses or discloses criminal history or other confidential information other than in accordance with the Bill or another law<sup>160</sup> and that documents containing criminal history information must be destroyed as soon as practicable after they are no longer needed.<sup>161</sup>

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<sup>153</sup> Bill, cl 25.

<sup>154</sup> Statement of compatibility, p 4.

<sup>155</sup> Statement of compatibility, p 4.

<sup>156</sup> Bill, cl 27(2).

<sup>157</sup> Bill, cl 27(4).

<sup>158</sup> Statement of compatibility, p 5.

<sup>159</sup> Bill, cl 25(1); statement of compatibility, p 5.

<sup>160</sup> Bill, cls 29 & 39.

<sup>161</sup> See, for example, Bill, cl 29.

**Committee comment**

The committee considers that these provisions are necessary to allow the Minister to have the information required to appoint suitable individuals as commissioners, to ensure the integrity of the Commission and preserve the rigour of the statutory appointments process more generally. As stated in the statement of compatibility, it is in the public interest for membership of public bodies to be open to scrutiny and it is in line with community expectations for individuals holding senior and influential roles to be subject to a rigorous appointment process that considers their criminal history and other relevant information.

Whilst the right to privacy is an important human right, it is being limited only to the extent required to ensure the integrity of the positions of commissioners and of the Commission as a whole. Further, there are safeguards built into the Bill to protect confidential information.

These interferences are not arbitrary; instead, they relate directly to the suitability (initial and ongoing) of a person who is appointed as a commissioner. Therefore, the committee considers the limitation on the right to privacy is reasonably and demonstrably justified in the circumstances.

**2.7.2. The right to take part in public life – commissioner appointments**

Every person in Queensland has the right to participate in the conduct of public affairs, directly or through freely chosen representatives. This includes the right to vote and be elected, and have access, on general terms of equality, to the public service and to public office.<sup>162</sup> To ensure access on general terms of equality, the criteria and processes for appointment, promotion, suspension and dismissal must be objective and reasonable.<sup>163</sup>

The Bill raises this human rights issue because it contains eligibility criteria<sup>164</sup> for appointments as commissioners. For example, the Minister may only appoint a person to the position of commissioner if they are ‘appropriately qualified’.<sup>165</sup> Further, a person cannot be eligible for appointment as a commissioner if they have a conviction<sup>166</sup> for an indictable offence, are insolvent under administration, are disqualified from managing corporations or do not consent to a criminal history report.<sup>167</sup>

The purpose of the limitation, according to the statement of compatibility, is to ensure individuals appointed as commissioners have the appropriate qualifications and integrity to perform the

<sup>162</sup> HRA, s 23.

<sup>163</sup> United Nations, Human Rights Committee General Comment No. 25, para 23.

<sup>164</sup> Bill, cls 15(3), 18.

<sup>165</sup> Bill, cl 15(3).

<sup>166</sup> Other than a spent conviction.

<sup>167</sup> Bill, cl 20.

proposed functions of those roles.<sup>168</sup> As noted earlier, public officials are held to a higher standard of conduct due to their role and influence on the community and therefore, it is common for their appointment process to contain eligibility requirements.

The eligibility requirements mirror those found in other Queensland legislation.<sup>169</sup> There is some discretion on the part of the Minister in regard to the Minister being satisfied a candidate is ‘appropriately qualified’<sup>170</sup> in that there are no further, more specific criteria in the Bill detailing what that term means in this context (e.g. in what areas a person must be qualified in).<sup>171</sup>

#### Committee comment



The committee notes that it is common for eligibility requirements such as these to be present in Bills that establish statutory bodies.

The committee considers the eligibility requirements are reasonable and relevant to the positions of commissioners and are designed to achieve the purpose of ensuring that the people who are appointed to these positions are appropriately qualified and are held to a high standard of integrity.

Therefore, the committee considers that on balance, the limitation on the right to take part in public life is reasonable and demonstrably justified.

#### 2.7.3. The right to privacy and reputation – power to require information

As noted in section 2.7.1, the right to privacy protects individuals against unlawful or arbitrary interferences with their privacy, family home or correspondence.<sup>172</sup>

The Bill provides that the Commission will be able to request and access information (including documents) from a range of Queensland Government agencies, including local governments and government owned corporations (‘relevant entities’).<sup>173</sup> This may require the disclosure of personal information by the relevant entities, if such personal information incidentally forms part of the information requested by the Commission. This limits the right to privacy as it may involve a person’s confidential information being provided by an entity to the Commission without the person’s knowledge or consent, or for a purpose other than the purpose for which it was originally provided to, or obtained by, the entity.

<sup>168</sup> Statement of compatibility, p 2.

<sup>169</sup> See, for example, similar provisions in the *Forensic Science Queensland Act 2024* (ss 11, 15, 16, 21); *Queensland Veterans’ Council Act 2021*, ss 19, 23-24; *Victims’ Commissioner and Sexual Violence Review Board Act 2024*, ss 14-15.

<sup>170</sup> Bill, cl 15(3).

<sup>171</sup> Compare with, for example, the *Forensic Science Queensland Act 2024*, s 29(3) which set out the areas in which a council member must hold qualifications to be considered as a council member or the *Victims’ Commissioner and Sexual Violence Review Board Act 2024*, s 14 which states that the commissioner has to be appropriately qualified to work with victims. Note, however, the *Acts Interpretation Act 1954*, schedule 1 defines appropriately qualified as ‘having the qualifications, experience or standing appropriate to perform the functions of the office’.

<sup>172</sup> HRA, s 25.

<sup>173</sup> Bill, cl 35.

While the statement of compatibility notes that ‘it is not anticipated that personal information will be a significant element of information requested’ by the Commission ‘given its focus on productivity’, it is acknowledged that the disclosure of personal information may be necessary or unavoidable as part of some requests.<sup>174</sup>

According to the statement of compatibility, the purpose of the limitation on the right to privacy is to ensure the Commission can access all relevant information to fulfil its functions.<sup>175</sup> The Commission’s functions are broad – such as ‘undertake inquiries into economic and social issues’<sup>176</sup> – and are likely to involve matters across a wide range of government departments and entities. The ability of the Commission to access a range of information from relevant entities will assist in fulfilling these functions.

While arguably there are less restrictive ways for the Commission to fulfill its functions (such as, by requiring relevant entities to redact confidential information), this was considered by the statement of compatibility to potentially ‘delay responses to requests and hamper the efficiency and effectiveness of the commission’.<sup>177</sup> Further, the statement of compatibility notes that the ‘removal of personal information may also reduce the usefulness of the documents and information provided’.<sup>178</sup>

The Bill provides several protections for the information, designed to mitigate the human rights impacts. For example, there are strong penalties for the disclosure of confidential information other than in accordance with the proposed Act<sup>179</sup> and the Commission will be subject to the IPP in the *Information Privacy Act 2009* in relation to how it uses, stores, and discloses personal information.<sup>180</sup>

#### Committee comment



Whilst the power to require information from relevant entities may impact an individual's right to privacy, the committee acknowledges that these provisions are a way that the Commission can fulfil its functions under the proposed Act. Undertaking these functions effectively is in the public interest, and it is likely, given the main functions of the Commission relate to ‘productivity’, that circumstances in which personal information is disclosed by relevant entities would be rare. In such cases, there are safeguards contained within the Bill to protect the confidential nature of this information.

Therefore, the committee considers the limitation on the right to privacy is reasonably and demonstrably justified in the circumstances.

<sup>174</sup> Statement of compatibility, p 6.

<sup>175</sup> Statement of compatibility, p 6; Bill, cl 9.

<sup>176</sup> Bill, cl 9(1).

<sup>177</sup> Statement of compatibility, p 6.

<sup>178</sup> Statement of compatibility, p 6.

<sup>179</sup> See, for example, Bill, cl 39 which sets a penalty of 100 penalty units for unauthorised use or disclosure of confidential information.

<sup>180</sup> Statement of compatibility, p 6.

## Appendix A – Submitters

Sub No.	Name / Organisation
1	Canegrowers Cairns Region
2	Australian Constructors Association
3	Property Council of Australia
4	Master Builders Queensland
5	Real Estate Institute of Queensland
6	Urban Development Institute of Australia QLD
7	Soroptimist International Brisbane
8	Queensland Council of Unions
9	Alvarez & Marsal Australia
10	Science Integrity Alliance
11	Master Plumbers' Association of Queensland
12	Queensland Law Society
13	Queensland Renewable Energy Council
14	Workforce Advisory
15	Australian Energy Producers
16	Australian Institute for Progress
17	Queensland Cane Growers Organisation
18	Housing Industry Association
19	Business Chamber Queensland
20	Institute of Public Affairs
21	McKell Institute Queensland

## **Appendix B – Public Briefing, 11 December 2024**

### **Queensland Treasury**

Dennis Molloy	Deputy Under Treasurer, Economics and Fiscal
Rebecca Daniells	Special Counsel, Legal Services
Sean Moroney	Principal Policy Officer, Economic Strategy

## Appendix C – Witnesses at Public Hearing, 17 December 2024

### Organisations

#### **Alvarez and Marsal Australia**

Mr Andrew Garner                      Managing Director

#### **Australian Constructor’s Association**

Mr Jon Davies                          Chief Executive Officer

Ms Kristin Moss                      Head of Policy

#### **Australian Energy Producers**

Mr Andrew Barger                      Policy Manager Queensland

#### **Business Chamber Queensland**

Ms Heidi Cooper                      Chief Executive Officer

#### **McKell Institute**

Ms Sarah Mawhinney                      Executive Director

#### **Queensland Council of Unions**

Ms Jacqueline King                      General Secretary

Mr Nate Tosh                          Industrial and Legislation Policy Officer

#### **Queensland Law Society**

Ms Kerry Sampson                      Senior Policy Solicitor

Ms Wendy Devine                      Legal Policy Manager

Ms Anna Sharpe                      Chair of Queensland Law Society Privacy, Data, Technology and Intellectual Property Law Committee (via videoconference)

#### **Queensland Renewable Energy Council**

Miss Katie-Anne Mulder                      Chief Executive Officer

Mrs Frances Hayter                      Director, Sustainability & First Nations Policy

### **Queensland Treasury**

Patrick Wildie	Assistant Under Treasurer, Economic Strategy and Home Ownership
Rebecca Daniells	Special Counsel, Legal Services
Sean Moroney	Principal Policy Officer, Economic Strategy

### **Real Estate Institute of Queensland**

Ms Kat Beavon	Acting Chief Executive Officer, General Counsel and Company Secretary
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### **Science Integrity Alliance**

Dr Peter Ridd

### **Urban Development Institute of Australia, Queensland**

Ms Kirsty Chessher-Brown	Chief Executive Officer
Ms Anna Cox	Director of Policy, Strategy and Regional Services

### **Workforce Advisory**

Mr Dean Cameron	Legal Practice Director
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## **Statement of Reservation**

## STATEMENT OF RESERVATION

### *Queensland Productivity Commission Bill*

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The reintroduction of a Productivity Commission (the Commission) in Queensland is in itself no great cause for consternation, as there exists a federal productivity commission and one each in South Australia and New South Wales. However, the Queensland Liberal National Party (LNP) Crisafulli Government's version of a productivity commission as outlined in the *Queensland Productivity Commission Bill* (the Bill), should be a matter of concern for all Queenslanders.

This Commission would be accountable to no-one except the LNP Treasurer of Queensland, who would assume new powers through the Productivity Commission to inquire into any aspect of Queensland life, in our opinion. The Commission would move beyond giving advice to being an active participant in setting and implementing the LNP Government's agenda.

It is clear to us that the first aspect of the Commission's work would be to dissect the pay and working conditions of hardworking Queenslanders in the building and construction industry.

#### **"INDEPENDENCE"**

It is also clear to us that the LNP Crisafulli Government's version of a Commission will not be independent, transparent or accountable.

The LNP version of a Commission contrasts sharply to the South Australian Productivity Commission, which according to a Premier and Cabinet circular, has an established independence. The Circular states:

*In order to support the independence of the Commission, the Premier will not direct the Commission regarding the conduct of its work, except through written directions, which may be published by the Commission.<sup>1</sup>*

Committee Members, in pursuing the lack of transparency or independence, asked:

**Mr McCALLUM:** ... [T]he bill states that the board will ensure that the Productivity Commission performs its functions in a 'proper, effective and efficient way'. Have I missed anywhere in the bill where I could find the words 'independence' and 'transparency'? Are those words in there and I have just missed them?<sup>2</sup>

Stakeholders and witnesses also believe there is a need for established transparency and independence.

Ms Cooper from the Business Chamber Queensland said "[w]e do think that independence is a very important element of a productivity commission".<sup>3</sup> Ms Mulder from the Queensland Renewal Energy Council stated:

**Miss Mulder:** Providing that level of transparency at arm's length through a Queensland productivity commission is certainly something that we wholly support.

**Ms ASIF:** Would you say the words 'transparency' and 'independence' should specifically be included in the bill?

**Miss Mulder:** That would be great; yes, absolutely.<sup>4</sup>

Clause 3 under Main Purpose of the Bill does state the Productivity Commission will provide "independent advice". However, there is nothing in the Bill to effectively establish independent action by

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<sup>1</sup> Government of South Australia, Premier and Cabinet Circular 046 The South Australian Productivity Commission, November 2023, p 3.

<sup>2</sup> Public Briefing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 11 December 2024, p 7.

<sup>3</sup> Public Hearing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 17 December 2024, p 15.

<sup>4</sup> Public Hearing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 17 December 2024, pp 10-11.

## STATEMENT OF RESERVATION

### *Queensland Productivity Commission Bill*

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the Commission, such as the ability to publish directions from the Treasurer. As detailed below, there are other measures that counter effective independence or transparency of action by the Commission.

An example of the lack of transparency surrounding the LNP Crisafulli Government's version of a Commission is the lack of access to the economic modelling conducted by Treasury to justify the need for a Commission. A Queensland Government statement on 14 November 2024, referred to by another statement on 28 November 2024, stated:

*It follows revelations from Treasury modelling if BPIC continued in its current form, Queenslanders would pay an additional 7% rent over the next five years and 22,000 homes would not be built across the State. ... Independent economic modelling by Queensland Treasury over 2024-30 estimates BPICs are likely to increase project costs by up to 25 per cent and create a net economic cost of up to \$17.1 billion.*<sup>5</sup>

Treasury officials, when requested by Committee Members to provide this independent Treasury modelling, would not or could not provide it.<sup>6</sup>

Besides not being independent or transparent, the LNP Crisafulli Government's version of a Commission is not accountable. There is no requirement to table their work in the Queensland Parliament, unlike the Federal Productivity Commission. The LNP Crisafulli Government's Commission is just required to publish their work on a website, and only then after the Treasurer has had three whole months to consider it and give a response.<sup>7</sup>

In any case, the Commission cannot publish any of their self-initiated work without the Treasurer's approval<sup>8</sup>, as outlined in the bill tabled by the LNP Crisafulli Government's Treasurer.

Deepening the lack of independence, transparency or accountability, there is no mention of parliamentary oversight or parliamentary reporting lines in the LNP's bill, but there are many clauses detailing how the Commission must report to – and only respond to – the Treasurer.

### **COMMISSION AT THE COMMAND OF THE TREASURER**

“Command” is the appropriate term for the powers of direction given to the Treasurer under this Bill, introduced by the LNP Crisafulli Government.

The Commission will not be independent: it will operate under orders from the Treasurer, and only the Treasurer, at their behest.

The Minister or Treasurer can give any written direction for the Commission to exercise its powers if they are “*satisfied it is reasonably necessary to give the direction*”.<sup>9</sup>

Moreover, the Treasurer can demand advice or information within any timeframe and attach any conditions to that request. The Treasurer can even tell the Commission what kind of public consultation they undertake for their inquiries.<sup>10</sup> How can these measures equate to “independence”?

One of the most concerning aspects of the Treasurer's power to command the Commission is their power to control what research is done by the Commission. The Commission can only release information as authorised by the Treasurer.

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<sup>5</sup> “MEDIA STATEMENT: Construction productivity boosted with BPIC pause”, Queensland Government media statement, 14 November 2024.

<sup>6</sup> Public Hearing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 17 December 2024, p 30.

<sup>7</sup> Queensland Productivity Commission Bill 2024, ss 34 (2) and (3).

<sup>8</sup> Queensland Productivity Commission Bill 2024, s 37.

<sup>9</sup> Queensland Productivity Commission Bill 2024, s 38 (1).

<sup>10</sup> Queensland Productivity Commission Bill 2024, s 38 (2).

## STATEMENT OF RESERVATION

### *Queensland Productivity Commission Bill*

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Under the legislation introduced by the LNP Crisafulli Government's Treasurer, before the Treasurer went on leave, the legislation outlines that if the Commission intends to initiate and publish research:

- the Commission must give the Minister notice if their intention to do research (s 37);
- the Minister can approve or refuse the Commission doing this research (s 37);
- the Minister can amend the research proposal (s 37); and
- the Minister decides whether or not the Commission can publish this self-initiated research (s 37).

The power to control just what self-initiated research the Commission can do and publish is an unusual assumption of new powers by the Treasurer.

The Queensland Opposition asked during the public hearings:

***Ms ASIF:** Under ... the new act it seems like the Productivity Commissioner must give the minister notice of any intention to do research.... the minister could refuse any attempt of the Productivity Commissioner to do their own self-initiated research or publish it; would that be true?*

***Mr Molloy:** ... Where there is a consideration that the report would be made public, then the bill proposes that that would have to be discussed with the Treasurer first. ... [I]t is important that it is focused on the priorities of the government.*

***Ms ASIF:** So what you are saying is you could not necessarily have any self-initiated research report.*<sup>11</sup>

and:

***Mr WHITING:** They can review legislation, and that review ... reports directly to the minister before it is released; is that correct? ... [The Productivity Commission] reports back to the minister before that information is released to parliament or the public...*

***Mr Molloy:** Generally, that would be the case.*<sup>12</sup>

With the Treasurer's power to command the work of the Commission, combined with the lack of accountability, transparency and independence, the Commission becomes the Treasurer's personal think tank.

## **COMMITTEE PROCESS**

It is unfortunate, but not surprising, that the LNP Crisafulli government is already trashing parliamentary democracy on a number of fronts.

While the Queensland Opposition acknowledges that this legislation was afforded an opportunity to be scrutinised by a parliamentary portfolio committee, it was clear that adequate time was not allocated for questions in respect of public hearings and briefings from key stakeholders. In addition, modelling by Treasury used to justify the need for the Commission has been effectively withheld from the Committee, in our opinion.<sup>13</sup>

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<sup>11</sup> Public Briefing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 11 December 2024, pp 3-4.

<sup>12</sup> Public Briefing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 11 December 2024, p 3.

<sup>13</sup> Public Hearing – Inquiry into the Queensland Productivity Commission Bill 2024, Transcript of Proceedings, 17 December 2024, p 30.

**STATEMENT OF RESERVATION**  
***Queensland Productivity Commission Bill***

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**CONCLUSION**

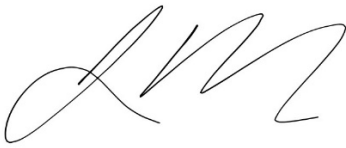
The Commission will not be independent, will not be accountable, will not be transparent.

It will be a hammer in the hands of the Treasurer, controlled by the Treasurer, doing as the Treasurer commands.

The Queensland Opposition holds concerns regarding many aspects of the LNP Crisafulli Government's bill that was introduced by the Treasurer, before he went on leave, and further views will be provided by the Queensland Opposition during the debate of the *Queensland Productivity Commission Bill 2024* in the Legislative Assembly of the Queensland Parliament.



**CHRIS WHITING MP**  
**MEMBER FOR BANCROFT**  
**DEPUTY CHAIR OF THE COMMITTEE**  
**SHADOW ASSISTANT MINISTER FOR HOUSING AND HOMELESSNESS**



**LANCE MCCALLUM MP**  
**MEMBER FOR BUNDAMBA**  
**SHADOW MINISTER FOR ENERGY**



**BISMA ASIF MP**  
**MEMBER FOR SANDGATE**  
**SHADOW ASSISTANT MINISTER FOR MULTICULTURALISM AND CITIZENSHIP**  
**SHADOW ASSISTANT MINISTER FOR THE ENVIRONMENT**