Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

Explanatory Notes

Short title

The short title of the Bill is the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023 (the Bill).

Policy objectives and the reasons for them

The objectives of the Bill are to:

- implement the Government's policy in relation to certain recommendations of the State Development and Regional Industries Committee in its Report No. 28 of the 57th Parliament '*Inquiry into the Independent Assessor and councillor conduct complaints system*' (Councillor Conduct Report)
- make further changes to the councillor conduct complaints system, including limiting the system's application in relation to former councillors
- further clarify and enhance the councillor conflict of interest requirements
- modernise local government advertising requirements
- provide a discretion to the Electoral Commission of Queensland in relation to the recovery of local government election costs
- make consequential amendments resulting from the change of classification for Moreton Bay Regional Council
- provide appropriate transitional arrangements for commencement of the improved councillor conduct complaints system
- make a minor amendment to the *Queen's Wharf Brisbane Act 2016*.

Implementation of Government's response to the Councillor Conduct Report

The current councillor conduct complaints system was introduced in 2018 in response to the 2017 Independent Councillor Complaints Review Panel Report '*Councillor Complaints Review: A fair, effective and efficient framework*' to provide for a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland. A key element of the reforms was the establishment of the position of the Independent Assessor (IA) and the Office of the Independent Assessor (OIA) to investigate all complaints and information about councillor conduct before deciding how it should be dealt with.

Generally speaking, the OIA assesses complaints as possible inappropriate conduct, misconduct or corrupt conduct. For complaints of possible inappropriate conduct, the OIA undertakes a natural justice process before referring the matter to the relevant local

government for investigation. Complaints of possible misconduct are investigated by the OIA and, if appropriate, prosecuted in the Councillor Conduct Tribunal (CCT), and complaints of possible corrupt conduct are referred to the Crime and Corruption Commission. Also, the OIA has the power to dismiss a complaint or take no further action about the conduct of a councillor for a number of reasons, including, if the complaint does not raise a reasonable suspicion of inappropriate conduct or misconduct, dealing with the complaint would not be in the public interest or would be an unjustifiable use of resources, or the complaint is frivolous or vexatious. In addition, the OIA re-prosecutes matters subject to full merits review in the Queensland Civil and Administrative Tribunal (QCAT).

This framework under chapter 5A of the *Local Government Act 2009* (LGA) was wholly applied to Brisbane City Council (BCC) in 2020 to ensure the same behavioural standards, offences, penalties and investigating and hearing bodies for all local governments and councillors.

On 25 October 2021, the then Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure wrote to the State Development and Regional Industries Committee (SDRIC) requesting it conduct a review into the functions of the IA in accordance with SDRIC's general oversight responsibilities for the IA. This request followed an increasing number of key stakeholder concerns relating to the role of the OIA and the performance of its functions.

On 27 October 2021, SDRIC resolved to conduct an inquiry into the functions of the IA and the performance of those functions, in particular:

- whether the performance by the IA of the IA's functions is consistent with the intent of the local government complaints system
- whether the powers and resources of the IA are being applied in accordance with the public interest
- any amendments to the LGA or changes to the functions, structures or procedures of the IA considered desirable for the more effective operation of the IA and/or the local government complaints system.

Over the course of the inquiry, SDRIC identified issues relating to the operations of the CCT and chose to consider those matters as part of its inquiry.

On 14 October 2022, SDRIC tabled Report No. 28 of the 57th Parliament '*Inquiry into the Independent Assessor and councillor conduct complaints system*' (Councillor Conduct Report)[1] in the Legislative Assembly. The Councillor Conduct Report made 40 recommendations to improve the councillor conduct complaints system in Queensland.

On 12 January 2023, the Government's response[2] to the Councillor Conduct Report was tabled in the Legislative Assembly, supporting or supporting in-principle all 40 recommendations.

[1] The Councillor Conduct Report is available at: https://documents.parliament.qld.gov.au/tp/2022/5722T1670-4778.pdf
[2] The Government's response is available at: https://documents.parliament.qld.gov.au/tp/2023/5723T19-0121.pdf

The Bill addresses 19 of the recommendations which require legislative amendments to implement, namely Recommendations 1, 4, 8, 10, 12–17, 19, 22–23, 27–30, 36 and 39. These amendments seek to recalibrate the councillor conduct complaints framework to make it more effective and more efficient and to ensure that only matters of substance and in the public interest proceed to the CCT for determination.

Further changes to the councillor conduct complaints system

Through consultation with stakeholders, a number of additional amendments to further strengthen the effectiveness and efficiency of the councillor conduct complaints system have been identified. These amendments complement the recommendations of SDRIC.

Former councillors

Currently, the LGA provides that a complaint about the conduct of a former councillor can be investigated and dealt with under the councillor conduct complaints system. However, because the person is no longer in office, the penalties that can be imposed are very limited compared to the penalties that can be imposed on sitting councillors. In addition, it is not possible to enforce any orders made on former councillors under the LGA.

One of the key proposed changes to the councillor conduct complaints system is to limit the system's application in relation to former councillors so that the system only applies to those persons in relation to suspected corrupt conduct. This will ensure that allegations against persons no longer in the local government system do not continue to use resources that could be better spent dealing with allegations against sitting councillors.

Councillor conflict of interest requirements

The Department of State Development, Infrastructure, Local Government and Planning (the department) undertook a review of the councillor conflict of interest requirements in the *City of Brisbane Act 2010* (COBA) and the LGA following concerns raised by the BCC, the Local Government Association of Queensland (LGAQ) and some local governments about the unintended consequences of the provisions which was said to be having adverse impacts on the ability of mayors and councillors to hold meetings and make decisions in the best interests of their communities.

The department has worked with the BCC, the LGAQ and the Local Government Managers Australia (Queensland) CEO's reference group to develop amendments to respond to these stakeholder concerns and to further clarify and enhance the councillor conflict of interest requirements.

For noting, at section 9.3 of the Councillor Conduct Report, SDRIC commented on the issues raised in relation to councillor conflicts of interests. While SDRIC did not make a specific recommendation in this context for regulatory change, other than compulsory training (Recommendation 27), it listed a range of potential amendments and 'welcomes advice that work is ongoing between the department and stakeholders and supports the further consideration of the issues identified'. These issues included such matters as the operation of 'ordinary business exemptions' and the definition of 'related party'.

Modernisation of local government advertising requirements

A range of amendments to local government legislation has been progressed in recent years to replace print newspaper advertising requirements with more appropriate alternatives, including on-line publication. The policy intent was to modernise local government advertising requirements to reflect contemporary means of communication, given the declining readership of print newspapers, the increasing costs of newspaper advertising and the termination of many regional and community print newspapers.

The local government legislation has been further reviewed with the aim of modernising all remaining print newspaper advertising requirements as appropriate. In this regard, amendments are proposed to the COBA, the LGA and the *Local Government Electoral Act 2011* (LGEA).

Local government election costs

Under section 202 of the LGEA, a local government is required to pay the costs incurred by the Electoral Commission of Queensland (ECQ) for conducting an election in its local government area, including the remuneration, allowances and reasonable expenses paid to members or staff of the ECQ. There is no ability for the ECQ to absorb any direct local government elections costs and the ECQ are required to invoice a local government for the full amount.

In agreement with the ECQ, an amendment is proposed to the LGEA to provide the ECQ with discretion to determine which election costs are passed onto a local government, i.e. all or part of the ECQ's costs.

Moreton Bay Regional Council reclassification – consequential amendments

On 28 July 2023, the *Local Government (Moreton Bay City Council) and Other Legislation Amendment Regulation 2023* was notified by publication on the Queensland legislation website. The regulation amended the *Local Government Regulation 2012* (LGR) to implement a recommendation of the Local Government Change Commission to change the classification of 'Moreton Bay Regional Council' (MBRC) to 'Moreton Bay City Council' as well as other subordinate legislation across the statute book to update references to MBRC.

As a consequence, amendments are now proposed to various Acts across the statute book that contain references to MBRC to replace those references with 'Moreton Bay City Council'.

Amendments to the *Queen's Wharf Brisbane Act 2016*

Over the course of the Queen's Wharf development, the commercial and tenure arrangements between the State and the Queen's Wharf Brisbane (QWB) precinct consortium parties have been refined and developed. It has been identified that the declaratory process for creating freehold lots under the *Queen's Wharf Brisbane Act 2016* (QWBA) is not fit for purpose for the Queen's Wharf development because:

- the process is not consistent with the commercial arrangements that had been entered into in relation to the Treasury precinct portion of the development

- there is some uncertainty as to whether freehold declarations can be made in respect of the balance development lots that have previously been subject to a leasehold declaration process under the QWBA.

State contractual obligations to provide tenure to the QWB precinct consortium parties in accordance with development timeframes require a legislative amendment to resolve these identified issues.

Achievement of policy objectives

To achieve its objectives the Bill amends the COBA, the LGA, the LGEA, the QWBA, the *City of Brisbane Regulation 2012* (CBR), the LGR and other Acts across the statute book that are mentioned in schedule 1. The key features of the Bill are outlined below.

It should be noted that the Bill replaces the term 'inappropriate conduct' with 'conduct breach' throughout the LGA, the CBR and the LGR. As such, the terms 'inappropriate conduct' and 'conduct breach' are used interchangeably throughout these Explanatory Notes, as appropriate.

Implementation of Government's response to the Councillor Conduct Report

To implement the Government's response to the Councillor Conduct Report, the Bill:

- introduces a preliminary assessment process that the IA must undertake to determine how best to deal with a complaint, notice or information about councillor conduct, including a time limitation for accepting the complaint, notice or information
- provides for the appointment of a deputy president of the CCT and the functions of the CCT president
- provides that the CCT may be constituted by not more than three members for a hearing and only one member to deal with administrative/procedural matters for a hearing
- requires CCT decisions about councillor conduct (including reasons) to be published in full, subject to appropriate redactions
- permits the IA to withdraw an application made to the CCT, in whole or in part
- streamlines the requirements for notifying councillors of CCT hearing details
- removes the CCT's function of investigating suspected inappropriate conduct on behalf of local governments
- places additional annual reporting requirements on the IA and local governments and requires local governments to inform the IA about particular decisions
- updates natural justice requirements in relation to suspected conduct breaches
- requires the publication of suspected conduct breach investigation reports and summaries (with appropriate redactions); and clarifies related meeting requirements
- requires the IA to give notice of potential disciplinary orders to councillors
- redefines a breach of a local government's acceptable requests guidelines as a 'conduct breach' and makes other changes to the conduct definitions
- establishes compulsory training requirements for councillors
- introduces an administrative process to declare a person a vexatious complainant
- removes requirements for certain details to be published in a local government's councillor conduct register
- removes the provision of 'training' from the functions of the OIA

- recognises the provision of official departmental advice to councillors.

Preliminary assessment process and time limitation for accepting complaints, notices and information about councillor conduct

Stakeholders identified the delay in assessing and investigating councillor conduct complaints and information as a key concern during SDRIC's inquiry.

The Councillor Conduct Report Recommendation 1 is:

'That the following target timeframes be applied to the complaints framework by the Office of the Independent Assessor and the Councillor Conduct Tribunal for all but the most complex or serious of cases:

- *initial assessment or 'triage' of complaint completed by Office of the Independent Assessor within 7 days of receipt*
- *misconduct investigations including natural justice processes completed by Office of the Independent Assessor within 60 days of initial assessment*
- *determination of conduct matters completed by Councillor Conduct Tribunal within 3 months of the date of referral, unless the subject councillor requests an extension under the Local Government Act 2009*
- *adoption of a statute of limitation, to be determined by the Queensland Government with advice from the tripartite forum (Recommendation 38), to accept complaints unless they involve matters to be referred to the Crime and Corruption Commission.'*

The Government's response to Recommendation 1 is:

'The Queensland Government supports in-principle the introduction of timeframes to the complaints framework, subject to further consideration and stakeholder consultation, particularly in relation to the length of the timeframes.

The Queensland Government also supports in-principle the adoption of a statute of limitation to accept complaints, subject to further consideration and consultation with the tripartite forum, as recommended by the Committee, and with other stakeholders.'

While the Bill does not prescribe target timeframes for the IA and the CCT to undertake particular actions, the Government's policy in relation to Recommendation 1 is implemented by the introduction of a statutory preliminary assessment process, including a time limitation for the receipt of complaints, notices and information about councillor conduct. This assessment process will increase the overall efficiency of the councillor conduct complaints system by refining the system's jurisdiction, enhancing the scope for insubstantial conduct matters to be 'closed out' as early as possible and ensuring that the OIA's resources are focussed on addressing substantive conduct matters.

Clause 46 of the Bill inserts new division 3A (Preliminary assessments) and new division 3B (Assessor may initiate assessments) into chapter 5A, part 3 of the LGA to establish a preliminary assessment process for the IA to consider and deal with complaints, notices and information about councillor conduct. The new provisions establish clear parameters for when the IA should take further action in relation to a complaint, notice or information.

Division 3A (Preliminary assessments)

New section 150SA (Application of division) provides that the preliminary assessment provisions apply to a complaint about the conduct of a councillor made or referred to the IA under chapter 5A, part 3, division 2 (Complaints about councillor conduct), a notice about the conduct of a councillor given to the IA under chapter 5A, part 3, division 3 (Local government duties to notify assessor about particular councillor conduct), and information about the conduct of a councillor given to the IA under section 150AF(3) (as amended).

New section 150SB (Period for making complaint or giving notice or information) provides that a complaint, notice or information about the conduct of a councillor must be made or given to the IA within one year after the conduct occurred; or within six months after the conduct comes to the knowledge of the person who made the complaint or gave the information or notice, but within two years after the conduct occurred.

New section 150SC (Assessor may ask for information) enables the IA to ask the relevant local government or local government official, as appropriate, for further information about a complaint, notice or information if the IA is of the opinion there is not sufficient information in the complaint, notice or information to make a preliminary assessment. The IA must state in the request that the information must be given to the IA within 10 business days after the request is made and the entity must comply with the request. For noting, current section 150Q of the LGA enables the IA to ask a person who makes a complaint for further information.

New section 150SD (Preliminary assessment of complaints, notices or information) requires the IA to make a preliminary assessment of all complaints, notices and information about councillor conduct.

Under section 150SD(2), the IA must dismiss a complaint or decide to take no further action for a notice or information if the IA is satisfied that:

- dealing with the complaint, notice or information would not be in the public interest
- the complaint, notice or information was not made or given within the period required under new section 150SB, unless the conduct is suspected corrupt conduct or the complaint, notice or information was 'out-of-time' because of exceptional circumstances
- the conduct was engaged in by the councillor to comply with, honestly and without negligence, a guideline made by the department's chief executive
- the conduct relates solely to behaviour engaged in by the councillor in a personal capacity unless the conduct is suspected corrupt conduct
- the conduct clearly does not constitute a conduct breach or misconduct
- the office of the councillor is vacated, unless the conduct is suspected corrupt conduct
- the complainant is the subject of a vexatious complainant declaration under new chapter 5A, part 3, division 8 and the complaint is not permitted under those provisions.

Private conduct of councillors – as indicated above, the IA must dismiss a complaint or decide to take no further action for a notice or information if satisfied the conduct relates solely to behaviour engaged in by a councillor in a personal capacity (unless the conduct is suspected corrupt conduct). This new requirement clarifies that the purpose of the councillor conduct complaints system is to ensure that local government elected officials behave in an appropriate manner befitting their office and that the private behaviour of councillors (as

elected representatives) is more appropriately a matter for electors to determine at the ballot box.

Under section 150SD(3), the IA may dismiss a complaint or decide to take no further action for a notice or information if the IA is satisfied:

- the conduct has already been, is being, or may be dealt with by another entity
- the complaint, notice or information is frivolous or vexatious; or was made other than in good faith; or lacks substance or credibility
- dealing with the complaint, notice or information would be an unjustifiable use of resources
- for a suspected conduct breach – at least six months have elapsed since the conduct the subject of the complaint, notice or information occurred, and it would not be in the public interest to take action
- there is insufficient information to properly make a preliminary assessment of the complaint, notice or information.

Section 150SD(4) provides that if the IA does not 'dismiss' a complaint, notice or information under subsection (2) or (3) above, the IA must decide to:

- refer the conduct to the local government to deal with (if the IA reasonably suspects the conduct is a conduct breach)
- investigate the conduct, or
- not deal with the complaint, notice or information and make any recommendation the IA considers appropriate, including, for example, that the councillor attend training, counselling or mediation.

Permitting the IA to take 'alternative action' to address a councillor's conduct, for example, a recommendation to the councillor to attend specific training, will enhance the overall operation and integrity of the councillor conduct complaints system by allowing the IA to address minor and technical conduct issues quickly and efficiently. It should be noted that the Bill also amends current section 150W of the LGA (Decision about conduct) in this regard to provide that the IA may decide, after investigating the conduct of a councillor, to not deal with the conduct and make any recommendation the IA considers appropriate (see clause 49).

Section 150SD(5) provides a non-exhaustive list of matters the IA may consider in making a preliminary assessment. The IA may have regard to:

- any reasons for, or factors relevant to, the conduct – for example, whether or not any training relating to the conduct has been completed by the councillor; or the Aboriginal traditions or Island customs of the councillor
- any steps taken by the councillor to mitigate or remedy the effects of the conduct
- the consequences, both financial and non-financial, resulting from the conduct.

New section 150SE (Notice of preliminary assessment) requires the IA to notify the relevant parties as soon as practicable after deciding to 'dismiss' a complaint, notice or information under section 150SD(2) or (3) or not to deal with a complaint, notice or information and instead take 'alternative action' under section 150SD(4)(c).

Division 3B (Assessor may initiate assessments)

New section 150SF (Assessor may make preliminary assessment on own initiative) enables the IA, on the IA's own initiative, to make a preliminary assessment of information about councillor conduct under new division 3A above. The section applies if the IA is aware of information indicating a councillor may have engaged in a potential conduct breach or potential misconduct, the IA has not received a complaint, notice or information about the conduct, the IA reasonably believes it is in the public interest to make a preliminary assessment of the information, and the conduct is not likely to involve corrupt conduct. New section 150SF replaces former section 150U which enabled the IA to 'investigate' councillor conduct on the IA's own initiative.

Numerous other amendments are required to chapter 5A of the LGA as a consequence of the new preliminary assessment process. For example:

- clause 71 of the Bill amends section 150DB (Conflict of interest) to provide that the section also applies if the IA has an interest that may conflict with a fair and impartial preliminary assessment of the conduct of a councillor
- clause 73 of the Bill amends section 150DE (Assessor not subject to outside direction) to provide that the IA is not subject to direction by another person about the way the IA's powers in relation to a preliminary assessment are to be exercised; or the priority given to preliminary assessments.

In addition, clause 44 replaces current section 150M with new section 150M of the LGA (Dealing with particular conduct if councillor elected or appointed after vacating office) to provide that a complaint, notice or information about councillor conduct must be 're-enlivened' where the office of the subject councillor is vacated before the matter is finalised and the person is subsequently elected or appointed as a councillor for a new term of office within 12 months after the office is vacated. The action to be taken in relation to the original conduct will vary depending on the status of the complaint, notice or information at the time the office was vacated, i.e. before a decision is made on preliminary assessment, before a decision is made in relation to an investigation, or before a CCT application is decided.

CCT – Appointment of deputy president and functions of the president

Several issues regarding the operations and functions of the CCT were identified in the Councillor Conduct Report, including that the current resourcing and work structure of the CCT is not conducive to the increased number of complaints being referred for determination.

The Councillor Conduct Report Recommendation 4 is:

'That the President of the Councillor Conduct Tribunal be appointed on a full-time basis to drive the performance of the tribunal and that a Deputy President be appointed on a part-time basis to support this work.'

The Government's response supported Recommendation 4 in-principle.

To implement the Government's policy in relation to Recommendation 4, clause 76 of the Bill amends the LGA section 150DM (Membership of conduct tribunal) to include the deputy

president and clause 78 amends the LGA section 150DN (Appointment of president and casual members) to provide for the Governor in Council to appoint a person to be the deputy president of the CCT.

The Bill does not address Recommendation 4 in relation to the president being appointed on a full-time basis and the deputy president being appointed on a part-time basis. This will be managed administratively rather than legislatively.

To complement Recommendation 4, the Bill inserts new section 150DMA to provide for the functions of the president of the CCT (clause 77 refers).

Other amendments proposed to chapter 5A of the LGA as a consequence of the new position of deputy president are:

- clause 80 of the Bill amends section 150DS (Acting president) to provide for the deputy president to act as the president of the CCT for a period of not more than six months during a vacancy in the office or a period the president is absent or cannot perform the duties of the office because of a conflict of interest or for any other reason
- clause 81 of the Bill amends section 150DT (Conflict of interest) to provide that if both the president and deputy president have a conflict of interest in a matter, the Minister must nominate a casual member to act as the president in relation to the matter.

CCT – Constitution

The LGA current section 150AM (Constitution of conduct tribunal) provides that the CCT is to be constituted by at least two but not more than three members for hearing a matter about councillor conduct. Further, the CCT is to be constituted by the president or not more than three members when dealing with an administrative or procedural matter related to a hearing about councillor conduct.

The Councillor Conduct Report identified that the CCT could more efficiently fulfil its responsibilities if the CCT could be constituted by a single member in determining less complex or uncontested conduct matters, particularly where the councillor has admitted fault.

The Councillor Conduct Report Recommendation 8 is:

'That the Local Government Act 2009 be amended to allow one Councillor Conduct Tribunal member to hear and determine matters such as uncontested or expedited matters, and that a panel of 3 tribunal members continue to hear and determine complex, serious or contested misconduct matters.'

The Government's response supported Recommendation 8 in-principle, subject to further consideration and stakeholder consultation.

Clause 63 of the Bill amends section 150AM to provide that the CCT is to be constituted by not more than three members (chosen by the president) for hearing a matter about councillor conduct, and by one member (chosen by the president) for dealing with an administrative or procedural matter related to a hearing about councillor conduct. Determining whether a misconduct matter is sufficiently complex, serious or contested is to be decided administratively by the president of the CCT.

CCT – Publication of decisions

Under the LGA current section 150AS (Notices and publication of decisions and orders), the CCT is required to keep written records of its decisions and reasons for decisions about whether or not a councillor has engaged in misconduct or inappropriate conduct that is connected to misconduct, or both. The CCT is required to provide a notice that states the decision and briefly states the reasons for the decision to the IA, subject councillor, relevant local government and the complainant. The CCT must also give a summary of the decision, including the reasons for the decision, to the department's chief executive for publication on the department's website.

It was submitted to the SDRIC inquiry that CCT decisions and the reasons for the decisions should be published in full to assist councillors and other stakeholders to better understand the councillor conduct complaints framework and to build the capacity of councillors.

The Councillor Conduct Report Recommendation 10 is:

'That the Local Government Act 2009 be amended to require publication of Councillor Conduct Tribunal decisions in full, subject to appropriate redactions.'

The Government's response supported Recommendation 10.

Clause 65 of the Bill amends section 150AS to provide that the notice the CCT must give to the IA, subject councillor, relevant local government and complainant must also be given to the department's chief executive and that the notice state the CCT's decision and reasons for the decision in full.

The amendments also require the CCT to give a 'publication notice' for the decision to the department's chief executive The publication notice is <u>not</u> to include the following information:

- the name of the subject councillor or information that could reasonably be expected to result in identifying the councillor, unless the councillor agrees to their name being published or the CCT decided the councillor engaged in misconduct or a conduct breach that is connected to misconduct (or both)
- the name of the complainant
- the name of any other person
- information that could reasonably be expected to result in identifying the complainant or any other person
- information the CCT considers is not in the public interest to include in the notice.

As is currently the case, the CCT must not give another entity any information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010* unless giving the information is required or permitted by another Act.

Withdrawal of applications made to the CCT

The LGA is silent on whether the IA can withdraw an application that has been made to the CCT. In *Independent Assessor v Councillor Conduct Tribunal & Anor* (2020) QSC 316, it

was held that as a matter of statutory interpretation the IA did not have the power to revoke a decision to apply to the CCT.

The OIA submitted to the SDRIC inquiry that from time to time there will be occasions where due to a change of circumstances it may be in the public interest for the OIA to withdraw a matter from the CCT. The CCT submitted to the SDRIC inquiry that it may be useful to provide the CCT a discretion to dismiss or discontinue a matter that had been referred if it was in the public interest to do so, or if there were other exceptional circumstances.

The Councillor Conduct Report Recommendation 12 is:

'That the Local Government Act 2009 be amended to provide that the Independent Assessor can withdraw a referral to the Councillor Conduct Tribunal, and that the Councillor Conduct Tribunal can decide to discontinue hearing a matter in the public interest.'

The Government's response supported Recommendation 12 in-principle, subject to further consideration and stakeholder consultation.

To implement the Government's policy in relation to Recommendation 12, clause 61 of the Bill inserts new section 150AKA (Withdrawing application) to enable the IA, at any time before an application has been decided, to withdraw the application (in whole or in part) if satisfied the withdrawal is in the public interest. Also, if the office of a councillor is vacated before an application is decided, the IA must withdraw the application. This reflects the change to the system's jurisdiction that it will no longer capture the conduct of former councillors. However, it should be noted that replaced section 150M of the LGA provides for complaints, notices and information about councillor conduct to be 're-enlivened' if the office of the subject councillor is vacated before a matter is finalised and the person is subsequently elected or appointed as a councillor for a new term of office within 12 months after the office is vacated.

If an application is withdrawn by the IA, the IA must as soon as practicable give a notice to the CCT stating the application is withdrawn in whole or in part and the reasons for the withdrawal. A copy of the notice must also be given to the complainant, subject councillor and relevant local government.

The Bill does not provide the CCT with a power to discontinue hearing a matter in the public interest as it is considered the termination of a misconduct matter should rest solely with the IA as the assessor and investigator of the complaint, notice or information.

Provision of CCT hearing details to subject councillor

Currently, the LGA section 150AK (Copy of application must be given to councillor) requires the IA, when applying to the CCT to decide a councillor conduct matter, to give a copy of the application to the subject councillor that includes the day, time and place of the hearing. The OIA advised the SDRIC inquiry that this provision has generated practical challenges and procedural duplication in notifying subject councillors of hearing details.

The Councillor Conduct Report Recommendation 13 is:

'That the Local Government Act 2009 be amended to require the Councillor Conduct Tribunal to provide a subject councillor with hearing details at least 14 days in advance of the hearing.'

The Government's response supported Recommendation 13.

To remove duplication and inefficiencies in the notifying process, the Bill:

- amends section 150AK so that the IA is not required to provide hearing details to a councillor but rather give the councillor a copy of the CCT application (clause 60)
- amends section 150AL (Conduct tribunal must conduct hearing) to require the CCT to give the parties, i.e. the subject councillor and the IA, a notice that states the day, time and place of the hearing at least 14 days before the application is heard (clause 62).

Removal of CCT function of investigating suspected inappropriate conduct

Currently, the LGA section 150DL(1)(a) provides a function of the CCT is, at the request of a local government, to investigate the suspected inappropriate conduct of a councillor referred to the local government by the IA and to make recommendations to the local government about dealing with the conduct.

SDRIC do not believe that investigating inappropriate conduct matters is a proper use of the CCT's resources.

The Councillor Conduct Report Recommendation 14 is:

'That the Local Government Act 2009 be amended to remove the ability for the Councillor Conduct Tribunal to provide investigation services for inappropriate conducts matters for councils.'

The Government's response supported Recommendation 14.

Clause 74 of the Bill amends section 150DL (Functions) to remove the CCT's function of investigating suspected inappropriate conduct on behalf of a local government and to clarify the functions of the CCT include hearing and deciding applications made by the IA under chapter 5A, part 3, division 6 of the LGA, i.e. applications about misconduct and connected conduct breaches.

Annual reporting requirements – IA and local governments

To support the transparency of the councillor conduct complaints system, the Councillor Conduct Report noted that steps should be taken to ensure local communities are aware of how their councils are processing inappropriate conduct matters.

The Councillor Conduct Report Recommendation 15 is:

'That the Local Government Act 2009 be amended to require local governments to publish in their annual reports the number of inappropriate conduct matters referred by the Office of

the Independent Assessor, the number of referrals that have been addressed and the average time taken to resolve the matter.'

The Government's response supported Recommendation 15 in-principle, subject to further consideration and stakeholder consultation in conjunction with Recommendation 16.

The Councillor Conduct Report Recommendation 16 is:

'That the Independent Assessor publish information on the number of matters referred to local government for resolution, the number reported back to the Independent Assessor by the local government as being resolved by local governments, and the number of matters that are currently unresolved or not reported.'

The Government's response supported Recommendation 16 in-principle, subject to further consideration and stakeholder consultation in conjunction with Recommendation 15.

To implement the Government's policy in relation to Recommendations 15 and 16, the Bill amends the CBR section 178 and the LGR section 186 to require the annual report of a local government to include additional particulars (clauses 24 and 105 respectively), and section 150EB of the LGA to require the annual report of the OIA to include additional particulars (clause 86).

Local government annual report

The additional annual reporting requirements for local governments are:

- total number of orders made under the LGA new section 150IA(2)(b) in relation to a chairperson's unsuitable meeting conduct
- total number of suspected conduct breaches referred by the IA
- total number of suspected conduct breaches for which an investigation was not started or was discontinued under the LGA new section 150AEA
- number of decisions made under the LGA section 150AG(1) about whether or not councillors have engaged in conduct breaches
- number of matters not decided by the end of the financial year under the LGA section 150AG(1)
- average time taken in making a decision under the LGA section 150AG(1).

OIA annual report

The additional annual reporting requirements for the OIA are:

- decisions under the LGA new section 150SD or section 150W after an assessment or investigation
- requests for further information under the LGA new section 150SC that have not been complied with
- decisions to discontinue or not start investigations by local governments under the LGA new section 150AEA
- suspected conduct breach matters decided by a local government under the LGA section 150AG

- suspected conduct breach matters not yet decided under the LGA section 150AG, other than matters that were not started or discontinued under the LGA new section 150AEA
- decisions made under the LGA new sections 150AWA, 150AWB and 150AWC in relation to vexatious complainants.

To facilitate the above new reporting requirements, the Bill amends the LGA by inserting new section 150AHA (Notice to assessor) to require local governments to give the IA a notice in relation to not starting or discontinuing investigations in relation to a conduct breach of a councillor under new section 150AEA, and deciding whether or not a councillor has engaged in a conduct breach under section 150AG. The notice must be given as soon as practicable after the local government makes the decision and must state the decision, the reasons for the decision and, if an order is made under the LGA section 150AH to discipline a councillor, details about the order (see clause 59).

For noting, the Bill provides a new power to local governments to not start or to discontinue an investigation about a councillor's conduct in certain circumstances (see clause 54). This amendment is addressed further under 'Further changes to the councillor conduct complaints system' below.

Updated natural justice requirements

Currently, if the IA is considering referring a councillor's suspected inappropriate conduct to a local government to deal with under the LGA section 150W, the IA must first undertake a natural justice process in accordance with section 150AA to give the councillor an opportunity to respond to the allegations.

If the alleged conduct is then referred to the local government for decision, a second natural justice process is undertaken as part of the local government's investigation into the conduct. This is consistent with section 150AE which provides that an investigation policy adopted by a local government must be consistent with the principles of natural justice.

While SDRIC emphasised its support for natural justice as part of the inappropriate conduct process, the Councillor Conduct Report acknowledged the current duplication in process.

The Councillor Conduct Report Recommendation 17 is:

'That the Local Government Act 2009 be amended to remove the requirement for the Office of the Independent Assessor to conduct the section 150AA natural justice deliberation for inappropriate conduct matters as this process is duplicated by the local government on referral.'

The Government's response supported Recommendation 17 in-principle, subject to further consideration and stakeholder consultation.

The Bill makes several amendments to the LGA to implement the Government's policy in relation to Recommendation 17.

Firstly, clause 51 amends section 150AA (Notice and opportunity for councillor to respond) so that the section only applies where the IA is considering making an application to the CCT

about a councillor's conduct, not where the IA is considering referring a councillor's conduct to a local government to deal with.

Secondly, clause 53 amends section 150AE (Local government must adopt investigation policy) to ensure local governments undertake an appropriate natural justice process when investigating a suspected conduct breach. The amendments provide an investigation policy must require the local government to:

- give a councillor information about the suspected conduct, including details about the evidence of the conduct
- give a councillor a notice if an investigation is not started or is discontinued
- give a complainant a notice if an investigation is not started or is discontinued
- give a councillor the preliminary findings of the investigation before preparing an investigation report about the investigation
- allow a councillor to give evidence or a written submission to the local government about the suspected conduct and preliminary findings
- consider any evidence and written submission given by the councillor in preparing the investigation report for the investigation
- include in the investigation report – a summary of any evidence given by the councillor and a full copy of any written submission given by the councillor.

In conducting an investigation, a local government must comply with its investigation policy (refer clause 55 which amends section 150AF of the LGA).

Publication of investigation reports

Under the current councillor conduct complaints framework, a local government's investigation policy must include a procedure for investigating the suspected inappropriate conduct of councillors. In practice, investigations can be undertaken by the mayor, another councillor, the Chief Executive Officer (CEO) of the local government, a committee of the local government or by an external entity.

To strengthen the transparency of inappropriate conduct investigations, the Councillor Conduct Report Recommendation 19 is:

'That reports of external investigators appointed by local governments to consider substantiated inappropriate conduct matters be published by the local government with appropriate redactions.'

The Government's response supported Recommendation 19 in-principle, subject to further consideration and stakeholder consultation.

To implement the Government's policy in relation to Recommendation 19, clauses 56 and 57 of the Bill insert new sections 150AFA (Local government must make summary of investigation report publicly available) and 150AGA (Local government must make investigation report publicly available) into the LGA to require local governments to publish this material in accordance with prescribed timeframes.

Publication of summary of investigation report

New section 150AFA (clause 56) provides that if an investigation report is given to a local government to assist in making a decision at a local government meeting under section 150AG (Decision about conduct breach), before making the decision a summary of the investigation report must be prepared and be made publicly available on or before the day and time prescribed by regulation.

Section 150AFA does not apply in relation to a decision by the Establishment and Coordination Committee under the COBA.

A summary of an investigation report must include:

- the name of the subject councillor
- a description of the alleged conduct
- a statement of the facts established by the investigation
- a description of how natural justice was afforded to the councillor during the conduct of the investigation
- a summary of the findings of the investigation
- any recommendations made by the entity that investigated the conduct.

However, the following information must not be made publicly available:

- for conduct the subject of a complaint – the complainant's name or information that could reasonably be expected to result in identifying the person
- if a person, other than the councillor, provided information for the purposes of the investigation (for example, by giving an interview or making a submission or affidavit) – the name of the person or information that could reasonably be expected to result in identifying the person or any other person, other than the councillor
- any other information the local government is entitled or required to keep confidential under a law, for example, documents subject to legal professional privilege.

Publication of investigation report

New section 150AGA (clause 57) provides that after making a decision under section 150AG of the LGA, a local government must make the investigation report for the investigation publicly available on or before the day and time prescribed by regulation if the decision is made at a local government meeting, or otherwise, within 10 business days after the decision is made.

The following information contained in an investigation report must not be made publicly available:

- for conduct the subject of a complaint – the complainant's name or the name of any other person (other than the subject councillor), or information that could reasonably be expected to result in identifying such persons
- if a person, other than the councillor, provided information for the purposes of the investigation (for example, by giving an interview or making a submission or affidavit)

– the name of the person, or information that could reasonably be expected to result in identifying the person or any other person, other than the councillor
- a submission or affidavit of, or a record or transcript of information provided orally by a person mentioned immediately above, including for example, a transcript of an interview
- any other information the local government is entitled or required to keep confidential under a law, for example, information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010*.

Also, section 150AGA(3) provides that a complainant's name or the name of any other person (other than the subject councillor), or information that could reasonably be expected to result in identifying such persons, must not be made publicly available even if the information:

- is required to be declared under the LGA section 150EQ or the COBA section 177N; or
- is otherwise required to be disclosed or made publicly available under the LGA or the COBA.

However, section 150AGA(4) provides that an investigation report made publicly available must include the name of the person who made the complaint if:

- the person is a councillor or the CEO of the local government; and
- the person's identity as the complainant was disclosed at the meeting at which the report for the investigation was considered.

When summary of investigation report or investigation report must be made publicly available

For the purposes of new sections 150AFA and 150AGA, clause 106 of the Bill inserts new section 239C into the LGR to prescribe the day and time when a summary of an investigation report or an investigation report must be made publicly available.

Summary of investigation report – the day and time prescribed is 5.00 pm on the next business day after notice of the meeting at which the decision is to be made is given under either the CBR section 242C or the LGR section 254C. However, if the agenda for the meeting is made publicly available under section 254D of the LGR or section 242D of the CBR before the day and time mentioned above, the day and time prescribed is the day and time when the agenda is made publicly available.

Investigation report – the day and time prescribed is 5.00 pm on the tenth day after the meeting at which the decision is made is held.

However, if minutes for the meeting are made publicly available under the LGR section 254F or the CBR section 242F before the day and time mentioned above, the day and time prescribed is the day and time when the minutes are made publicly available.

For noting, clauses 25 and 107 of the Bill consequentially amend the CBR section 242D and the LGR section 254D to amend the definition 'related report' in these sections to exclude a summary of an investigation and an investigation report from the definition.

Consideration of investigation reports in local government meetings

To complement the above amendments, the Bill clarifies:

- a local government may, by resolution, close all or part of a meeting to the public if considered necessary to close the meeting to discuss an investigation report given to the local government (clauses 27 and 109 amend the CBR section 242J and the LGR section 254J respectively)
- if a decision is made at a local government meeting about a conduct breach under the LGA section 150AG that is inconsistent with a recommendation made by the entity who conducted the investigation into the conduct, the CEO must ensure the minutes of the meeting include a statement of the reasons for not adopting the recommendation (clauses 26 and 108 amend the CBR section 242H and the LGR section 254H respectively).

Notice of potential disciplinary orders to councillors

SDRIC believes it is important that the OIA communicate as early as possible to a councillor what actions or penalties they may face for inappropriate conduct or misconduct findings, noting the language surrounding misconduct heightens the fear and apprehension of misconduct in the councillor conduct complaints system.

The Councillor Conduct Report Recommendation 22 is:

'That the Office of the Independent Assessor, Councillor Conduct Tribunal and other parties inform relevant councillors of the potential penalties of a finding of misconduct as early as possible in the process.'

The Government's response supported Recommendation 22 in-principle, subject to further consideration and stakeholder consultation.

Clause 51 of the Bill amends the LGA section 150AA (Notice and opportunity for councillor to respond) to require the IA to state in the notice given to the councillor under section 150AA the order that, in the IA's opinion, would be appropriate under section 150AR if the CCT decided the councillor had engaged in a conduct breach or misconduct.

The amendment ensures councillors are notified of potential disciplinary orders at the earliest opportunity.

Changes to definitions 'conduct breach' and 'misconduct'

Misconduct

Section 171 of the COBA and section 170A of the LGA provide that a councillor may ask a local government employee to provide advice to assist the councillor to carry out his or her responsibilities under the COBA or the LGA; and may ask the CEO to provide information relating to the local government that the local government has access to. A request for advice or information is of no effect if the request does not comply with the acceptable requests guidelines defined under the COBA section 244 or the LGA section 170A(7).

A contravention of the 'acceptable requests guidelines' is 'misconduct' under current section 150L of the LGA (What is *misconduct*).

The OIA submitted to the SDRIC inquiry that a breach of a local government's acceptable requests guidelines should not be a category of misconduct, but rather potential inappropriate conduct.

The Councillor Conduct Report Recommendation 23 is:

'That the Local Government Act 2009 be amended so that a breach of a council's acceptable request guidelines is not a category of misconduct except in serious circumstances.'

The Government's response supported Recommendation 23 in-principle, subject to further consideration and stakeholder consultation.

To implement the Government's policy in relation to Recommendation 23, clause 43 of the Bill amends section 150L to exclude from the definition of 'misconduct', a contravention of the acceptable requests guidelines of a local government under the LGA section 170A or the COBA.

No changes to the definition of 'conduct breach' are considered necessary to include a breach of the acceptable requests guidelines as current section 150K of the LGA already provides that the conduct of a councillor is 'inappropriate conduct' if the conduct contravenes a policy, procedure or resolution of the local government which would capture a contravention of a local government's acceptable requests guidelines.

Also, no legislative amendments are proposed in relation to the part of SDRIC's recommendation that indicates breaches of the acceptable requests guidelines should continue to be categorised as misconduct in serious circumstances because, in most instances, a breach of the guidelines will be technical in nature and therefore more appropriately categorised as a conduct breach.

Separate to Recommendation 23 of SDRIC, the definition of 'misconduct' in section 150L is further amended as follows:

- to replace conduct that is or involves a 'breach of the trust placed in the councillor, either knowingly or recklessly' with conduct that is or involves 'non-compliance with an Act by the councillor' to make clear that the conduct does not relate to public sentiment regarding a councillor
- to include an unlawful direction given by a mayor in contravention of section 170(2) of the COBA or the LGA (as amended by the Bill) – refer clauses 8 and 98
- to include contravention of new sections 177MA of the COBA and 150EPA of the LGA – refer clauses 14 and 92.

Conduct breaches

Clause 42 of the Bill amends the definition of 'conduct breach' in section 150K to provide that the conduct of a councillor, including the chairperson, at local government meetings is a conduct breach if it is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the councillor on three occasions within a period of one year.

This amendment supports clause 40 of the Bill which inserts new section 150IA into the LGA to manage the unsuitable meeting conduct of chairpersons, noting this circumstance is already captured in the definition 'inappropriate conduct' in relation to the other councillors in a local government meeting.

Compulsory councillor training

The Councillor Conduct Report noted that councillors are struggling to identify what constitutes a conflict of interest and that training on this issue has been haphazard, irregular or not given appropriate importance.[3]

The Councillor Conduct Report Recommendation 27 is:

'That the Department of State Development, Infrastructure, Local Government and Planning make training and professional development on the councillor conduct system, including conflicts of interest, compulsory for all local government councillors, mayors and senior council managers.'

The Government's response supported Recommendation 27 in-principle, subject to further consideration and stakeholder consultation.

Clauses 7 and 97 insert new section 169A into the COBA and the LGA to require councillors to complete 'approved councillor training' about the responsibilities of councillors under the COBA or the LGA.

The training must be completed by a councillor within the period prescribed by regulation, or if the department's chief executive extends the period for the councillor, within the extended period. The department's chief executive may extend the period for the completion of training only if the department's chief executive is satisfied it would be appropriate in the circumstances, for example, a councillor is unable to complete training due to unavoidable absence.

The department's chief executive must publish a notice about approved councillor training on the department's website within the period prescribed by regulation. The department's chief executive must also give a notice about approved councillor training to each local government and each councillor of the local government within the period prescribed by regulation and, if a councillor is appointed or elected to fill a vacancy in the office of another councillor, a notice must be given to the local government and the councillor within 20 business days after the councillor is appointed or elected.

Further, clauses 33 and 34 of the Bill establish the consequences for non-compliance with a 'councillor training provision' (i.e. section 169A of the COBA or the LGA) through amendments to the LGA section 120 (Precondition to remedial action) and the LGA section 122 (Removing a councillor). If the Minister reasonably believes, following a show cause process, that a councillor has not complied with the councillor's obligation to complete training under a councillor training provision, the Minister may recommend that the Governor in Council suspend the councillor (if the councillor has not complied within the

[3] Councillor Conduct Report, p. 61: https://documents.parliament.qld.gov.au/tp/2022/5722T1670-4778.pdf

period required) or dismiss the councillor (if the councillor has not complied within one year after the required period).

A councillor suspended for failure to comply with a councillor training provision is not entitled to be paid remuneration as a councillor other than the remuneration necessary for the councillor to comply with the councillor training provision. In this context, remuneration includes allowances, expenses, superannuation contributions and access to facilities and equipment provided by the local government.

Vexatious complainants

Several stakeholders expressed concerns to the SDRIC inquiry that current arrangements under the councillor conduct complaints framework for managing and responding to persons who repeatedly submit vexatious complaints were inadequate. For example, Southern Downs Regional Council submitted:

'*There have been many complaints lodged against SDRC elected members with the vast majority not upheld. It would appear to Council that the OIA does not take a sufficiently strong position on repeat complainants or vexatious complainants. Frivolous or vexatious complainants need to be taken out of the system as soon as possible and not wait until there is an overly abundant amount of suspicion or evidence. The submitter of vexatious complaints should also be held to account in some way.*'[4]

The Councillor Conduct Report made two recommendations regarding vexatious complainants.

Recommendation 28 is:

'That all stakeholders involved in the councillor conduct process use a consistent definition of vexatious and frivolous complaints and complainants, and the Office of the Independent Assessor continue to report annually on actions taken on these complainants.'

The Government's response supported Recommendation 28 in-principle, subject to further consideration and stakeholder consultation. The Government supported continued reporting by the Office of the Independent Assessor in relation to vexatious and frivolous complaints.

Recommendation 29 is:

'That the Queensland Government consider adopting Recommendation 4.6 in the 2017 Independent Councillor Complaints Review Panel report regarding repeatedly vexatious complainants.'

The Government's response to Recommendation 29 is:

'The Queensland Government supports the recommendation in-principle, subject to further consideration and consultation with stakeholders. It is noted that Recommendation 4.6 of the 2017 Independent Councillor Complaints Review Panel Report has been addressed, although

[4] Councillor Conduct Report, p. 65: https://documents.parliament.qld.gov.au/tp/2022/5722T1670-4778.pdf

a more stringent regime was implemented as a 'vexatious' complaint does not need to be repeated before it constitutes an offence.

In relation to vexatious complaints, the legislation addressing Recommendation 4.6 created an offence provision for vexatious complaints under section 150AV of the Local Government Act 2009. However, this section provides that a complaint which is vexatious or other than in good faith (a complaint made for a mischievous purpose, recklessly or maliciously) does not need to be repeated before it constitutes an offence.

In relation to frivolous complaints, section 150AU of the Local Government Act 2009 provides that the complaint must be repeated before it constitutes an offence. The person making the complaint must be given a notice that advises if the person makes the same or substantially the same complaint to the assessor again, the person commits an offence.

Both of these offence provisions align with the offence provisions in the Crime and Corruption Act 2001, including the amount of the maximum fine.'

To strengthen the councillor conduct complaints system in relation to repeated vexatious complaints, clause 67 of the Bill inserts new chapter 5A, part 3, division 8 (Vexatious complainants) into the LGA.

New division 8 comprises sections 150AWA–150AWC and establishes a scheme whereby the IA may declare, in certain circumstances, that a person is a vexatious complainant for the period, of not more than four years, stated in the declaration.

New section 150AWA provides that the IA may make a declaration in relation to a person only if the IA is satisfied that the person has repeatedly made complaints under chapter 5A and at least three of the complaints made by the person have been dismissed by the IA as being frivolous or vexatious complaints under new section 150SD(3)(b) or section 150X, or have been made other than in good faith. Complaints made other than in good faith include, for example, complaints made for a mischievous purpose or made maliciously, complaints that are an abuse of process for making complaints under chapter 5A, complaints made to harass, annoy or cause detriment and complaints made on grounds that lack substance or credibility.

Before making a declaration, the IA must give the person a reasonable opportunity to make a submission about the proposed declaration and must consider any submission made by the person. If the IA decides to make the declaration, the IA must give the person an information notice about the decision. Also, the IA may publish a notice, in the way the IA considers appropriate, that states the name of the person, the person has been declared a vexatious complainant, the reasons for the declaration, and the day the declaration ends.

New section 150AWB provides that a declaration may be revoked or the period of the declaration shortened, either by the IA or following an application by the person the subject of the declaration. If the IA decides to refuse the application, the IA must give the person an information notice about the decision.

New section 150AWC provides that a person the subject of a declaration may apply to the IA for permission to make a complaint. If the IA decides to refuse the application, the IA must give the person an information notice about the decision.

Importantly, under new section 150SD(2)(e), the IA must dismiss a complaint if the IA is satisfied that the person who made the complaint is the subject of a declaration under section 150AWA and the complaint is not permitted under a condition of the declaration or under section 150AWC.

Review arrangements

To ensure that the power to declare persons vexatious complainants is exercised appropriately, the Bill establishes a scheme to review decisions made under new sections 150AWA, 150AWB and 150AWC.

Clause 69 of the Bill inserts new chapter 5A, part 4A (Review) into the LGA to establish the review scheme. New part 4A replaces current chapter 5A, part 4, division 7.

In general, a person affected by a decision of the IA under new chapter 5A, part 3, division 8 (Vexatious complainants) is provided with internal review rights to the IA and external review rights to QCAT. The current review rights in existing chapter 5A, part 4, division 7 in relation to a decision under the LGA section 150CC to seize a thing are not affected by the amendments and these provisions now appear in new chapter 5A, part 4A. Further detail about the review rights are provided in the 'Notes on provisions' below.

Councillor conduct register requirements

Under the LGA section 150DX (Local governments to keep and publish register), a local government must keep an up-to-date register about certain councillor conduct matters and publish the register on the local government's website. The register must include, among other things, specific details about a decision by the IA to take no further action in relation to councillor conduct (refer current section 150DY) and specific particulars for each councillor conduct complaint dismissed by the IA (refer current section 150DZ).

The OIA submitted to the SDRIC inquiry that this process was unduly onerous and its removal from the LGA would generate significant efficiencies.

The Councillor Conduct Report Recommendation 30 is:

'That the Local Government Act 2009 be amended to remove the requirement to record in councillor conduct registers matters that have been dismissed or deemed to require no further action by the Office of the Independent Assessor or Councillor Conduct Tribunal.'

The Government's response to Recommendation 30 is:

'The Queensland Government supports the recommendation in-principle, subject to further consideration and stakeholder consultation, in conjunction with Recommendation 12 which proposes that the Councillor Conduct Tribunal can discontinue a hearing in the public interest. Currently, legislation does not allow the Tribunal to dismiss matters or deem them to require no further action.'

It should be noted that the Government also supported Recommendation 31 of the Councillor Conduct Report that the OIA continue to publish the number of complaints dismissed or deemed to require no further action in its annual report.

To implement Recommendation 30, clause 83 of the Bill omits section 150DX(1)(d) and (e) to remove the requirements for a local government to record information about these IA decisions in its councillor conduct register. As a consequence, clauses 84 and 85 omit sections 150DY(1)(d) and section 150DZ from the LGA.

Separate to Recommendation 30 of SDRIC, further amendments to sections 150DX and 150DY of the LGA have been made as follows:

- clause 83 amends section 150DX(1)(a) to require local governments to include details about decisions relating to the unsuitable meeting conduct of chairpersons at local government meetings in their councillor conduct registers
- clause 83 inserts a new provision into section 150DX(1) to require councillor conduct registers to include details about decisions of local governments not to start or to discontinue investigations of suspected conduct breaches of councillors under new section 150AEA
- clause 84 inserts new provisions into section 150DY(1) to apply the requirements of the section to: decisions by local governments to make orders against chairpersons under new section 150IA for unsuitable meeting conduct; and decisions by local governments under new section 150AEA not to start or to discontinue an investigation of a matter the subject of a referral notice by the IA
- clause 84 omits the second 'Note' under section 150DY(2) as a consequence of the omission of section 150DZ from the LGA
- clause 84 expands the application of existing section 150DY(4) to protect the name of any person from being included in a councillor conduct register, except the name of the subject councillor if the councillor's name must be included under the section.

For details about the amendments in the Bill relating to local governments being allowed to not start or to discontinue investigations into suspected conduct breaches and the process for managing the unsuitable meeting conduct of chairpersons in local government meetings, see 'Further changes to the councillor conduct complaints system' below.

Removal of 'training' from OIA's functions

The LGA section 150CU(1)(b) provides that a function of the IA is to provide advice, training and information to councillors, local government employees and other persons about dealing with alleged or suspected inappropriate conduct, misconduct or corrupt conduct.

SDRIC commented in the Councillor Conduct Report that it considers the department best placed to assume a central role in the provision of training to the local government sector and that the OIA should concentrate on its core functions of assessment, investigation and prosecution of complaints.

The Councillor Conduct Report Recommendation 36 is:

'That responsibility for the delivery of training to councillors be removed from the Office of the Independent Assessor to enable the re-allocation of resources to core activities.'

The Government's response supported Recommendation 36.

To implement Recommendation 36, clause 70 of the Bill amends section 150CU(1)(b) of the LGA to remove 'training' from the IA's functions.

Provision of official departmental advice to councillors

The Councillor Conduct Report Recommendation 39 is:

'That the Department for State Development, Infrastructure, Local Government and Planning investigate the appointment of an independent local government integrity and conduct advisory service that can issue authoritative advice under the Integrity Act 2009 to a councillor on integrity and conduct matters.'

The Government's response supported Recommendation 39 in-principle, subject to further consideration and consultation with stakeholders. It was noted that the Department of State Development, Infrastructure, Local Government and Planning already provides general guidance, training and advice to councillors on integrity and conduct matters.

To implement the Government's policy in relation to Recommendation 39, the Bill provides that the IA must dismiss a complaint or decide to take no further action for a notice or information about councillor conduct if satisfied that the conduct was engaged in by the councillor to comply with, honestly and without negligence, a guideline made by the department's chief executive (clause 46, new section 150SD(2)(c)(i) refers).

The amendment recognises that the department will provide 'official' departmental advice to local governments and councillors as and when required.

Further changes to the councillor conduct complaints system

The Bill makes a number of legislative amendments to further improve the effectiveness and efficiency of the councillor conduct complaints system, including:

- limiting the system's application in relation to former councillors
- changing the term 'inappropriate conduct' to 'conduct breach'
- empowering local governments, in certain circumstances, not to start or discontinue investigations into suspected conduct breach matters referred by the IA
- establishing a process for how the unsuitable meeting conduct of a chairperson in a local government meeting is to be managed
- clarifying the parties to QCAT review proceedings about decisions of the CCT
- revising the vacancy of office provisions relating to the IA and members of the CCT
- defining an unlawful direction of a mayor as 'misconduct'
- allowing the IA to take no further action in the public interest following an investigation
- replacing 'public admission' with 'public apology' as a disciplinary order.

Former councillors

To allow the resources of the OIA to concentrate on substantive conduct matters in the public interest, the Bill limits the application of the councillor conduct complaints system in relation to former councillors.

Clause 38 inserts new section 150CAB (Application of chapter) into the LGA to provide that chapter 5A does not apply in relation to a person who was, but is no longer, a councillor unless the person has engaged in conduct that is suspected corrupt conduct.

In addition, current section 150M (Application to former councillors) has been omitted by clause 44 of the Bill. For noting, section 150M has been replaced with a new provision that deals with the conduct of a councillor who vacates office and is subsequently elected or appointed as a councillor for a new term of office within 12 months after the office is vacated.

'Inappropriate conduct' to be termed a 'conduct breach'

Due to concerns from some stakeholders that the term 'inappropriate conduct' may imply sexual impropriety, the Bill replaces the term 'inappropriate conduct' throughout the LGA, LGR and CBR with the term 'conduct breach'.

For noting, clause 42 of the Bill amends the definition 'inappropriate conduct' in section 150K of the LGA to reflect an amendment in the Bill which addresses the unsuitable meeting conduct of a chairperson in a local government meeting (refer below under *Unsuitable meeting conduct of chairpersons*). The new definition 'conduct breach' will capture the conduct of a chairperson that is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the chairperson on three occasions within a period of one year (consistent with the current definition in relation to the unsuitable meeting conduct of other councillors in a local government meeting).

Power for local governments not to start, or to discontinue, investigations into suspected conduct breaches

Clause 54 of the Bill inserts new section 150AEA (Local government may decide not to start, or to discontinue, investigation) into the LGA to enable local governments to decide not to start, or to discontinue, an investigation about a councillor's conduct after receiving a referral notice from the IA. The decision can only be made in limited circumstances, including if the complainant withdraws the complaint or consents to the investigation not being started or being discontinued.

The section also provides that a local government must discontinue an investigation if the office of the subject councillor is vacated during the investigation. If an investigation is discontinued under section 150AEA, the local government must not make a decision under section 150AG of the LGA about the conduct.

Further, the power not to start, or discontinue, an investigation under section 150AEA can only be delegated by BCC to the mayor, the Establishment and Coordination Committee or a standing committee and to the mayor or a standing committee for all other local governments (refer to clauses 21 and 101 respectively).

To complement new section 150AEA, clause 53 amends section 150AE (Local government must adopt investigation policy) to require a local government to include a procedure in their investigation policy about when the local government may decide not to start, or to discontinue, an investigation under section 150AEA.

Unsuitable meeting conduct of chairpersons

Stakeholders have raised concerns that the existing local government framework does not adequately provide for addressing the unsuitable meeting conduct of a chairperson in a local government meeting, including that there are currently no consequences for breaching the behavioural standards in the councillor code of conduct and that conduct is not being dealt with quickly due to delays in dealing with misconduct complaints by the IA and the CCT.

Clause 40 inserts new section 150IA (Dealing with unsuitable meeting conduct of chairperson) into the LGA to manage the unsuitable meeting conduct of chairpersons. Section 150IA provides that, if during a local government meeting a councillor reasonably believes the conduct of the chairperson is unsuitable meeting conduct, the councillors at the meeting (other than the chairperson) may, by resolution, decide whether the conduct is unsuitable meeting conduct and, if so, make an order reprimanding the chairperson for the conduct. If minutes are not required for the meeting, details of the order must be recorded in another way prescribed by regulation.

To complement new section 150IA, clause 39 of the Bill amends section 150F (Department's chief executive to make model procedures) to provide that the model meeting procedures must state how the councillors at a local government meeting may deal with the chairperson's unsuitable meeting conduct.

The Bill also amends the LGA section 150J (Unsuitable meting conduct that becomes inappropriate conduct) to provide that if the conduct of a chairperson at a local government meeting is a conduct breach under amended section 150K, the local government is not required to notify the IA about the conduct and may deal with the conduct under section 150AG as if an investigation had been conducted (clause 41 refers).

Parties to QCAT review proceedings – CCT decisions

Under the current councillor conduct complaints system, if the IA makes an application about alleged misconduct (or misconduct and connected inappropriate conduct) to the CCT under section 150AJ of the LGA, the CCT must conduct a hearing about the application and decide whether or not the councillor has engaged in the conduct. Sections 150AN and 150AO clearly state that the IA and subject councillor are parties to the CCT hearing.

Under section 150AT, the IA and the subject councillor may apply to QCAT, as provided under the *Queensland Civil and Administrative Tribunal Act 2009* (QCAT Act), for a review of the CCT decision. However, the LGA is silent about the persons who are the parties to a review proceeding in QCAT.

Under section 40(1) of the QCAT Act, a person is a party to a proceeding in QCAT's review jurisdiction if the person is:

- the applicant; or

- the decision-maker for the reviewable decision the subject matter of the proceeding; or
- intervening in the proceeding under section 41; or
- joined as a party to the proceeding under section 42; or
- someone else an enabling Act states is a party to the proceeding.

As the CCT is responsible for deciding the alleged misconduct (or misconduct and connected inappropriate conduct) of councillors, it has previously been determined by QCAT that the CCT be the respondent in QCAT review proceedings.

The IA's functions include investigating and dealing with councillor conduct and acting as a party in a CCT hearing regarding the alleged misconduct (or misconduct and connected inappropriate conduct) of councillors. For these reasons, the IA will retain an interest in the outcome of QCAT review proceedings and should accordingly be entitled to respond to submissions made or new evidence introduced by a councillor in a review proceeding.

Additionally, the CCT's role in the councillor conduct complaints system is to impartially determine matters referred to it by the IA. The perceived impartiality of the CCT in subsequent conduct proceedings may be jeopardised if the CCT is required to act in a prosecutorial capacity in a QCAT review, particularly for matters which could closely resemble future matters brought to the CCT for similar alleged misconduct.

Accordingly, clause 66 of the Bill inserts into the LGA:

- new section 150ATA (Parties to a proceeding for review) to clarify that the parties to a proceeding for a review under section 150AT are the IA, the councillor and any other person mentioned in the QCAT Act, section 40(1), other than the CCT
- new section 150ATB (Assessor must help QCAT) to provide that section 21 of the QCAT Act does not apply in relation to the CCT for a proceeding for a review under section 150AT and that the IA must use its best endeavours to help QCAT so that it can make its decision on the review.

Vacancy of office – IA and CCT members

The Bill expands the circumstances in which the office of the IA or a CCT member becomes vacant.

Clauses 72 and 79 amend sections 150DC and 150DR of the LGA respectively to provide that, in addition to the existing circumstances set out in the provisions, the office can become vacant if the IA has performed the IA's functions incompetently or inefficiently or a CCT member has performed the member's functions carelessly, incompetently or inefficiently. For a CCT member, the amendment to section 150DR adds the ground that the member has engaged in conduct that would result in dismissal from the public service if the member were a public service officer. This amendment is not required in relation to the IA, as current section 150CW of the LGA provides that similar conduct would mean that a person was not qualified to hold the office of the IA.

The Bill's expansion of the circumstances in which the IA or a member of the CCT can be removed from office is consistent with the arrangements for appointees to other Queensland Government entities, including for members of the Mental Health Review Tribunal under the *Mental Health Act 2016* and various offices under the QCAT Act.

Unlawful direction of a mayor is 'misconduct'

Under the LGA section 170(1), a mayor may give a direction to the CEO provided the direction adheres to the circumstances set out in subsection (2). Section 170(2) provides a direction must not be given if:

- it is inconsistent with a resolution, or a document adopted by resolution, of the local government
- it relates to the appointment of a local government employee under section 196(3)
- it relates to disciplinary action by the CEO in relation to a local government employee under section 197 or a councillor advisor, or
- it would result in the CEO contravening a provision of an Act.

Section 170 is the equivalent provision in the COBA, however, that section deals with the mayor giving directions to the CEO as well as to senior executive employees of BCC.

Clauses 8 and 98 of the Bill amend section 170 of the COBA and the LGA to provide that the mayor must not give a direction in contravention of subsection (2) and that contravention of the subsection is 'misconduct'.

This is consistent with current section 170(3) in the COBA and the LGA which provides that no councillor, including the mayor, may give a direction to any other local government employee except in accordance with guidelines made about the provision of administrative support to councillors. Contravention of subsection (3) is already defined as 'misconduct'.

Allow IA to take no further action in the public interest following investigation

Clause 50 of the Bill amends section 150Y of the LGA (Decision to take no further action) to enable the IA to take no further action about the conduct of a councillor, following an investigation, if the IA is satisfied taking further action would not be in the public interest.

Inclusion of this public interest consideration is consistent with current section 150X(c)(i) which enables the IA to dismiss a complaint (following an investigation) if satisfied dealing with the complaint would not be in the public interest and new section 150SD(2)(a) which requires the IA (on completion of a preliminary assessment) to dismiss a complaint or take no further action for a notice or information if satisfied dealing with the complaint, notice or information would not be in the public interest.

Disciplinary orders – replacing 'public admission' with 'public apology'

Clause 58 of the Bill amends the LGA section 150AH (Disciplinary action against councillor) to provide that if a local government decides a councillor has engaged in a conduct breach, the local government may make an order that the councillor make a public apology, in the way decided by the local government, for the conduct.

Clause 64 of the Bill makes the equivalent amendment to the LGA section 150AR (Disciplinary action against councillor) in relation to an order of the CCT where the CCT decides a councillor has engaged in misconduct or connected inappropriate conduct.

Councillor conflict of interest requirements

To further clarify and enhance the councillor conflict of interest requirements, the Bill:

- introduces additional 'ordinary business matters' and clarifies that the existing ordinary business matter relating to the adoption or amendment of a local government's budget also captures the preparation of the budget (see below)
- clarifies that a councillor with a declarable conflict of interest in a matter must not participate in a decision relating to the matter unless the councillor is authorised to participate in the decision under the COBA or the LGA (see below)
- provides further clarity about conflicts of interests that are not declarable conflicts of interests and removes, in certain circumstances, the option for a local government to not decide a matter in a local government meeting (see below)
- extends the application of the circumstances in which a person is considered a close associate or related party of a councillor in relation to a matter (i.e. only if the councillor knows, or ought reasonably to know, about their involvement in the matter) to all persons and entities currently prescribed as a close associate or related party under the COBA section 177G/LGA section 150EJ and the COBA section 177M/LGA section 150EP respectively (refer to clauses 11, 13, 88 and 90 of the Bill)
- clarifies the processes that must be undertaken by informing councillors under the COBA section 177T(2) and (3) and the LGA section 150EW(2) and (3), and by eligible councillors under the COBA section 177U(2)(b) and the LGA section 150EX(2)(b), where a conflict of interest relates to more than one councillor, i.e. the processes must be complied with in relation to each councillor separately (refer to clauses 17, 18, 94 and 95 of the Bill).

Ordinary business matters

Section 177C of the COBA and section 150EF of the LGA disapply the councillor conflict of interest provisions under COBA chapter 6, part 2, division 5A or the LGA chapter 5B for certain matters where there is a conflict of interest in a matter (known as 'ordinary business matters').

Clause 9 and clause 87 of the Bill amend section 177C and section 150EF respectively to insert additional ordinary business matters. Accordingly, the amendments provide that the conflict of interest provisions do not apply to councillors if the relevant matter:

- is solely, or relates solely to, the preparation, adoption or amendment of a budget for the local government
- is solely, or relates solely to, preparing, adopting or amending a document prescribed by regulation that the local government is required to prepare or adopt under a local government related law (for the COBA) or a Local Government Act (for the LGA)
- is solely, or relates solely to, the making of a donation to a religious, charitable or non-profit institution or organisation, unless a councillor or close associate or related party of a councillor, receives a benefit because of the donation that is more than merely a benefit relating to reputation
- is solely, or relates solely to, a councillor representing the local government in an official capacity at an event held by a government agency or an entity that is wholly owned by the local government

- is solely, or relates solely to, employment-related or upgraded travel or accommodation undertaken or used by a councillor or close associate or related party of a councillor.

Section 177C and section 150EF are further amended to provide that, in these sections, a 'government agency' means the State, a government entity or another local government; another Australian government or an entity of another Australian government; or a local government of another State.

To amendments will enable councillors to participate in more 'ordinary' business matters without giving rise to a conflict of interest.

Councillors not to participate in matters unless permitted – declarable conflicts of interests

Clause 14 and clause 92 of the Bill insert new section 177MA into the COBA and new section 150EPA into the LGA (Councillor must not participate in decisions unless authorised) to clarify that a councillor with a declarable conflict of interest in relation to a matter must not participate in a decision relating to the matter unless the councillor participates in the decision in compliance with a decision made under the COBA section 177P/LGA section 150ES (Procedure if councillor has declarable conflict of interest) or under an approval given under the COBA section 177S/LGA section 150EV (Minister's approval for councillor to participate or be present to decide matter).

Contravention of the new sections is 'misconduct' under the LGA (clause 43 refers).

In addition, new sections 177MA of the COBA and 150EPA of the LGA are 'relevant integrity provisions' under the COBA section 198D and the LGA section 201D (Dishonest conduct of councillor or councillor advisor) – refer to clauses 19 and 99. Further details of these amendments are provided below under 'Consistency with fundamental legislative principles'.

Additional interests that are not declarable conflicts of interests and when matters must be decided

To address issues raised by stakeholders, clauses 12 and 90 of the Bill amend section 177L of the COBA and section 150EO of the LGA (Interests that are not declarable conflicts of interest) to provide that a councillor who has a conflict of interest in a matter does not have a declarable conflict of interest in the matter if the conflict of interest arises solely because:

- the councillor is, or has been, a member of a group of candidates for an election or a previous election with another councillor
- the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election, or
- the councillor has been elected or appointed at the same time, or has held office during the same period, as another councillor.

Also, clauses 16 and 94 of the Bill amend section 177R of the COBA and section 150EU of the LGA (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest) to provide that where there is no meeting quorum to decide a matter because of prescribed or declarable conflicts of interests, a local

government may decide (by resolution) not to decide the matter and take no further action in relation to the matter unless the COBA/LGA or another Act provides that the local government must decide the matter.

Modernisation of local government advertising requirements

The Bill amends the COBA, the LGA and the LGEA to modernise advertising requirements by replacing existing requirements for information to be published in print newspapers with requirements for:

- the local government change commission to publish notice of the results of its assessments in the gazette and on the ECQ's website (clauses 3 and 29)
- a local government to give public notice of improper disbursements on its website and in other ways the local government considers appropriate (clauses 4 and 32)
- a local government to give public notice of the approval of an inspection program on its website and in other ways the local government considers appropriate (clauses 5 and 35)
- the CEO of BCC to invite nominations to fill the vacant office of another councillor, if the office becomes vacant during the final part of the council's term and the person need not be a political party's nominee, on the council's website and in other ways the CEO considers appropriate (clause 6)
- a local government to serve a document on an owner/occupier of property where the person's address is unknown by publishing a relevant notice on the local government's website, or by publishing a relevant notice in a newspaper and the gazette (clauses 20 and 100)
- an indigenous regional council to publish certain details about a community forum it establishes on its website and in other ways the council considers appropriate (clause 30)
- an indigenous regional council to call for expressions of interest in appointment as a member of a community forum on its website and in other ways the council considers appropriate (clause 31)
- a returning officer to give notice, on the ECQ's website and in other ways the returning officer considers appropriate, that nominees are taken to have been elected where the number of candidates is equal to the number required to be elected (clause 112)
- a local government to publish details of an approval to conduct a poll for part of the local government's area by postal ballot, on its website and in other ways the local government considers appropriate (clause 113).

Local government election costs

To achieve the policy objective, the Bill replaces section 202 of the LGEA to provide the ECQ with a discretion regarding the recovery of election costs from local governments. The amendment reinforces that a local government is liable to pay all costs incurred by the ECQ for conducting an election in its local government area but provides that the ECQ may decide to recover all or part of the costs from the local government (see clause 114).

Moreton Bay Regional Council reclassification – consequential amendments

The policy objective is achieved by amending the *Acquisition of Land Act 1967*, the *Animal Management (Cats and Dogs) Act 2008*, the *Environmental Protection Act 1994*, the *First*

Home Owner Grant and Other Home Owner Grants Act 2000, the *South-East Queensland Water (Distribution and Retail Restructuring) Act 2009*, the *Transport Infrastructure Act 1994* and the *Water Act 2000* to replace references in these statutes to 'Morton Bay Regional Council' with 'Moreton Bay City Council'. Refer to clause 119.

Transitional arrangements for the Bill

Clause 102 of the Bill provides the necessary transitional arrangements in relation to the councillor conduct complaints system. Generally, new chapter 9, part 18 of the LGA (new sections 343-354) provides for:

- new part 18 (Transitional provisions for the Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023) not to apply in relation to conduct engaged in by a councillor if section 322 of the LGA applies
- the continued application of the conduct definitions
- existing investigations by the IA
- existing investigations by a local government
- existing investigations by the CCT (at the request of a local government)
- existing referrals by the CCT if investigation not started
- particular CCT applications to be withdrawn
- preliminary assessments for particular former councillors
- references to inappropriate conduct to be taken to be references to a conduct breach
- vexatious complainant declarations about persons who made complaints before commencement
- review by QCAT of particular decisions made by the CCT.

For further information about the transitional provisions, see 'Notes on provisions' below.

Amendments to the *Queen's Wharf Brisbane Act 2016*

The proposed amendments resolve the identified issues to facilitate the redevelopment of the QWB precinct under the QWBA by inserting a new process for creating freehold grants in respect of identified Queen's Wharf development parcels which avoids the need for subordinate legislation (that is, there is no need for the separate freehold declaration under the existing QWBA process).

Parcels of Queen's Wharf land to be subject to a freehold grant in accordance with the State's contractual obligations can now be identified, providing greater certainty and transparency in respect of the development and freehold grants. Importantly, the proposed amendments:

- require the freehold grants to occur without the current declaration process in the QWBA
- do not increase the area to be leased to the QWB precinct consortium and do not result in the transfer of any additional freehold tenure to the QWB precinct consortium outside of the original suite of development agreements between the State and the QWB precinct consortium parties.

The proposed amendments are reasonable and appropriate because they resolve the identified issues with the existing processes under the QWBA whilst maintaining the rights and

obligations of the State, the QWB precinct consortium and various third party stakeholders with registered interests in the land.

In accordance with the existing binding contractual agreements with the State, the Brisbane Casino lease land and the Queen's Wharf precinct lease land will be leased by the State to the QWB precinct consortium parties. The freehold tenure for the Queen's Park reserve land will not be leased.

See clauses 115-118 of the Bill.

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Estimated cost for government implementation

The Councillor Conduct Report's 40 recommendations, including the recommendations addressed by the amendments contained in the Bill, are intended to achieve a more effective and efficient operation of the local government councillor complaints system. These recommendations canvas areas relating to timeliness of complaints processing, process improvements, oversight mechanisms, and resourcing. As noted above, all recommendations were supported or supported in-principle by Government. Implementation of recommendations 3 (resourcing of the OIA) and 5 (remuneration for CCT members) has been funded.

It is noted that the proposal relating to ECQ not fully recovering the cost of elections from local governments is at the discretion of the ECQ. It will be up to the ECQ to determine if it can fund the non-recovered cost of elections from within its existing budget, or to make other arrangements, at the time it makes its decision to use this discretion.

The proposed amendments to the QWBA are not expected to result in any additional costs as no additional freehold deeds of grant will occur other than those already agreed in the commercial and tenure arrangements between the State and the QWB precinct consortium parties. The existing processes of the Department of Resources and Titles Queensland will be used to issue the deeds of grant. All third-party interests in the land will continue and no compensation will be payable by the State in respect of those interests.

Consistency with fundamental legislative principles

The proposed amendments are generally consistent with the fundamental legislative principles (FLPs) set out in the *Legislative Standards Act 1992* (LSA). Potential issues are addressed below.

Rights and liberties of individuals

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

Natural justice

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation is consistent with principles of natural justice (section 4(3)(b) of the LSA).

Removal of the IA's natural justice process in relation to suspected conduct breaches

As outlined above under '*Updated natural justice requirements*', the Bill implements the Government's policy in relation to SDRIC's recommendation 17 to remove the requirement for the OIA to conduct a natural justice deliberation for inappropriate conduct matters. SDRIC noted the 'opportunity to reduce duplication in process.' Clause 51 removes the requirement under section 150AA of the LGA for the IA to give notice of its intention to refer an allegation of inappropriate conduct to the local government for investigation and to allow the subject councillor a right of reply as to why that referral should not take place.

The amendments raise issues as to whether there is sufficient regard to the rights and liberties of individuals. These concerns are mitigated by other measures in the Bill which strengthen the natural justice requirements on local governments in relation to their investigation of suspected conduct breaches. Under current section 150AE of the LGA, a local government must adopt an 'investigation policy' about how it deals with suspected inappropriate conduct and the policy must, amongst other things, include a procedure for investigating suspected inappropriate conduct and be consistent with the principles of natural justice. Clause 53 of the Bill amends section 150AE of the LGA to prescribe the minimum natural justice requirements that must be adhered to by local governments when investigating a suspected conduct breach. This includes giving the subject councillor the preliminary findings of the investigation before preparing an investigation report, allowing a councillor to provide evidence or make a written submission about the preliminary findings, considering any evidence and written submission given by the councillor in preparing the investigation report, and including a summary of any evidence given by the councillor, and a full copy of a written submission made by the councillor, in the investigation report.

Proportion and relevance

Consequences imposed by legislation should be proportionate and relevant to the actions to which the consequences are applied by the legislation. Penalties should be proportionate to the offence.

Expansion of existing offences - declarable conflict of interest - councillor must not participate in decisions unless authorised

The Bill addresses enforcement issues where complaints about councillors participating in decisions in circumstances where they could reasonably be taken to have declarable conflicts have been unable to progress to investigation, due to the legislative requirement to first establish that a councillor had become aware of a declarable conflict of interest and notified the CEO and/or council.

In relation to prescribed conflicts of interests, the current provisions clearly state that a councillor must not participate in a decision relating to a matter if the councillor has a prescribed conflict of interest in the matter (section 177H of the COBA and section150EK of

the LGA). Sections 177I of the COBA and 150EL of the LGA set out the procedural obligations of a councillor with a prescribed conflict of interest, depending on when the councillor first becomes aware of their prescribed conflict of interest, for example, if in a local government meeting the councillor must immediately inform the meeting and provide the relevant particulars. The procedural obligations apply to a councillor if the councillor may participate, or is participating, in a decision about a matter and the councillor becomes aware the councillor has a prescribed conflict of interest in the matter.

In contrast, for declarable conflicts of interests, there is currently no discrete legislative provision that states a councillor must not participate in a decision relating to a matter if the councillor has a declarable conflict of interest in the matter. The requirement for a councillor with a declarable conflict of interest in a matter to stop participating in a decision relating to the matter only takes effect once the councillor becomes aware the councillor has a declarable conflict of interest in the matter (section 177N of the COBA and section 150EQ of the COBA). These sections also describe the procedural obligations of a councillor with a declarable conflict of interest.

Clauses 14 and 92 insert new provisions in the COBA and the LGA respectively (new sections 177MA of the COBA and 150EPA of the LGA) to clarify that a councillor with a declarable conflict of interest must not participate in a decision relating to the matter unless the councillor participates in compliance with a decision under section 177P COBA/section 150ES LGA (Procedure if councillor has declarable conflict of interest) or an approval under section 177S COBA/section 150EV LGA (Minister's approval for councillor to participate or be present to decide matter).

Clause 43 amends section 150L of the LGA (What is misconduct) to provide that contravention of the new sections is misconduct. This may result in disciplinary action being taken against a councillor under section 150AR of the LGA (Disciplinary action against councillor).

Further, clauses 19 and 99 of the Bill amend section 198D of the COBA (Dishonest conduct of councillor or councillor advisor) and 201D of the LGA (Dishonest conduct of councillor or councillor advisor) respectively to include new sections 177MA of the COBA and 150EPA of the LGA as a 'relevant integrity provision'. Contravention of a 'relevant integrity provision' in the circumstances set out in these provisions incurs a maximum penalty of 200 penalty units or 2 years imprisonment.

The LGA and the COBA provide that some offences are disqualifying offences. Disqualifying offences include 'serious integrity offences'. Sections 198D of the COBA and 201D of the LGA are 'serious integrity offences' listed in schedule 1 part 1 of the COBA and the LGA. On conviction of a serious integrity offence, a person automatically stops being a councillor and is disqualified from being a councillor for seven years (section 153 of the LGA and section 153 of the COBA). A councillor is automatically suspended if charged with a disqualifying offence (section 186B of the COBA and section 175K of the LGA).

Further, sections 198D of the COBA and 201D of the LGA are 'conduct provisions' under section 150AY of the LGA, meaning an investigator has the function of investigating whether an offence has been committed against them and to enforce compliance.

The effect of the amendments is to:

- change the definition of 'misconduct' to capture additional circumstances
- expand the operation of existing offences to capture additional circumstances
- broaden the circumstances in which an investigator can investigate
- broaden the circumstances in which a councillor can be disqualified.

It is considered that the amendments have sufficient regard to the rights and liberties of individuals, as they are consistent with existing provisions in relation to prescribed conflicts of interest and the consequences for breach of those provisions. The conflict of interest provisions as a whole (sections 177A-177X of COBA and sections 150ED-150FA of the LGA) apply where councillors are participating in decisions under an Act, a delegation or other authority as well as in a local government meeting. Councillors may either have a declarable conflict of interest or a prescribed conflict of interest – the legislation no longer contemplates councillors having real or perceived conflicts of interest or material personal interests as the terminology was changed in recent years. The purpose of the provisions as a whole is to ensure that if a councillor has a personal interest in a matter, the local government deals with the matter in an accountable and transparent way that meets community expectations. Accordingly, it is important to impose proportionate consequences in relation to declarable conflicts of interest that are consistent with those applying to prescribed conflicts of interest. As outlined above, section 177H of the COBA and section 150EK of the LGA provide that a councillor with a prescribed conflict of interest must not participate in a decision unless under the Minister's approval. Contravention of these sections is misconduct, and they are relevant integrity provisions under section 198D of COBA and section 201D of the LGA. It should also be noted that the other provisions listed as relevant integrity provisions under section 198D of COBA and section 201D of the LGA include section 177N of the COBA and section 150EQ of the LGA which set out the obligations of councillors with declarable conflicts of interest. Consequential amendments are made to these sections as a result of the new provisions, and it is appropriate that the new provisions maintain consistency with them. Contravention of these sections is also misconduct under section 150L of the LGA.

Further changes to the definition of misconduct; change to the definition of inappropriate conduct (conduct breach)

In addition to the changes outlined above, the Bill further amends the definition of misconduct in section 150L of the LGA to include an unlawful direction by a mayor in contravention of sections 170(2) of COBA or 170(2) of the LGA (refer clauses 8, 43 and 98).

The CCT decides whether a councillor has engaged in alleged misconduct and what action should be taken under section 150AR of the LGA to discipline the councillor. Inclusion of an unlawful direction by a mayor to a CEO expands the definition and therefore raises issues of proportion and relevance, given the range of disciplinary measures that might be applied following a finding of misconduct. The LGA section 170(1) provides the mayor may give a direction to the CEO, however subsection (2) lists the circumstances in which the mayor must not give a direction to the CEO. Section 170 of the COBA is similar but also deals with the mayor directing senior executive employees of the BCC. The Bill achieves the policy objectives by providing that if a mayor contravenes subsection (2) by giving an unlawful direction to the CEO (or BCC senior executive employee under the COBA), it is misconduct under section 150L of the LGA.

It is considered that the Bill has sufficient regard to the rights and liberties of individuals as the amendments are consistent with section 170(3) of both the COBA and the LGA in relation to a councillor (including the mayor) unlawfully directing other council employees. Contravention of section 170(3) of the LGA is currently misconduct. The amendments provide a proportionate response that ensures that appropriate and consistent deterrents are in place in relation to directions by a mayor to a CEO and that standards of integrity are maintained.

Amendments to the definition of 'conduct breach' (refer clause 42 amended section 150K) reflect amendments capturing the unsuitable meeting conduct of a chairperson of a meeting (refer clause 40 new section 150IA). As noted under Achievement of policy objectives, clause 42 of the Bill amends the definition of 'conduct breach' in section 150K to provide that the conduct of a councillor, including the chairperson, at local government meetings is a conduct breach if it is part of a course of conduct leading to orders for unsuitable meeting conduct being made against the councillor on three occasions within a period of one year. This amendment supports clause 40 of the Bill which inserts new section 150IA into the LGA to manage the unsuitable meeting conduct of chairpersons, noting this circumstance is already captured in the definition 'inappropriate conduct' in relation to the other councillors in a local government meeting. A finding of a conduct breach may result in range of orders being made against the chairperson. While this raises FLP issues as to the rights and liberties of the chairperson it is considered that the consequences are proportionate and relevant, as the requirements on a chairperson are consistent with the requirements on other councillors. Refer also to discussion below under *Orders (local government) – unsuitable meeting conduct of chairperson of a local government meeting*.

IA's conflict of interest – expansion of existing offences

Section 150DB(2) of the LGA provides that it is an offence for the IA to take part, or take further part, in considering a matter where they have an interest that may conflict with a fair and impartial investigation into the conduct of a councillor. A maximum penalty of 35 penalty units applies. Further, under section 150DB(3) of the LGA, the IA must give a notice about the matter to the Minister after the IA becomes aware that section 150DB applies. A maximum penalty of 35 penalty units applies.

Clause 71 of the Bill amends section 150DB of the LGA to reflect the introduction of the preliminary assessment process set out in new chapter 5A, part 3, divisions 3A and 3B, with the amended section 150DB applying if the IA has an interest that may conflict with a fair and impartial preliminary assessment of, or investigation into, the conduct of a councillor. The effect of the amendment is to expand the operation of the existing offences.

The amendments have sufficient regard to rights and liberties of individuals as they maintain the integrity of the system, by ensuring the current requirements apply to both the assessment and investigation stages of the process. They will help ensure that community confidence in the assessment process is maintained by avoiding the complexities of conflicts arising that are not adequately addressed at an early stage in the complaints process. The penalties in relation to conflicts of interest during the assessment process are consistent with the existing penalties applying in relation to the investigation process. Consequences are proportionate and relevant to the actions to which the consequences are applied.

Orders (local government) – unsuitable meeting conduct of chairperson of a local government meeting

Section 150H of the LGA defines a councillor's conduct as 'unsuitable meeting conduct' if the conduct happens during a local government meeting and contravenes a behavioural standard. Section 150I of the LGA prescribes the disciplinary orders a chairperson may make against a councillor for unsuitable meeting conduct. The LGA does not provide for the unsuitable meeting conduct of a chairperson. However, a chairperson is carrying out a statutory function and their conduct could in practice be captured as 'misconduct' depending on the circumstances.

As outlined above under 'Unsuitable meeting conduct of chairpersons', clause 40 inserts new section 150IA into the LGA. Section 150IA provides that if during a local government meeting a councillor reasonably believes that the conduct of the chairperson of the meeting is unsuitable meeting conduct, the councillors at the meeting other than the chairperson may by resolution decide whether the conduct of the chairperson is unsuitable meeting conduct. Councillors other than the chairperson may make an order reprimanding the chairperson for the conduct.

It is considered that the amendments have sufficient regard to the rights and liberties of individuals as they are consistent with the current discretion given to the chairperson under section 150I(2)(a) of the LGA to reprimand other councillors. The amendments address issues raised by stakeholders that the legislation should allow the behaviour of the chairperson to be dealt with quickly. Consequences are proportionate and relevant to the actions to which they are applied. Safeguards include a requirement that details of the order must be recorded in the meeting minutes or in a way prescribed by regulation if minutes are not required for the meeting. Further, to ensure clarity, clause 39 amends section 150F of the LGA to provide that model meeting procedures for local governments are to state how a chairperson's unsuitable meeting conduct may be dealt with. Decisions to make an order under new section 150IA are also to be recorded in the councillor conduct register (refer clauses 83 and 84, amendments to sections 150DX and 150DY of the LGA).

Orders (CCT and local government) – public apology

Clause 58 amends section 150AH of the LGA (Disciplinary action against councillor) to provide that a local government which has decided (under section 150AG) that a councillor has engaged in a conduct breach may make an order that the councillor make a public apology, rather than an 'admission', as is currently the case. The apology is made in the way decided by the local government for the conduct. Similarly, clause 64 amends section 150AR of the LGA to provide that the CCT may order a councillor to make a public apology, rather than an admission, for the conduct addressed under section 150AQ of the LGA (Deciding about misconduct and connected conduct breach) and the apology is made in the way decided by the CCT.

The amendments are considered proportionate and relevant as they expand the existing discretion in relation to orders to make an admission, in order to address issues of 'non-apologies' made about conduct. It should also be noted that the South Australian *Local Government Act 1999* includes a similar requirement, that a council may, after inquiring into a complaint, require a member of the council to issue a public apology (in a manner determined by the council) (section 262C(1)(b)).

IA may declare a person a vexatious complainant

The Councillor Conduct Report noted concerns from several stakeholders, including councillors and the Local Government Association of Queensland,[5] that the councillor conduct complaint system has been used improperly by some complainants to inflict personal or political harm. As outlined above under 'Achievement of policy objectives – Vexatious complainants', SDRIC made two recommendations about vexatious complaints and complainants.

Clause 67 inserts new division 8 into chapter 5A, part 3 of the LGA, providing in new section 150AWA that the IA may declare a person as a vexatious complainant, for a period of no more than four years, where they have repeatedly made complaints under chapter 5A and at least three of the complaints have been dismissed by the IA as being frivolous or vexatious complaints or have been made other than in good faith. The IA may publish a notice in the way the IA considers appropriate that states the name of the person and that the person has been declared a vexatious complainant.

Clause 46 new section 150SD (Preliminary assessment of complaints, notices or information) provides that the IA must make a preliminary assessment of a complaint, notice or information. The assessor must dismiss a complaint if satisfied that the person who made the complaint is the subject of a declaration under section 150AWA unless the complaint is permitted under a condition of the declaration or under section 150AWC (Application for permission to make a complaint).

In addition to issues of proportion and relevance, the amendments raise the following FLPs:

- abrogation of established statute law rights and liberties must be justified
- legislation should be reasonable and fair in its treatment of individuals
- the right to privacy
- legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review—LSA section 4(3)(a).

Further, a transitional provision in relation to these amendments raises issues of retrospectivity that are addressed separately below.

The policy intent is to deter vexatious complainants from misusing the councillor conduct complaints system, given the potential for damage to a councillor's reputation. It is considered that the amendments have sufficient regard to the rights and liberties of individuals, for the reasons outlined below.

The amendments address the complex issues identified by SDRIC and are modelled on vexatious applicant processes at sections 114, 115 and 121 of the *Right to Information Act 2009* and sections 127, 128 and 133 of the *Information Privacy Act 2009*. Further, the IA's obligation under clause 86 of the Bill (Amendment of section 150EB (Annual report)) to report on vexatious complainant declarations is equivalent to the requirement for the Information Commissioner to report on the number of vexatious complainant declarations made in a given year under section 7(e) of the *Right to Information Regulation 2009* and section 5(1)(d) of the *Information Privacy Regulation 2009*.

[5] SDRIC report pages 64, 65

The IA must not make a declaration that a person is a vexatious complainant without giving the person a reasonable opportunity to make a submission and then considering the submission. The IA must give the person who is the subject of a declaration an information notice about the decision and, as mentioned above, may publish a notice in the way the IA considers appropriate. The notice must state the reasons for the declaration and the day the declaration ends. As noted above, the declaration is for a period of no more than four years.

New section 150AWB provides that the IA may shorten the period of the declaration or revoke a declaration made under section 150AWA, and that the person the subject of a declaration under section 150AWA may also apply to the assessor to shorten the period of the declaration or revoke the declaration. New section 150AWC provides that a person the subject of a vexatious complainant declaration under section 150AWA may apply to the IA for permission to make a complaint.

In relation to privacy issues, it should be noted that section 114(7) of the *Right to Information Act 2009* and section 127(7) of the *Information Privacy Act 2009* allow publication of the name of the person the subject of a declaration as a vexatious applicant.

To ensure that the power to declare persons vexatious complainants is exercised appropriately, the Bill establishes a scheme to review declarations made under section 150AWA. Clause 69 of the Bill inserts a new part 4A into chapter 5A of the LGA to establish the review scheme. New part 4A replaces chapter 5A, part 4, division 7. A person dissatisfied with a decision of the IA made under sections 150AWA, 150AWB, or 150AWC may initially apply to the IA under new sections 150CO and 150CP for an internal review of the decision. New section 150CR of the LGA provides that a person who is dissatisfied with the outcome of an application for internal review who has been issued a QCAT information notice or is entitled to be issued a QCAT information notice pursuant to section 150CQ of the LGA may apply, as provided under the QCAT Act to QCAT for a review of the review decision.

Suspension/dismissal for failure to complete mandatory training

The only mandatory training currently provided by the department ('*So you want to be a councillor*') is legislated under section 26(2) of the *Local Government Electoral Act 2011*. Completion of this training is required before a person can nominate as a candidate for a local government election.

Recommendation 27 of the Committee report is that the department make training and professional development on the councillor conduct system, including conflicts of interest, compulsory for all local government councillors, mayors and senior council managers. The Government response supported the recommendation in principle.

To implement the Government's policy in relation to Recommendation 27, clauses 7 and 97 of the Bill insert new section 169A in COBA and new section 169A in the LGA to establish a mandatory training scheme for councillors.

In both the COBA and the LGA, new section 169A requires councillors to complete approved councillor training. The training must be completed by a councillor within the period prescribed by regulation, or if the department's chief executive extends the period for

the councillor, within the extended period. The department's chief executive may extend the period for the completion of training only if satisfied it would be appropriate in the circumstances.

The Bill also establishes the consequences for non-compliance with the new mandatory councillor training provisions.

Clause 34 amends section 122 of the LGA (Suspending or removing a councillor) to include an additional ground in the provisions allowing for suspension or dismissal of a councillor. This is that the Minister reasonably believes that a councillor has not complied with the obligations to complete training under a councillor training provision (currently new section 169A in either COBA or the LGA). Clause 33 amends section 120 of the LGA (Precondition to remedial action) to include in a show cause notice proposed suspension of a councillor until the councillor complies with the training provision and proposed dismissal of a councillor for failure to comply within one year after the period required under the councillor training provision.

The amendments provide that councillors suspended because they have not completed mandatory training are not entitled to be paid remuneration other than the remuneration necessary for the councillor to comply with a councillor training provision. In this context remuneration includes allowances, expenses, superannuation contributions and access to facilities and equipment provided by the local government.

The amendments raise the FLP that consequences imposed by legislation should be proportionate. Legislation should also be reasonable and fair in its treatment of individuals. It is considered that the amendments are justified, as they address the significant issues considered by SDRIC, noting its comment that 'an enhanced training regime…is vitally important' (refer 9.3). The intent of the amendments is to reduce the number of complaints entering the councillor conduct complaints system by enhancing the capacity and understanding of councillor obligations. For example, SDRIC commented that councillors must take some responsibility in mastering the requirements of the conflicts of interest provisions and how best to manage them. Further, it should be noted that not all training provided by the department will be prescribed as mandatory. Safeguards are outlined below.

Under section 169A of the COBA and the LGA, a regulation may prescribe the format of the mandatory training, and the requirements about how the training may be successfully completed (refer also below under '*Delegation of legislative power*' in relation to regulations). The department's chief executive must publish a notice about approved mandatory councillor training on the department's website within the period prescribed by regulation. The department's chief executive must also give written notice about the approved mandatory councillor training to each local government and each councillor of the local government within the period prescribed by regulation, and if a councillor is appointed or elected to fill a vacancy in the office of another councillor, must give a written notice to the local government and the councillor within a certain number of business days after the councillor is appointed or elected.

As outlined above, a show cause process will apply to action proposed to be taken under amended section 122. Further, under section 122(3) of the LGA the Governor in Council may give effect to the Minister's recommendation for suspension or dismissal, under a regulation. This would be subject to the scrutiny of the Parliament.

Vacancy of office – IA and CCT members

The Bill expands the circumstances in which the office of the IA or of a CCT member becomes vacant.

Section 150DC of the LGA currently provides the circumstances in which the office of the IA can become vacant, providing at section 150DC(c) that their office may become vacant if they are removed from office by the Governor in Council for misbehaviour or physical or mental incapacity.

Clause 72 removes from section 150DC(c) the grounds of 'misbehaviour or physical or mental incapacity' and instead provides that the grounds for removal are that the person is mentally or physically incapable of satisfactorily performing the IA's functions or has performed the functions incompetently or inefficiently. Under current section 150CW the IA is also not qualified to hold the office of the IA if the person is guilty of misconduct of a type that could warrant dismissal from the public service if the IA were an officer of the public service.

Section 150DR of the LGA currently provides the circumstances in which the office of a member of the CCT can become vacant, providing at section 150DR(c) that their office may become vacant if they are removed from office by the Governor in Council for misbehaviour or physical or mental incapacity.

Clause 79 omits from section 150DR the grounds of 'misbehaviour or physical or mental incapacity' and provides that the grounds for removal are that the CCT member is mentally or physically incapable of satisfactorily performing their functions; or has performed their functions carelessly, incompetently or inefficiently or has engaged in conduct that would result in dismissal from the public service if the member were a public service officer.

The amendments raise the FLP that consequences imposed by legislation should be proportionate. Legislation should also be reasonable and fair in its treatment of individuals. The amendments have sufficient regard to the FLPs as they are consistent with the arrangements for appointees to other Queensland Government entities, including for members of the Mental Health Review Tribunal under the *Mental Health Act 2016* and various offices under the QCAT Act. The standards that the IA and members of the CCT will be required to meet are not unreasonably high for the discharge of their important functions, and the IA and members of the CCT will be able to meet the standards by fulfilling their responsibilities appropriately. It is essential that community confidence in these office holders is maintained.

<u>Administrative power should be sufficiently defined and subject to appropriate review</u>

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review—LSA section 4(3)(a).

Preliminary assessment process

As outlined above, clause 46 of the Bill inserts new division 3A into chapter 5A, part 3 of the LGA, establishing a preliminary assessment process for the IA in considering and responding to complaints, notices, or information. It is intended that a mandatory assessment process will enhance the OIA's assessment of conduct matters and help ensure that resources are focused on addressing substantive councillor conduct matters. New section 150SD of the LGA provides that the IA must make a preliminary assessment of complaints, notices, or information.

Clause 46 also inserts new division 3B into chapter 5A, part 3 of the LGA, which sets out arrangements for the IA to commence a preliminary assessment on the IA's own initiative. New section 150SF provides that if the IA is aware of information indicating that a councillor may have engaged in conduct that may be a conduct breach or misconduct, the IA has not received a complaint, notice or information about the conduct as mentioned in new section 150SA, the IA believes that it is in the public interest to make a preliminary assessment of the information, and the conduct is not likely to involve corrupt conduct, the IA may on its own initiative make a preliminary assessment of the information about the councillor's conduct under new chapter 5A, part 3, division 3A.

To address stakeholder concerns regarding the timeliness and relevance of some complaints, notices, and information submitted to the IA, and in response to Recommendation 1 of the Councillor Conduct Report, the Bill establishes limitation periods for when a complaint may be dealt with by the OIA. This raises the FLP that abrogation of established statute law rights and liberties must be justified.

Clause 46 inserts new section 150SB which provides that complaints, notices, or information about the conduct of a councillor must be made or given to the IA either within one year after the conduct occurred, or within six months after the conduct comes to the knowledge of the person who made the complaint or gave the information or notice but within two years after the conduct occurred. Under new section 150SD, the IA must dismiss a complaint or take no further action if a complaint, notice or information was not made or given within the required period under section 150SB, unless the conduct is suspected corrupt conduct or the complaint, notice or information was not given within the period because of exceptional circumstances.

Clause 46 also inserts new section 150SD(3)(d) which provides that the IA may dismiss a complaint, notice, or information after conducting the new preliminary assessment if the conduct the subject of complaint, notice, or information is a suspected conduct breach, at least 6 months have elapsed since the conduct occurred and it would not be in the public interest to take action.

While the amendments introducing the assessment process make rights and liberties, or obligations, dependent on the administrative power of the IA, it is considered that the power is sufficiently defined given the clear parameters established by the new provisions. Further, in practice the OIA operates an internal review policy in relation to outcomes of its assessments of councillor conduct complaints. While the limitation periods remove established rights, the amendments respond to the views of stakeholders and the Government's policy in relation to recommendation 1 of the Councillor Conduct Report. Key

stakeholders were consulted on an consultation draft of the Bill and further refinements were made to the preliminary assessment process in response to the feedback received.

No appeal from decision of Minister to suspend or dismiss for failure to complete training

The Bill expands the basis on which remedial action can be taken by the Minister in relation to a councillor under chapter 5, part 1 of the LGA by providing for a recommendation for suspension or dismissal of a councillor for failure to complete mandatory training (refer to clauses 33 and 34 and see above under *Suspension/dismissal for failure to complete mandatory training*). Section 114 of the LGA provides that decisions of the Minister under chapter 5, part 1 are not subject to appeal. Accordingly, section 244 of the LGA (Decisions not subject to appeal) applies. Under section 244, unless the Supreme Court decides the decision is affected by jurisdictional error, the decision is final and conclusive and cannot be challenged, appealed against, reviewed, quashed, set aside, or called into question in another way (including under the *Judicial Review Act 1991* (JR Act)) and is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity court on any ground.

It is considered that the limitation on review is justified, and sufficient regard is had to the rights and liberties of individuals, as the limitation is consistent with the existing limitation on review of decisions of the Minister with respect to suspending or dismissing councillors on other grounds, suspending or dissolving a local government and removing unsound decisions (refer to sections 122(1), 123 and 121 respectively of the LGA). Further, it is considered that sufficient safeguards apply. Section 120(2) of the LGA provides that the Minister must give the councillor written notice of the proposal to exercise a power under chapter 5, part 1, division 3. Section 120(3) provides that the notice must state the reasons for exercising the power, any remedial action that the councillor should take and a reasonable time within which the councillor may make submissions to the Minister about the proposal to exercise the power. Under section 120(5) of the LGA, the Minister must have regard to all submissions that are made by the councillor within the time specified in the notice.

Further, under section 244(4) of the LGA, a person who could otherwise have made an application under the JR Act in relation to the decision may still apply for a statement of reasons in relation to it. Where a decision is affected by jurisdictional error, part 5 of the JR Act (Prerogative orders and injunctions) applies to the extent that the decision is affected.

Vexatious complainants – appeal rights

Appeal rights in relation to a declaration by the IA that a person is a vexatious complainant are addressed above under Proportion and relevance - *IA may declare a person a vexatious complainant.*

Delegation of administrative power

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation allows the delegation of administrative power only in appropriate cases and to appropriate persons (section 4(3)(c) of the LSA).

Delegation of local government power

Section 238 of the COBA provides that the council may by resolution delegate powers under the COBA or another Act to an entity prescribed by the section. However, section 238(2) provides that the council may only delegate a power to make a decision about a councillor's conduct pursuant to section 150AG of the LGA to the mayor, the Establishment and Coordination Committee, or a standing committee of the council (i.e., not to the chief executive officer or another local government for the purposes of a joint government activity).

Clause 21 amends section 238(2) of the COBA to expand the matters that may be delegated to the mayor, the Establishment and Coordination Committee, or a standing committee of the council to include a decision under new section 150AEA of the LGA (refer clause 54) to not start or continue an investigation about a councillor's conduct after receiving a referral notice.

Similarly, section 257 of the LGA provides that a local government may, by resolution, delegate a power under the LGA or another Act to an entity prescribed by the section. However, section 257(2) provides that a local government may only delegate a power to make a decision about a councillor's conduct pursuant to section 150AG of the LGA to the mayor or a standing committee of the local government (i.e., not to the chief executive officer or another local government for the purposes of a joint government activity).

Clause 101 amends section 257(2) to expand the matters that may be delegated to the mayor or a standing committee of the local government to include a decision under new section 150AEA of the LGA to not start or continue an investigation about a councillor's conduct.

It is appropriate to provide for delegation of these decision-making powers, as the circumstances in which new section 150AEA (refer clause 54) operates are confined to the following:

- the complainant withdraws the complaint or consents to the investigation not being started or continued;
- the complainant does not comply with a request for further information made under the investigation policy
- there is insufficient information to investigate the conduct.

As noted above, the delegation does not extend to the chief executive officer. It should also be noted that section 238(3) of the COBA and section 257(3) of the LGA provide that the local government must not delegate a power that an Act states must be exercised by resolution.

Retrospectivity

Whether legislation has sufficient regard to the rights and liberties of individuals depends on whether, for example, the legislation does not adversely affect rights and liberties, or impose obligations, retrospectively (section 4(3)(g) of the LSA).

IA may declare a person a vexatious complainant – retrospective application

Clause 102 inserts a new transitional provision at section 353 of the LGA which applies retrospectively. The provision gives the IA a discretion, when making a declaration that a person is a vexatious complainant, to consider a complaint made by the person before the commencement of section 150AWA. It is acknowledged that this provision may restrict a person's ability to make a complaint to the IA about a councillor, for example, if they had previously made complaints about a councillor which the IA had dismissed as being frivolous or vexatious, or not made in good faith. In practice, this could mean that a person who has previously made two vexatious complaints may only have one further opportunity to make a complaint to the IA. It also raises FLP issues in relation to a person's right to make a complaint potentially being removed retrospectively on the basis of their behaviour or conduct prior to the commencement of the provisions and creates a consequence (i.e. a restriction on the ability to make a complaint) which was not known at the time the behaviour occurred.

New section 353 supports the Government's policy position that action needs to be taken to strengthen the IA's ability to deal with vexatious complaints being made about councillors, as they represent a misuse of the councillor complaints system and are currently causing delays and inefficiencies. This issue was highlighted in the Councillor Conduct Report at recommendations 28 and 29.

The retrospective application is considered justified, as the restriction only applies to a person's ability to make further vexatious complaints after the commencement of the provision. It does not impact on the person's right to make a complaint in good faith about a councillor. Further, a declaration cannot be made solely in relation to complaints made by the person before the commencement. In addition, whilst a person will not have been aware of the new proposed consequence of making vexatious complaints, they would have been aware that they were considered to be making frivolous or vexatious complaints. This is because the IA is required, under section 150Z of the LGA, to notify a person if their complaint has been dismissed because it is frivolous and advise them that the making of the same complaint is an offence.

In addition, the Bill provides safeguards in relation to the IA making a vexatious complainants declaration. These include a show cause process, with the IA required to provide a person with a reasonable opportunity to make a submission, and consider that submission before making a declaration and the right for a person to seek a review of IA's decision to make a declaration by QCAT.

Accordingly, the proposed transitional provisions at section 353 are considered to have sufficient regard to the rights and liberties of individuals.

Human rights

The proposed amendments impact on a range of human rights including freedom of movement, freedom of expression, the right to take part in public life, property rights, privacy and reputation, the right to liberty and the right to a fair hearing. These impacts are addressed in the Statement of Compatibility accompanying the Bill.

Institution of Parliament

The FLPs include requiring that legislation has sufficient regard to the institution of Parliament (section 4(2)(b) of the LSA).

Delegation of legislative power

Whether a Bill has sufficient regard to the institution of Parliament depends on whether, for example, the Bill allows the delegation of legislative power only in appropriate cases and to appropriate persons (section 4(4)(a) of the LSA); and sufficiently subjects the exercise of a delegated legislative power to the scrutiny of the Legislative Assembly (section 4(4)(b) of the LSA).

Chief executive power to approve councillor training

As outlined under 'Rights and liberties of individuals', clauses 7 and 97 of the Bill insert new section 169A into the COBA and the LGA to require councillors to complete 'approved councillor training'. The amendments implement the Government's response to Recommendation 27 of the Committee report for the department to make training and professional development on the councillor conduct complaints system (including conflicts of interests) compulsory for all councillors, mayors and senior council managers.

New section 169A(8) defines 'approved councillor training' to mean training: (a) that meets the requirements prescribed by regulation (the format of the training and requirements about how the training may be successfully completed); and (b) approved by the department's chief executive.

It is considered appropriate and reasonable to delegate the power to approve mandatory training for councillors to the department's chief executive as a key role of the department is capacity building of local governments and the department is best placed to determine the essential training needs of councillors to help ensure they can perform their obligations to the best of their abilities and in the best interests of their communities.

While the aim of the proposed amendments is to reduce the number of complaints entering the councillor conduct complaints system by enhancing the capacity and understanding of councillor obligations, including in relation to conflicts of interests, it is not intended that all training provided by the department will be mandatory.

Regulation - mandatory councillor training

As mentioned above, clauses 7 and 97 of the Bill insert new section 169A into the COBA and the LGA to require councillors to complete 'approved councillor training' about their responsibilities.

New section 169A provides for a regulation to prescribe the following matters:

- the period within which councillors must complete approved councillor training
- the period within which the department's chief executive must publish a notice about approved councillor training on the department's website

- the period within which the department's chief executive must give written notice about approved councillor training to local governments and councillors
- the requirements for approved councillor training, including the format of the training and how the training may be successfully completed.

It is considered appropriate to prescribe the range of matters outlined above by regulation to provide the necessary flexibility to successfully implement 'approved councillor training'. This flexibility will ensure consistent training and support from a single 'point of truth' and will enable relevant targeted training as required and delivery of that training at the most opportune times, for example, for new and returning councillors at the start of a local government term; when significant legislation changes occur; when new training needs are identified; or when a councillor is appointed or elected to fill a councillor vacancy.

The period within which approved councillor training must be completed also needs to be flexible to accommodate different subject matters and training delivery methods. The training requirements, including the period for completion, will be published on the department's website and provided to local governments and councillors in writing well in advance of the particular training period commencing. Importantly, the department's chief executive may extend the period for completion of training if satisfied it would be appropriate in the circumstances.

A regulation when made will sufficiently subject the exercise of the delegated legislative power to the scrutiny of the Legislative Assembly.

Regulation - councillor conflict of interest requirements

Clauses 9 and 87 of the Bill amend the COBA section 177C and the LGA section 150EF respectively, to provide that the conflict of interest provisions (chapter 6, part 2, division 5A of the COBA and chapter 5B of the LGA) do not apply in relation to a conflict of interest in a matter if the matter is solely, or relates solely to, preparing, adopting or amending a document prescribed by regulation that the local government is required to prepare or adopt under a 'local government related law' (for Brisbane City Council) or a 'Local Government Act' (for all other local governments).

Presently, it is intended that a councillor will be able to participate in the preparation, adoption and amendment of a limited number of statutory documents to be prescribed by regulation without giving rise to a conflict of interest, for example, the local government's annual operational plan, revenue policy and investigation policy. It is considered appropriate to prescribe these documents by regulation to allow other statutory documents to be added to the prescribed list as considered necessary and appropriate and also that the participation of a councillor in the preparation, adoption or amendment of such documents is appropriate as the documents, by themselves, would not lead to a decision that could be considered not in the public interest.

The amendments will ensure councillors can consistently participate in the ordinary business of their local governments without giving rise to a conflict of interest.

A regulation when made will sufficiently subject the exercise of the delegated legislative power to the scrutiny of the Legislative Assembly.

Regulation - recording of particular orders

Clause 40 of the Bill inserts new section 150IA into the LGA to enable the councillors at a local government or committee meeting (other than the chairperson), to decide by resolution, how the chairperson's conduct is to be dealt with at the meeting. For the section to apply, at least one councillor must reasonably believe the conduct of the chairperson during the meeting is unsuitable meeting conduct.

New section 150IA provides that details about disciplinary orders for the unsuitable meeting conduct of a chairperson must be recorded in the minutes of the meeting, or, if minutes are not required for the meeting, in another way prescribed by regulation. This aligns with current section 150I of the LGA in relation to the chairperson dealing with the unsuitable meeting conduct of a councillor in a local government or committee meeting.

As the CBR and the LGR provide for particular matters about local government and committee meetings, including the keeping of minutes, it is considered appropriate for a regulation to also provide for how information about orders made in relation to a chairperson's unsuitable meeting conduct are to be recorded if there are no minutes of the meeting. This will ensure that records of these important matters are kept for all meetings to enhance transparency and accountability.

A regulation when made will sufficiently subject the exercise of the delegated legislative power to the scrutiny of the Legislative Assembly.

Regulation - local government investigation reports

The following amendments have been included in the Bill to implement the Government's response to Recommendation 19 of the Committee report relating to the publication of external investigation reports about substantiated inappropriate conduct matters.

Clause 56 of the Bill inserts new section 150AFA into the LGA to require a local government, before making a decision at a local government meeting under section 150AG of the LGA about a councillor's suspected conduct breach, to make a summary of the investigation report into the councillor's conduct (with appropriate redactions), publicly available on or before the day and time prescribed by regulation.

Similarly, clause 57 of the Bill inserts new section 150AGA into the LGA to require a local government, after making a decision under section 150AG of the LGA about a councillor's suspected conduct breach, to make the investigation report into the councillor's conduct (with appropriate redactions), publicly available on or before the day and time prescribed by regulation (if the decision is made at a local government or committee meeting); or otherwise, within 10 business days after the decision is made.

Particular requirements relating to the notification of meetings and meeting agendas, the public availability of meeting agendas and related reports, and the public availability of meeting minutes are already provided for in the CBR and the LGR (refer CBR sections 242C, 242D and 242F and the LGR sections 254C, 254D and 254F). It is therefore considered appropriate to prescribe by regulation when a summary of an investigation report and a full investigation report (both with appropriate redactions) are to be made publicly available.

In this regard, clause 106 of the Bill inserts new section 239C into the LGR to prescribe the times when investigation reports that are considered at a local government or committee meeting are to be made publicly available, as follows:

- for a summary of an investigation report:
  - 5 pm on the next business day after notice of the meeting at which the decision under section 150AG of the LGA is to be made is given under CBR section 242C or LGR section 254C, or
  - if the agenda for the meeting is made publicly available under CBR section 242D or LGR section 254D before the day and time mentioned above – the day and time when the agenda is made publicly available
- for a full investigation report:
  - 5 pm on the tenth day after the meeting at which the decision under section 150AG is made, is held, or
  - if minutes for the meeting are made publicly available under CBR section 242F or LGR section 254F before the day and time mentioned above – the day and time when the minutes are made publicly available.

For noting, a summary of an investigation report is not required to be made publicly available if the power to decide the suspected conduct breach is delegated to the mayor or the Establishment and Coordination Committee of Brisbane City Council in accordance with section 238(2) of the COBA or section 257(2) of the LGA. Also, in accordance with new section 150AGA(1)(b) of the LGA, an investigation report not considered at a meeting is required to be made publicly available within 10 business days after the decision is made, i.e. where the matter is delegated to the mayor for decision in accordance with section 238(2) of the COBA or section 257(2) of the LGA.

Any future amendments to the timeframes under new section 239C of the LGR will be sufficiently subjected to the scrutiny of the Legislative Assembly when the amending regulation is made.

Model procedures

Section 150F of the LGA requires the department's chief executive to make model procedures for the conduct of meetings of a local government and its committees, including procedures about how the chairperson of a meeting may deal with a councillor's unsuitable meeting conduct and how the suspected inappropriate conduct of a councillor referred to a local government by the IA must be dealt with at a meeting.

Clause 39 of the Bill amends section 150F to require the model procedures to provide for a new procedure about how the councillors at a meeting may deal with a chairperson's unsuitable meeting conduct. This amendment is a consequence of new section 150IA of the LGA (Dealing with unsuitable meeting conduct of chairperson) at clause 40.

The delegation of legislative power is considered appropriate and necessary given the model procedures are lengthy and simply detail procedural and administrative matters relating to the conduct of local government and committee meetings. To include such detailed information in legislation would be unnecessarily complex and will be even more so once the proposed new procedure relating to the conduct of meeting chairpersons is incorporated.

Also, it is considered appropriate and reasonable to delegate the power to make the model procedures to the department's chief executive, noting that local governments are able to adopt alternative procedures for the conduct of their meetings provided they are not inconsistent with the model procedures (current section 150G of the LGA refers).

The model procedures are readily accessible by local governments and the public generally as the department's chief executive is required to publish the procedures on the department's website under current section 150F of the LGA.

Local government investigation policy

Section 150AE of the LGA requires a local government to adopt, by resolution, an 'investigation policy' about how it deals with the suspected inappropriate conduct of councillors referred by the IA to the local government. Currently, the policy must: (a) include a procedure for investigating the suspected inappropriate conduct of councillors; (b) state the circumstances in which another entity may investigate the conduct; (c) be consistent with the principles of natural justice; and (d) require particular persons to be given notice about the outcome of investigations.

Clause 53 of the Bill amends section 150AE of the LGA to introduce new requirements for a local government's investigation policy, including a procedure about when a local government may decide not to start, or continue, an investigation about a councillor's suspected conduct breach and new natural justice obligations that local governments must abide by.

A local government's investigation policy sets out procedural and administrative matters only and contains detailed information which would become unnecessarily complex to include in legislation once the proposed new requirements are introduced. As such, the delegation of legislative power is considered appropriate and necessary.

Also, it is appropriate that local governments adopt their own investigation policy as this enables each local government to determine the necessary procedural and administrative matters in a way which is appropriate to their size, location and administrative circumstances.

Each local government is required to publish its investigation policy on its website.

Independence of the judiciary

Constitution of the CCT

The FLPs include requiring that legislation should not prejudice the independence of the judiciary. The former Scrutiny of Legislation Committee considered whether legislation to abolish or radically change the composition of particular courts and tribunals amounted to an interference with judicial independence.

Under the current local government complaints framework, if the CCT is hearing a matter about the conduct of a councillor, the CCT is to be constituted by at least two, but not more than three members. The CCT may be constituted by a single member to deal with administrative or procedural matters related to a hearing about the conduct of a councillor (see LGA current section 150AM).

As outlined above under *CCT - Constitution* clause 63 of the Bill amends LGA section 150AM to provide that the CCT may be constituted by up to three members (chosen by the president) for hearing a matter about councillor conduct, and by one member (chosen by the president) for dealing with administrative or procedural matters related to a hearing. Determining whether a matter is sufficiently complex, serious, or contested to require the CCT to be constituted by more than one member will be dealt with administratively by the president.

It is considered that the amendments have sufficient regard to the FLPs as the changes to the constitution of the CCT are not extensive and implement the Government's policy in response to recommendation 8 of the Councillor Conduct Report.

Consultation

The LGAQ, Local Government Managers Australia (Queensland), the Crime and Corruption Commission, the Queensland Law Society, the IA and the CCT were provided with an consultation draft of the Bill and were consulted on the approved policy proposals.

The ECQ was consulted in relation to the amendments about local government election costs.

There was general support for the Bill with some refinements being made as a result of this feedback.

In relation to SDRIC's inquiry, a total of 59 written submissions were received, including submissions from mayors, councillors, council chief executive officers, the LGAQ, the OIA, the CCT, former councillors, the Integrity Commissioner, the Queensland Law Society, the SWQ Regional Organisation of Councils, the Property Council of Australia, community groups and members of the public.

In addition, SDRIC held eight regional public hearings for local government authorities and numerous public sessions in Brisbane where they heard from various parties, including the department, the LGAQ, the OIA, the CCT, the former Integrity Commissioner, BCC, Barcaldine Regional Council, the Queensland Law Society and two community organisations (the SEQ Community Alliance and Brisbane Residents United).

Limited feedback was received in relation to the proposed amendments to the QWBA. The proposed amendments to the QWBA are consistent with the suite of agreements entered into by the State and the QWB precinct consortium parties.

Consistency with legislation of other jurisdictions

The Bill is specific to the State of Queensland and is not uniform with or complementary to legislation of the Commonwealth or another State.

Notes on provisions

Part 1 Preliminary

Clause 1 Short title

Clause 1 provides that this Act may be cited as the *Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023*.

Part 2 Amendment of City of Brisbane Act 2010

Clause 2 Act amended

Clause 2 provides that this part amends the *City of Brisbane Act 2010*.

Clause 3 Amendment of s 21 (Assessment)

Section 21 provides that the change commission established under the *Local Government Act 2009* must notify the public of the results of its assessment of whether a proposed boundary change for a local government area is in the public interest.

Clause 3 omits subsection (6)(a) from section 21 to remove the requirement that the change commission publish a notice of the results of their assessment in a newspaper that is circulating generally in Brisbane.

Clause 4 Amendment of s 107 (Councillors liable for improper disbursements)

Section 107 provides that if a council disburses council funds in a financial year and the disbursement is not provided for in the council's budget for the financial year and is made without the approval of the council by resolution, the council must give a public notice of the disbursement.

Clause 4 omits section 107(2), replacing the requirement to give notice of the disbursement in a newspaper that is circulating generally in Brisbane, with a requirement to publish a notice on the council's website and in other ways the council considers appropriate. The notice must be published within 14 days after the disbursement is made.

Clause 5 Amendment of s 123 (Approving an inspection program)

Clause 5 amends section 123(6) and (9) to replace the requirement that the council give notice of the approval of an inspection program in a newspaper that is circulating generally in Brisbane, with a requirement to publish a notice of the approval on the council's website and in other ways the council considers appropriate.

Clause 6 Amendment of s 166 (Filling a vacancy in the office of another councillor)

Section 166 provides that if the office of a councillor who is not the mayor becomes vacant during the final part of a council's term the vacant office must be filled by the council appointing a person by resolution.[6]

If the former councillor was not elected or appointed to office as a political party's nominee, the chief executive office of the council must within 14 days after the office becomes vacant, invite nominations from any person who is qualified to be a councillor by written notice.

Clause 6 amends section 166(6) to replace the requirement that the written notice be published in a newspaper circulating in Brisbane generally, with a requirement to publish the notice on the council's website and in other ways the chief executive office considers appropriate.

Clause 7 Insertion of new s 169A

Clause 7 inserts a new section 169A (Councillor training) to provide that a councillor must complete approved councillor training about their responsibilities under section 14.

New section 169A(2) and (3) provide that the councillor must complete the training within the period prescribed by regulation, or within an extended period if the department's chief executive is satisfied it would be appropriate in the circumstances, e.g. the councillor could not complete the training due to unavoidable absence.

New section 169A(4) and (5) require the chief executive to publish details about the approved councillor training on the department's website and give written notice to the councils and councillors about the training and must publish a notice about the approved councillor training, including the requirements for successful completion of the training and when it must be completed.

Subsection (7) includes a regulation making power to prescribe the requirements for the training.

Subsection (8) defines the term *approved councillor training.*

Clause 8 Amendment of s 170 (Giving directions to council staff)

Section 170(1) of the *City of Brisbane Act 2010* provides that a mayor may give a direction to the chief executive officer or senior executive employees of the council, subject to the exceptions at sections 170(2), for example, if the direction is inconsistent with a resolution of the council or if it would result in the chief executive officer or senior executive employee contravening a provision of an Act. Section 170(3) provides that no councillor, including the mayor, may give a direction to any other council employee, subject to exceptions. Contravention of subsection (3) is currently misconduct under section 150L of the *Local Government Act 2009*.

6 *City of Brisbane Act 2010*, section 161(5) defines the final part of the council's term as the period that starts 36 months after the last quadrennial local government elections that were held, and ends on the day before the next local government quadrennial elections are held.

Clause 8 inserts a new subsection (4) to provide that the mayor or a councillor must not give a direction in contravention of subsection (2) or (3). Clause 8 also replaces the note under subsection (3) with a note under subsection (4) to clarify that a contravention of subsection (4) is misconduct and could result in disciplinary action being taken against the mayor or a councillor.

Clause 9 Amendment of s 177C (Personal interests in ordinary business matters of council)

Chapter 6, division 5A provides a scheme for the management and disclosure of councillor conflicts of interest.

Section 177C provides that chapter 6, division 5A does not apply in relation to conflicts of interest in a matter if the matter relates to prescribed circumstances.

Clause 9 expands the prescribed circumstances to provide that the disclosure of conflicts of interest scheme does not apply if the matter is solely or relates solely to:

- the preparation, adoption or amendment of a budget for the council;
- preparing, adopting or amending a document prescribed by regulation that the council is required to prepare or adopt under a local government related law;
- the making of a donation to a religious, charitable or non-profit institution or organisation unless a councillor or close associate or related party of the councillor receives a benefit because of the donation that is more than merely a benefit relating to reputation;
- a councillor representing the council in an official capacity at an event held by a government agency or an entity that is wholly owned by the council; or
- 'employment-related or upgraded travel or accommodation' (see clause 22 for definition) undertaken or used by a councillor or close associate or related party of a councillor.

Clause 9(3) defines 'government agency' as the State, a government entity, another local government, another Australian government or an entity of another Australian government, or a local government of another State.

Clause 10 Amendment of s 177E (When councillor has prescribed conflict of interest – sponsored travel or accommodation benefits)

Clause 10 makes consequential amendments to section 177E of the *City of Brisbane Act 2010* to omit the definition of 'employment-related or upgraded'.

Clause 11 Amendment of s 177G (Who is a *close associate* of a councillor)

Section 177G provides that a person is a close associate of a councillor if the person is any of the following in relation to the councillor:

- a spouse;
- a parent, child or sibling;
- a partner in a partnership;
- an employer, other than a government entity;

- an entity, other than a government entity, for which the councillor is an executive officer or board member;
- an entity in which the councillor or any of the persons mentioned above for the councillor has an interest, other than an interest of less than 5% in an entity that is a listed corporation under the *Corporations Act 2001*.

Clause 11 amends section 177G(2) to provide that a person, not only a parent, child or sibling, is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know about the person's involvement in the matter.

Clause 12 Amendment of s 177L (Interests that are not declarable conflicts of interest)

Section 177K of the *City of Brisbane 2010* makes provisions for where a councillor has a declarable conflict of interest in a matter. Section 177L prescribes a number of circumstances where a councillor will not have a declarable conflict of interest in a matter.

Clause 12 expands the circumstances in section 177L to include when the conflict of interest arises solely because:

- the councillor is, or has been, a member of a group of candidates for an election or a previous election with another councillor;
- the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election; or
- the councillor has been elected or appointed at the same time, or has held office during the same period, as another councillor.

Clause 13 Amendment of s 177M (Who is a related party of a councillor)

Section 177M provides that a person is a related party of a councillor if the person is any of the following in relation to the councillor:

- a close associate of the councillor (see definition of 'close associate' at section 177G);
- a parent, child or sibling of the councillor's spouse;
- a person who has a close personal relationship with the councillor; or
- an entity in which the councillor or any of the above persons has an interest.

The concept of a related party may be relevant in determining whether a councillor has a declarable conflict of interest in a matter (section 177L).

Section 177M(2) currently provides that a parent, child or sibling of the councillor's spouse, or a person who has a close personal relationship with the councillor, is a related party of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know, about the parent's, child's, sibling's or person's involvement in the matter.

Clause 13 amends section 177M(2) to provide that a person is a related party in relation to matter only if the councillors knows, or ought reasonably to know, about the person's involvement in the matter.

Clause 14 Insertion of new s 177MA (Councillor must not participate in decisions unless authorised)

Clause 14 inserts new section 177MA to clarify the consequences for when a councillor has a declarable conflict of interest in a matter.

New section 177MA provides that if a councillor has a declarable conflict of interest in a matter, they must not participate in a decision relating to the matter, unless the councillor participates:

- in compliance with a decision made under section 177P (other councillors have decided by resolution that the councillor may participate in the decision); or
- under an approval given under section 177S (Minister has approved that a councillor participates in deciding a matter).

A note is included to indicate that contravention of the section is misconduct and could result in disciplinary action being taken against a councillor.

Clause 15 Amendment of s 177N (Obligation of councillor with declarable conflict of interest)

Clause 15 makes consequential amendments to section 177N in light of the provisions at new section 177MA (Councillor must not participate in decisions unless authorised). Clause 15 also updates references to section 150L of the *Local Government Act 2009* to reflect changes to the definition of misconduct.

Clause 16 Amendment of s 177R (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest)

Section 177R provides a procedure for deciding matters at a council meeting where there is no quorum due to one or more councillors having a prescribed or declarable conflict of interest. Currently, the council must:

- delegate deciding the matter under section 238 of the *City of Brisbane Act 2010*;
- decide by resolution to defer the matter to a later meeting; or
- decide by resolution not to decide the matter, and to take no further action in relation to the matter.

Clause 16 amends section 177R to clarify that a council cannot decide by resolution not to decide a matter, and to take no further action in relation to the matter, if the *City of Brisbane Act 2010* or another Act provides that the council must decide the matter.

Clause 17 Amendment of s 177T (Duty to report another councillor's prescribed conflict of interest or declarable conflict of interest)

Clause 17 makes consequential amendments to section 177T to reflect the provisions at new section 177MA (Councillor must not participate in decisions unless authorised) and amendments to the definition of misconduct.

Clause 17(3) inserts new section 177T(4) to clarify that if a councillor has a belief or suspicion that more than one councillor has a prescribed conflict of interest or declarable

conflict interest, the councillor must comply with their obligation to notify the person presiding at the meeting or the chief executive officer in relation to each councillor separately.

Clause 18 Amendment of s 177U (Obligation of councillor if conflict of interest reported under s 177T)

Clause 18 clarifies that if councillors, at a meeting, are deciding whether more than one councillor has a prescribed conflict of interest or declarable conflict of interest in a matter, the councillors must make separate decisions in relation to each councillor.

Clause 19 Amendment of s 198D (Dishonest conduct of councillor or councillor advisor)

Section 198D provides that a councillor or councillor advisor must not contravene a 'relevant integrity provision' with intent to dishonestly obtain a benefit for a person, or dishonestly cause detriment to another person (maximum penalty - 200 penalty units or 2 years imprisonment).

Clause 19 amends the definition of 'relevant integrity provision' to include new section 177MA (Councillor must not participate in decisions unless authorised).

Clause 20 Amendment of s 220 (Substituted service)

Clause 20 amends section 220 to provide that a document may be served on a person whose whereabouts are unknown by the council by either publishing a notice that contains a copy of the document on the council's website, or by publishing a notice that contains a summary of the document in a newspaper circulating generally throughout the State and in the gazette.

Clause 21 Amendment of s 238 (Delegation of council powers)

Clause 21 amends section 238(2) to expand the matters that may be delegated to the mayor, the Establishment and Coordination Committee, or a standing committee of the council to include a decision under both new section 150AEA or 150AG of the *Local Government Act 2009* to withdraw from investigating and adjudicating a councillor conduct matter referred to the council by the Independent Assessor.

Clause 22 Amendment of sch 2 (Dictionary)

Clause 22 amends schedule 2 (Dictionary) to provide new or amended definitions for 'employment-related or upgraded travel or accommodation' and 'LGAQ Ltd'.

Part 3 Amendment of City of Brisbane Regulation 2012

Clause 23 Regulation amended

Clause 23 provides that this part amends the *City of Brisbane Regulation 2012*.

Clause 24 Amendment of s 178 (Councillors)

Clause 24 amends section 178 to provide that a council's annual report must include the following additional information:

- the number of unsuitable meeting conduct of chairperson orders made by the council (*Local Government Act 2009*, section 150IA(2)(b));
- the number of suspected conduct breach referral notices received from the Independent Assessor (*Local Government Act 2009,* section 150AC(1));
- for suspected conduct breaches that are the subject of a referral notice, the total number of suspected conduct breaches and total number of suspected conduct breaches for which an investigation was discontinued or not started;
- the number of decisions made, and the number of matters not decided, by the council pursuant to section 150AG(1) of the *Local Government Act 2009* (Decisions about conduct breaches); and
- the average time taken in making a decision pursuant to section 150AG(1) of the *Local Government Act 2009*.

Clause 24 also makes consequential amendments to replace the term 'inappropriate conduct' with the term 'conduct breach', and to update a section reference.

Clause 25 Amendment of s 242D (Public availability of agendas)

Section 242D provides that a related report is to be made publicly available in the circumstances set out in the provision. A related report is a report or other document relating to an item on the agenda for a council meeting that is available to councillors or committee members for the purposes of the meeting.

Clause 25 amends section 242D to provide that a related report does not include an investigation report or a summary of an investigation report required to be made publicly available under either section 150AFA or 150AGA of the *Local Government Act 2009*.

Clause 26 Amendment of s 242H (Recording of reasons for particular decisions)

Section 242H requires that if a decision made at a council meeting is inconsistent with prescribed criteria set out in the provision, the chief executive officer must ensure the minutes of the council meeting include a statement of the reasons for the decision.

Clause 26 amends section 242H to include that where the council makes a decision pursuant to section 150AG of the *Local Government Act 2009* about a conduct matter that is inconsistent with a recommendation made by the entity who conducted the investigation, the chief executive officer must ensure the minutes of the council meeting include a statement of the reasons for not adopting the recommendation or advice.

Clause 27 Amendment of s 242J (Closed meetings)

Section 242J permits a council, or committee, to decide by resolution that all or part of a meeting be closed to the public, if they considered it necessary in order to discuss one or more of the circumstances prescribed in section 242J(3).

Clause 27 amends section 242J(3) to include that a council, or committee, may decide to close all or part of a meeting to discuss an investigation report.

Part 4 Amendment of Local Government Act 2009

Clause 28 Act amended

Clause 28 provides that this part amends the *Local Government Act 2009*.

Clause 29 Amendment of s 19 (Assessment)

Clause 29 omits section 19(6)(a) to remove the requirement that the change commission publish a notice of the results of a proposed boundary change assessment in a newspaper that is circulating generally in the local government area.

Clause 30 Amendment of s 87 (Community forums)

Clause 30 amends section 87 to provide that the name of a community forum established by an indigenous regional council, and the names of the members of the community forum, are not required to be published in a newspaper, and rather are to be published on the council's website and in other ways the council considers appropriate.

Clause 31 Amendment of s 88 (Members of a community forum)

Clause 31 amends section 88 to remove the requirement that an expression of interest for the appointment of members to a community forum must be advertised in a newspaper circulating generally in the council's local government area.

Clause 31 provides that an expression of interest advertisement is to be advertised on the indigenous regional council's website and in other ways the council considers appropriate.

Clause 32 Amendment of s 110 (Councillors liable for improper disbursements)

Section 110 provides that if a local government disburses local government funds in a financial year and the disbursement is not provided for in the local government's budget for the financial year and is made without the approval of the local government by resolution, the local government must give the public notice.

Clause 32 omits section 110(2), replacing the requirement that the local government give notice of the disbursement in a newspaper that is circulating generally in the local government area, with a requirement to publish a notice on the local government's website and in other ways the local government considers appropriate. The notice must be published within 14 days after the disbursement is made.

Clause 33 Amendment of s 120 (Precondition to remedial action)

Section 120 prescribes the actions to be taken by the Minister prior to exercising a power of remedial action under the division.

Clause 33 amends section 120 to insert a new subsection (3A) to provide that if the Minister proposes to exercise a power in relation to a failure by a councillor to comply with a council training provision, the notice must state:

- for a failure to comply within the required timeframe – that the Minister proposes to suspend the councillor until they comply with the training provision; or
- for a failure to comply within one year after the required timeframe – that the Minister proposes to dismiss the councillor.

Clause 33 inserts a definition for 'councillor training provision' by reference to section 169A and section 169A of the *City of Brisbane Act 2010.*

Clause 34 Amendment of s 122 (Removing a councillor)

Section 122 provides for the circumstances in which the Minister may recommend to the Governor in Council that a councillor be suspended or dismissed from their office.

Clause 34 amends the heading to include a reference to suspending a councillor. *Clause 34* also amends section 122 to include a reference to the new power for the Minister to suspend or dismiss a councillor because the Minister reasonably believes the councillor has not complied with the obligation to complete training.

Clause 34 provides that a councillor who is suspended from office because they have failed to comply with a mandatory councillor training provision is not entitled to be paid remuneration, other than necessary to comply with the training provision. New section 122(5) defines 'remuneration' as including allowances, expenses, superannuation contributions, and access to facilities and equipment provided by the local government.

Clause 35 Amendment of s 134 (Approving an inspection program)

Section 134 provides that the local government may by resolution approve property inspection programs, and that the local government must give the public notice of the approval of an inspection program, at least 14 days, but not more than 28 days, before the approved inspection program starts.

Clause 35 amends section 134(6), replacing the requirement that a local government give notice of the approval of the inspection program in a newspaper that is circulating generally in the local government area, with a requirement to publish a notice of the approval on the local government's website and in other ways the local government considers appropriate.

Clause 36 Amendment of s 150B (Overview of chapter)

Clause 36 amends section 150B to include references to the Independent Assessor's new preliminary assessment function and to replace references to 'inappropriate conduct' with 'a conduct breach'.

Clause 36 also amends section 150B to reflect changes to, and clarify existing elements of, the councillor conduct framework, including that:

- the conduct of a chairperson at a local government meeting that does not meet the appropriate standards of behaviour may be dealt with by the other councillors at the meeting;

- the Independent Assessor must make a preliminary assessment of complaints, notices or information relating to the conduct of councillors;
- the Independent Assessor may, after making a preliminary assessment, refer a suspected conduct breach of a councillor to the local government to be dealt with; and
- the Independent Assessor may, after investigating a councillor's conduct, apply to Councillor Conduct Tribunal to decide whether the councillor engaged in misconduct or a conduct breach, and if the Councillor Conduct Tribunal decides the councillor engaged in misconduct or a conduct breach, the action to be taken to discipline the councillor.

Clause 37 Amendment of s 150C (Definitions for chapter)

Clause 37 amends section 150C to replace the definition of 'inappropriate conduct' with 'conduct breach' and insert new definitions for 'investigation report' and 'local government official'.

Clause 38 Insertion of new s 150CAB

Clause 38 inserts new section 150CAB (Application of chapter) to provide that the councillor conduct framework (Chapter 5A) does not apply in relation to a person who was, but is no longer, a councillor, unless the person has engaged in conduct that is suspected corrupt conduct.

Clause 39 Amendment of s 150F (Department's chief executive to make model procedures)

Clause 39 amends section 150F to provide that the model procedures for the conduct of local government meetings must state how the councillors at a local government meeting may deal with the chairperson's unsuitable meeting conduct.

Clause 39 also replaces the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 40 Insertion of new s 150IA (Dealing with unsuitable meeting conduct of chairperson)

Clause 40 inserts new section 150IA to establish a scheme for councillors at a local government meeting to deal with unsuitable meeting conduct by the chairperson.

New section 150IA mirrors the arrangements in section 150I for dealing with unsuitable meeting conduct by a councillor during a local government meeting, except that orders under new section 150IA are required to be made by a resolution of the council.

New section 150IA provides that the councillors at local government meeting, other than the chairperson, may by resolution decide that the conduct of the chairperson is unsuitable meeting conduct and, make an order reprimanding the chairperson for the conduct.

If minutes are not required for the meeting, details of the order must be recorded in another way as prescribed by regulation.

Subsection (4) inserts a note referencing the requirement to record orders in the councillor conduct register (sections 150DX and 150DY).

Clause 41 Amendment of s 150J (Unsuitable meeting conduct that becomes inappropriate conduct)

Clause 41 amends section 150J to expand the provision's application to include unsuitable meeting conduct of a chairperson. The local government is not required to notify the Independent Assessor the unsuitable meeting of a councillor, including the chairperson, and may deal with the conduct under section 150AG, as if an investigation had been conducted.

Clause 41 also amends section 150J to replace the term 'inappropriate conduct' with 'conduct breach'.

Clause 42 Amendment of s 150K (What is inappropriate conduct)

Clause 42 makes consequential amendments to replace the definition of 'inappropriate conduct' with 'a conduct breach' and to incorporate unsuitable meeting conduct by the chairperson.

Clause 43 Amendment of s 150L (What is misconduct)

Clause 43 amends the definition of misconduct at section 150L. The amendments remove the following conduct from the definition of misconduct:

- a breach of trust by a councillor is misconduct; and
- a breach of a local government's acceptable requests guidelines.

Clause 43 provides that following conduct is misconduct:

- non-compliance with an Act by a councillor
- a councillor with a declarable conflict of interest in a matter participating without authorisation (new section 177MA of the COBA and new section 150EPA of the LGA), and
- the mayor or another councillor giving a direction in contravention of section 170(2) or (3), e.g. a direction which is inconsistent with a resolution of the council or would result in the chief executive officer contravening an Act.

Clause 43 also replaces the term 'inappropriate conduct' with 'conduct breach'.

Clause 44 Replacement of s 150M (Application to former councillors)

Clause 44 inserts a new section 150M to deal with particular conduct of a former councillor if they are elected or appointed after vacating office.

New section 150M applies to a person whose office as councillor is vacated, before a preliminary assessment, investigation or an application to the Councillor Conduct Tribunal in relation to a complaint against them is decided, but who is elected or appointed as a councillor for a new term of office within 12 months.

New section 150M(2) provides that, as soon as practicable after the person is elected or appointed, the Independent Assessor must:

- if a preliminary assessment had not been completed in relation to the initial complaint, undertake a new preliminary assessment, under division 3A, of the complaint;

- if an investigation had not been completed in relation to the initial complaint, investigate the councillor's conduct, as if the initial investigation had not been started; or
- if the Councillor Conduct Tribunal has not decided the application in relation to the relevant conduct, the Independent Assessor must apply to the tribunal, as if the initial application had not been made.

New section 150M(3) provides that the Independent Assessor or local government may consider any information obtained during the initial investigation of the relevant conduct.

Clause 45 Amendment of s 150Q (Further information about complaints)

Section 150Q provides that the Independent Assessor can request further information from a complainant where, in the Independent Assessor's opinion, the complaint does not include sufficient information for them to properly investigate the complaint.

Clause 45 makes consequential amendments to section 150Q to reflect the Independent Assessor's new preliminary assessment function.

Clause 45 also amends section 150Q(2) to specify that if the Independent Assessor issues a complainant with a notice to provide further information about a complaint, the complainant must do so within 10 business days after the notice is given.

Section150Q(4) is amended to prescribe that if the Independent Assessor decides not to make a preliminary assessment under section 150Q(3), the Independent Assessor must give the person who made the complaint a notice. This notice must state that the Independent Assessor has decided that there is insufficient information in the complaint and decided not to make the assessment.

Clause 46 Insertion of new ch 5A, pt 3, divs 3A and 3B

Clause 46 inserts a new chapter 5A, part 3, divisions 3A to 3B to provide for the Independent Assessor's new preliminary assessment function and to permit the Independent Assessor to make a preliminary assessment on its own initiative, respectively.

New section 150SA (Application of division) provides that Division 3A applies if:
- a complaint about the conduct of a councillor is made or referred to the Independent Assessor under Division 2;
- a local government official gives the Independent Assessor a notice about a councillor's conduct under Division 3; or
- a local government gives information to the Independent Assessor indicating a councillor may have engaged in misconduct under section 150AF(3).

For simplicity, complaints, notices and information are referred to as complaints in this section.

New section 150SB (Period for making complaint or giving notice or information) provides that a complaint about the conduct of a councillor must be made or given to the assessor:
- within one year after the conduct occurred; or

- within six months after the conduct comes to the knowledge of the complainant, but within two years after the conduct occurred.

New section 150SC (Assessor may ask for information) applies if, in the Independent Assessor's opinion, the complaint, notice or information does not include sufficient information for the assessor to make a preliminary assessment of the complaint, notice or information. The Independent Assessor may require the local government or the local government official who gave a notice under division 3, to provide any information required to make a preliminary assessment. Subsection (3) provides that the Independent Assessor's request must state that the information must be given to the assessor within 10 business days after the request is made.

A note is inserted to clarify that the Independent Assessor may also ask a person who made a complaint for further information under section 150Q (Further information about complaints).

New section 150SD (Preliminary assessment of complaints, notices or information) provides that the Independent Assessor must make a preliminary assessment of complaints it receives.

Section 150SD provides that the Independent Assessor must, following a preliminary assessment, dismiss a complaint or decide to take no further action in certain circumstances. These circumstances are:

- if dealing with the complaint would not be in the public interest;
- the complaint was not made or given with the prescribed timeframe at section 150SB, unless the conduct is suspected corrupt conduct or the complaint, notice or information was not given within the period because of exceptional circumstances;
- the conduct was engaged in by the councillor to comply with, honestly and without negligence, a guideline made by the department's chief executive;
- the conduct relates solely to behaviour engaged in by the councillor in a personal capacity unless the conduct is suspected corrupt conduct;
- the conduct does not constitute a conduct breach or misconduct;
- the councillor's office becomes vacant – unless the conduct is suspected corrupt conduct;
- the person who made the complaint is the subject of a vexatious complainant declaration under section 150AWA and the complaint is not permitted under a condition of the declaration or under section 150AWC.

Also, the Independent Assessor may dismiss the complaint or decide to take no further action if satisfied:

- the conduct has already been, is being or may be dealt with by another entity;
- the complaint is frivolous or vexatious, was made other than in good faith (for example, a complaint made for a mischievous purpose or maliciously), or lacks substance or credibility;
- dealing with the complaint would be an unjustifiable use of resources;
- at least 6 months have elapsed since the conduct breach the subject of the complaint occurred, and it would not be in the public interest to take action; or
- there is insufficient information to properly make a preliminary assessment of the complaint.

New section 150SD(4) provides that if the complaint is not dismissed under this section, the Independent Assessor must decide:

- if the Independent Assessor reasonably suspects the conduct is a conduct breach, to refer the suspected conduct breach to the local government to deal with;
- to investigate the councillor's conduct;
- to not deal with the complaint and make any recommendation the Independent Assessor considers appropriate, e.g. that the councillor attend training, counselling or mediation.

New section 150SD(5) outlines the matters the Independent Assessor may have regard to when making a preliminary assessment. These include:

- any reasons for, or factors relevant to, the conduct, e.g. whether the councillor completed relevant training and Aboriginal traditions or Island customs of the councillor;
- any steps taken by the councillor to mitigate or remedy the effects of the conduct;
- the consequences, both financial and non-financial, resulting from the conduct.

New section 150SE (Notice of preliminary assessment) outlines the notification requirements if the Independent Assessor decides to dismiss the complaint, or not to take any further action, under section 150SD(2) or (3); or not to deal with a complaint under section 150SD(4)(c).

As soon as practicable after making the decision, the Independent Assessor must give a notice to:

- the person who made the complaint, if the assessor has the person's contact details (division 2); and
- the local government or the local government official who gave the notice (division 3 or section 150AF(3).

If the Independent Assessor has made a recommendation under section 150SD(4)(c), the Independent Assessor must also give the notice to the councillor the subject of the complaint. The Independent Assessor may also give the councillor the subject of the complaint the notice if they ask for a copy.

New section 150SD(4) prescribes the content of the notice. The notice must:

- state the date the complaint was made or the notice or information was given;
- briefly summarise the conduct the subject of the complaint;
- briefly state the decision and the reasons for the decision;
- if an action is taken under section 150SD(4)(c), state the action taken; and
- if a complaint has been dismissed because it is frivolous, advise the complainant that, if they make the same or substantially the same complaint to again, the person commits an offence punishable by a fine of up to 85 penalty points.

New section 150SF (Assessor may make preliminary assessment on own initiative) provides the conditions under which the Independent Assessor may make a preliminary assessment on their own initiative. The conditions include if the Independent Assessor is aware of information that indicates a councillor may have engaged in conduct that may be a conduct breach or misconduct (e.g. through media reports). The Independent Assessor must reasonably believe that it is in the public interest to make a preliminary assessment and that the conduct is not likely to involve corrupt conduct.

New section 150SF(3) states that this chapter applies in relation to the councillor's conduct as if the information were given to the assessor on the day the assessor became aware of the information.

Clause 47 Replacement of s 150T (Assessor must investigate conduct of councillor)

Clause 47 inserts new section 150T to reflect the Independent Assessor's new preliminary assessment functions. The Independent Assessor must investigate the conduct of a councillor if they have decided to investigate the conduct of a councillor under section 150SD(4)(b) or the conduct is suspected corrupt conduct that is the subject of a complaint referred to the Independent Assessor by the Crime and Corruption Commission.

New section 150T(2) provides that the Independent Assessor must discontinue an investigation, if the office of the councillor becomes vacant during the investigation, unless the assessor is satisfied the conduct is suspected corrupt conduct.

Clause 48 Omission of s 150U (Assessor may initiate investigation)

Clause 48 omits section 150U to reflect the Independent Assessor's preliminary assessment function.

Clause 49 Amendment of s 150W (Decision about conduct)

Clause 49 makes consequential amendments to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 49 also inserts a new subsection providing that after investigating the conduct of a councillor, the Independent Assessor may decide not to deal with the conduct and recommend the councillor attend training or mediation. The option for the assessor to take no further action in relation to the councillor's conduct under section 150Y is retained.

Clause 49 removes section 150W(2) to reflect that the Councillor Conduct Tribunal's power to undertake an investigation on behalf of a local government under section 150DLA has been removed.

Clause 50 Amendment of s 150Y (Decision to take no further action)

Clause 50 amends section 150Y to provide that the Independent Assessor may elect to take no further action about the conduct of a councillor when taking further action would not be in the public interest. The term 'inappropriate conduct' is also replaced with the term 'conduct breach'.

Clause 51 Amendment of s 150AA (Notice and opportunity for councillor to respond)

Clause 51 amends section 150AA to provide that the Independent Assessor is only required to give notice to a councillor and provide an opportunity to respond, if the Independent Assessor is considering whether to apply to the Councillor Conduct Tribunal about a

councillor's conduct. The existing requirements in relation to referrals to a local government are removed.

In addition to the existing notification requirements, new section 150AA(2)(ca) provides that the notice to the councillor must state the order that, in the Independent Assessor's opinion, would be appropriate under section 150AR if the Councillor Conduct Tribunal decides the councillor has engaged in a conduct breach or misconduct.

Section 150AA provides that the Independent Assessor must consider any statement or information given to them by the councillor under the notice described above before deciding to make an application pursuant to section 150W.

Clause 52 Amendment of s 150AC (Referral of suspected inappropriate conduct)

Clause 52 amends section 150AC to remove the Independent Assessor's power to recommend how a local government may investigate or deal with the conduct that has been referred. References to the term 'inappropriate conduct' are also replaced with the term 'conduct breach'.

Clause 53 Amendment of s 150AE (Local government must adopt investigation policy)

Section 150AE requires local governments to adopt a policy about how it deals with the suspected conduct breaches referred by the Independent Assessor to the local government to be dealt with (an investigation policy).

Clause 53 amends section 150AE(2) which specifies what the investigation policy must contain. The investigation policy must now require the local government to prepare a report about each investigation and include a procedure about when the local government may decide to discontinue or not start an investigation under new section 150AEA.

Clause 53 also makes consequential amendments to remove references to the Councillor Conduct Tribunal investigating the conduct of a councillor on a local government's behalf.

Clause 53 amends section 150AE(3) to provide that the investigation policy must require the local government to:

- give the councillor information about the suspected conduct, including details about the evidence of the conduct;
- give the councillor a notice if an investigation is discontinued or not started;
- give the person who made the complaint, if the contact details of the person are known, a notice if an investigation is discontinue or not started;
- give the councillor the preliminary findings of the investigation before preparing an investigation report about the investigation;
- allow the councillor to give evidence or a written submission to the local government about the suspected conduct and the preliminary findings;
- consider any evidence and written submission given by the councillor, in preparing the investigation report; and
- include in an investigation report, a summary of any evidence given by the councillor and a full copy of any written submission given by the councillor.

Clause 53 also amends section 150AE to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 54 Insertion of new s 150AEA (Local government may decide not to start, or discontinue, investigation)

Clause 54 inserts new section 150AEA to provide that a local government may decide not to start, or to discontinue, an investigation about a councillor's conduct referred by the Independent Assessor, if

- the complainant withdraws the complaint or consents to the investigation being discontinued or not started;
- the complainant does not comply with a request for further information; or
- there is insufficient information to investigate the conduct.

New section 150AEA also provides that a local government must discontinue an investigation if the office of the councillor becomes vacant during the investigation. If an investigation is discontinued under this section, the local government must not make a decision under section 150AG (Decision about conduct breach).

Clause 55 Amendment of s 150AF (Investigating suspected inappropriate conduct)

Section 150AF provides that a local government must investigate councillor conduct matters that have been referred by the Independent Assessor pursuant to section 150W.

Clause 55 provides that a local government must, when conducting an investigation, comply with the investigation policy.

Clause 55 also makes consequential amendments to reflect the Independent Assessor's new preliminary assessment functions, and to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 56 Insertion of new s 150AFA

Clause 56 inserts new section 150AFA to require the publication of summaries of investigation reports given to local governments to assist in making decisions about conduct matters pursuant to section 150AG.

Before making a decision at a local government meeting about a councillor conduct matter, local governments must prepare a summary of investigation reports and make the summary publicly available on or before the day and time prescribed by regulation.

Summaries of investigation reports must include the following:

- the name of the councillor whose conduct has been investigated;
- a description of the alleged conduct;
- a statement of the facts established by the investigation;
- a description of how natural justice was afforded to the councillor during the conduct of the investigation;
- a summary of the findings of the investigation; and
- any recommendations made by the entity that investigated the conduct.

However, the following information must not be made publicly available:

- the name of the complainant, or any other person other than the relevant councillor or information that could reasonably be expected to result in identifying a person other than the councillor;
- the name of a person, other than the councillor, who provided information for the purposes of the investigation of the conduct matter, or information that could reasonably be expected to result in identifying the person;
- any other information the local government is entitled to require to keep confidential under a law, e.g. documents subject to legal professional privilege; or information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2020.*

Clause 56 specifies that new section 150AFA does not apply in relation to a decision of Brisbane City Council's Establishment and Coordination Committee under the *City of Brisbane Act 2010*.

Clause 57 Insertion of new s 150AGA

Clause 57 inserts new section 150AGA to require the publication of investigation reports given to local governments to assist in making decisions about conduct matters pursuant to section 150AG.

After making a decision about the councillor's conduct under section 150AG, the local government must make the investigation report publicly available on or before the day and time prescribed by regulation (if the decision is made at a local government meeting), or otherwise within 10 business days after the decision is made.

The following information must not be made publicly available in an investigation report:

- the name of the complainant, or any other person other than the relevant councillor or information that could reasonably be expected to result in identifying a person other than the councillor;
- the name of a person, other than the councillor, who provided information for the purposes of the investigation of the conduct matter, or information that could reasonably be expected to result in identifying the person or any other person, other than the councillor;
- the submission or affidavit of, or a record or transcript of information provided orally by a person mentioned above; or
- any other information the local government is entitled or required to keep confidential under a law.

This information must not be published even if it is required to be declared under section 150EQ, or section 177N of the *City of Brisbane Act 2010*, or otherwise required to be disclosed under the *Local Government Act 2009* or the *City of Brisbane Act 2010*.

However, the investigation report must include the name of the person who made the complaint if the person is a councillor or the chief executive officer of a local government and the person's identity as the complainant was disclosed at the meeting at which the report for the investigation was considered.

Clause 58 Amendment of s 150AH (Disciplinary action against councillor)

Clause 58 amends section 150AH to provide that a local government may order a councillor to make an apology in the way decided by the local government for the conduct, instead of requiring the councillor to make a public admission that the councillor has engaged in inappropriate conduct.

Clause 58 also amends section 150AH to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 59 Insertion of new s 150AHA

Clause 59 inserts new section 150AHA to require local governments to give a notice to the Independent Assessor, as soon as practicable, after the local government decides to discontinue or not start investigating a councillor's conduct under new section 150AEA, or after making a decision about whether or not the councillor has engaged in a conduct breach under section 150AG.

The notice must state the local government's decision, the reasons for the decision, and if an order is made under section 150AH (disciplinary action), details about the order.

Clause 60 Amendment of s 150AK (Copy of application must be given to councillor)

Clause 60 amends section 150AK to remove the requirement that the Independent Assessor must include the day, time and place of the hearing on the copy of the application to the Councillor Conduct Tribunal it gives to the councillor. This information will instead be provided to the relevant councillor by the Councillor Conduct Tribunal.

Clause 60 also removes the timeframes for providing a copy of the application to the councillor and clarifies that reasonably attempts to provide a copy of the application to the councillor include giving a copy to the local government to give to the councillor.

Clause 61 Insertion of s 150AKA

Clause 61 inserts new section 150AKA to provide that the Independent Assessor may, at any time before the application has been decided, withdraw the application to the Councillor Conduct Tribunal to conduct a hearing, if the assessor is satisfied that it is in the public interest to do so.

New section 150AKA specifies that the whole application must be withdrawn by the assessor if the councillor's office becomes vacant before the application has been decided.

If the application is withdrawn, in whole or in part, the Independent Assessor must, as soon as practicable, give notice to the Councillor Conduct Tribunal advising of this, together with the reasons for the withdrawal, and give a copy of that notice to the person who made the complaint, (if the assessors has their contact details), the councillor, and the local government.

Clause 62 Amendment of s 150AL (Conduct tribunal must give notice to parties and conduct hearing)

Clause 62 amends the section's heading to read 'Conduct tribunal must give notice to parties and conduct hearing'.

Clause 62 also provides that the Councillor Conduct Tribunal must provide the parties to a conduct hearing with a notice at least 14 days prior to the hearing that states the day, time, and place of the hearing. If the Councillor Conduct Tribunal is unable to give the notice to the councillor, they may take other reasonable steps to ensure the councillor is aware of the day, time, and place of the hearing including by giving the notice to the local government to give to the councillor.

Clause 63 Amendment of s 150AM (Constitution of conduct tribunal)

Clause 63 amends section 150AM to provide that the Councillor Conduct Tribunal is to be constituted by not more than three members when hearing a matter about the conduct of a councillor, and by one member when dealing with an administrative or procedural matter related to hearing a matter.

Clause 64 Amendment of s 150AR (Disciplinary action against councillor)

Section 150AR provides for the different actions that the Councillor Conduct Tribunal may decide to take.

Clause 64 amends section 150AR to prescribe that the Councillor Conduct Tribunal may make an order that the councillor make an apology, in the way decided by the conduct tribunal for the conduct, instead of making an admission.

Clause 64 also makes consequential amendments to reflect that Chapter 5A no longer applies to former councillors and to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 65 Amendment of s 150AS (Notices and publication of decisions and orders)

Clause 65 amends section 150AS to require that following a decision under section 150AQ(1)(a) (whether a councillor has engaged in misconduct and/or a conduct breach) or 150AR(1)(b) (take action to discipline the councillor for the misconduct and/or conduct breach), the Councillor Conduct Tribunal must provide a notice to the Independent Assessor, the relevant councillor and their local government, the complainant (if any) and the department's chief executive stating their decision and the reasons for their decision in full.

The Councillor Conduct Tribunal must also provide the department's chief executive with a publication notice stating their decision and reasons for their decision. The following information must be removed from the publication notice:

- the name of the councillor or information that could reasonably be expected to identify the councillor, unless the councillor agrees to their name remaining in the notice, or if the Councillor Conduct Tribunal found that the councillor engaged in a conduct breach or misconduct;

- the name of the complainant (if any) or any other person, or information that could reasonably be expected to identify the complainant or any other person; or
- information that the Councillor Conduct Tribunal considers is not in the public interest to include in the notice.

As is currently the case under section 150AS, the Councillor Conduct Tribunal must not give another entity any information that is part of a public interest disclosure under the *Public Interest Disclosure Act 2010* unless giving the information is required or permitted by another Act.

Clause 65 also amends section 150AS to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 66 Insertion of new sections 150ATA and 150ATB

Clause 66 inserts new section 150ATA to clarify that the parties to a review pursuant to section 150AT are the Independent Assessor, the councillor, and any other party mentioned in section 40(1) of the *Queensland Civil and Administrative Tribunal Act 2009,* other than the Councillor Conduct Tribunal.

Clauses 66 also inserts new section 150ATB to provide that section 21 of the *Queensland Civil and Administrative Tribunal Act 2009* does not apply in relation to the Councillor Conduct Tribunal for proceedings for a review under section 150AT and the Independent Assessor must use its best endeavours to help QCAT.

The Independent Assessor must provide the QCAT, and the relevant councillor, with the following information within a reasonable period of not more than 28 days after the application:

- a notice about the decision given to the Independent Assessor under section 150AS; and
- any documents or thing in the Independent Assessor's possession or control that may be relevant.

QCAT may, by written notice require the Independent Assessor to provide additional documents or things. New section 150ATB(5) clarifies that the requirement to give QCAT documents or other thing applies despite any provision in an Act prohibiting or restricting the disclosure of the information.

Clause 67 Insertion of new ch 5A, pt 3, div 8

Clause 67 inserts a new Division 8 which makes provisions about vexatious complainants.

New section 150AWA provides that the Independent Assessor may declare that a person is a vexatious complainant for a period of no more than four years, and only if certain conditions are met. The conditions includes where Independent Assessor is satisfied that the person has repeatedly made complaints under Chapter 5A; and at least three of the complaints made by the person have been dismissed by the assessor as being frivolous or vexatious complaints under section 150SD(3)(b) or 150X; or have been made other than in good faith.

New section 150AWA(3) provides that before making a declaration, the Independent Assessor must give the person a reasonable opportunity to make a submission about the proposed declaration and consider any submission made by the person.

If the Independent Assessor decides to make a declaration, section 150AWA(4) provides that the assessor must give the person an information notice about the decision. The Independent Assessor may also publish a notice that a person has been declared a vexatious complainant, including the name of the person the subject of the declaration; the reasons for the declaration and the day the declaration ends.

Clause 67 also provides examples of complaints made other than in good faith, including complaints made for mischievous purpose or made maliciously; that are an abuse of process for making complaints; that are made to harass, annoy or cause detriment; or are made on grounds that lack substance or credibility. The term 'make', in relation to a complaint, is defined at new section 150AWA(7).

New section 150AWB provides that the Independent Assessor may shorten the period of a declaration or revoke a declaration. A person the subject of a declaration may also apply to the Independent Assessor to shorten the period of the declaration or revoke the declaration. After receiving such an application, the Independent Assessor must decide the application and give the person a notice that states the decision and the reasons for the decision. If the Independent Assessor decides to refuse the application, the assessor must give the person an information notice about the decision.

New section 150AWC provides that a person the subject of a declaration may apply to the Independent Assessor for permission to make a complaint. The Independent Assessor must, as soon as practicable after receiving the application, decide the application and give the person a written notice that states the decision and the reasons for the decision. If the Independent Assessor decides to refuse the application, the assessor must give the person an information notice about the decision.

Clause 68 Omission of ch 5A, pt 4, div 7 (Review)

Clause 68 omits chapter 5A, part 4, division 7 (Review) as the Bill provides in new part 4A for a review process that includes the new vexatious complainant declarations (refer clause 69).

Clause 69 Insertion of new ch 5A, pt 4A

Clause 69 inserts new part 4A into chapter 5A to establish a new scheme for the review of decisions in relation to vexatious complainant declarations (sections 150AWA, 150AWB and 150AWC) while retaining and relocating the current review process for a decision to seize a thing by an investigator (section 150CC).

New section 150COA provides definitions for the following terms used in new Part 4A: 'affected person' in relation to a decision, 'applicant' for a review decision, 'internal review' of an original decision, 'original decision', and 'review decision' or an original decision.

New section 150CP provides that an application for an internal review must:

- be made either within 30 days after the affected person is given an information notice about the decision, or otherwise within 30 days of when the affected person becomes aware of the decision;
- be in writing; and
- be supported by enough information to enable the Independent Assessor to decide the application.

The Independent Assessor may extend the time for making the application for review if, within the 30-day period for applying the affected person asks for an extension of time.

New section 150CQ provides that unless the Independent Assessor has made the decision for review personally, they must ensure the application for review is not dealt with by the person who made the original decision or a person in a less senior office in the Office of the Independent Assessor than the person who made the original decision.

Within 90 days of receiving the application for review, the Independent Assessor must review the original decision. The Independent Assessor must either confirm the original decision, amend the original decision or substitute another decision for the original decision. The Independent Assessor must make their review decision on the material that led to the original decision and any other material the Independent Assessor considers relevant.

As soon as practicable after the review decision is made, the Independent Assessor must give the affected person notice of the review decision, which must be a QCAT information notice.

New section 150CR provides that a person who is given or is entitled to be given a QCAT information notice for a review decision may apply to QCAT under the *Queensland Civil and Administrative Tribunal Act 2009* for a review of the review decision.

New section 150CS specifies that an if an applicant applies to QCAT for a review of a review decision, QCAT may not stay the operation of the review decision or grant an injunction in the proceeding for the review.

Clause 70 Amendment of s 150CU (Functions)

Clause 70 amends the Independent Assessor's functions, as outlined at section 150CU, to reflect the Independent Assessor's new preliminary assessment function.

The amendments provide that the Independent Assessor is to assess, investigate and deal with the conduct of councillors, if it is alleged or suspected to be a conduct breach, misconduct or, when referred to the assessor by the Crime and Corruption Commission, corrupt conduct.

Section 150CU(1)(b) is also amended to remove the Independent Assessor's function of providing training to councillors, local government employees and other persons about dealing with alleged or suspected inappropriate conduct, misconduct or corrupt conduct.

Clause 71 Amendment of s 150DB (Conflict of interest)

Clause 71 amends the current conflict of interest offences at 150DB to reflect the introduction of the preliminary assessment process. Clause 71 provides that it is an offence

for the Independent Assessor to take part, or take further part, in considering a matter where they have an interest that may conflict with a fair and impartial preliminary assessment and investigation into the conduct of a councillor.

Clause 72 Amendment of s 150DC (Vacancy of office)

Section 150DC outlines the circumstances in which the office of the Independent Assessor may become vacant.

Clause 72 amends section 150DC(c) to state that the Governor in Council may remove the Independent Assessor from the office because the person:

- is mentally or physically incapable of satisfactorily performing their functions; or
- has performed their functions incompetently or inefficiently.

Clause 73 Amendment of s 150DE (Assessor not subject to outside direction)

Clause 73 makes consequential amendments to section 150DE to reflect the introduction of the preliminary assessment process. Section 150DE, as amended, provides that the Independent Assessor is not subject to direction from another person about the way their powers are to be exercised in relation to a preliminary assessment or investigation, or the priority to be given to preliminary assessments or investigations.

Clause 74 Amendment of s 150DL (Functions)

Clause 74 amends the title of section 150DL to 'Conduct tribunal's functions'.

Clause 74 also amends section 150DL to remove the Councillor Conduct Tribunal's function of investigating suspected inappropriate conduct matters at the request of councils and providing recommendations to councils about dealing with the conduct. Section 150DL(2) is also omitted to effect this change.

Clause 74 amends section 150DL to clarify that the Councillor Conduct Tribunal's main function is to hear and decide applications made by the Independent Assessor under chapter 5A, part 3, division 6.

Clause 75 Omission of s 150DLA (Referral of alleged misconduct to assessor)

Clause 75 omits section 150DLA to reflect the removal of the Councillor Conduct Tribunal's function of investigating suspected inappropriate conduct on behalf of a local government.

Clause 76 Amendment of s 150DM (Membership of conduct tribunal)

Clause 76 amends section 150DM to provide that the membership of the Councillor Conduct Tribunal comprises the president; deputy president and casual members.

Clause 77 Insertion of new s 150DMA

Clause 77 inserts new section 150DMA to outline the functions of the president of the Councillor Conduct Tribunal. The functions include:

- managing the business of the Councillor Conduct Tribunal to ensure it operates effectively;
- selecting the members that constitute the Councillor Conduct Tribunal for an application under Chapter 5A, Part 3, Division 6;
- issuing practice directions under section 150DV;
- managing the members of the Councillor Conduct Tribunal by ensuring the members are adequately and appropriately trained to enable the Councillor Conduct Tribunal to perform its functions effectively and efficiently; and selecting one member to be chairperson of the Councillor Conduct Tribunal when hearing a matter.

Clause 78 Amendment of s 150DN (Appointment of president, deputy president and casual members)

Clause 78 amends section 150DN to provide that in addition to appointing a president and casual members, the Governor in Council may appoint a person to be deputy president of the Councillor Conduct Tribunal.

Clause 78 clarifies that the president, deputy president, and casual members of the Councillor Conduct Tribunal are appointed under the *Local Government Act 2009,* and not the *Public Sector Act 2022*.

Clause 79 Amendment of s 150DR (Vacancy of office)

Clause 79 amends section 150DR to state that the Governor in Council may remove a member of the Councillor Conduct Tribunal from office because the person:

- is mentally or physically incapable of satisfactorily performing their functions;
- has performed their functions carelessly, incompetently or inefficiently; or
- has engaged in conduct that would result in dismissal from the public service if the member was a public service officer.

Clause 80 Amendment of s 150DS (Acting president)

Clause 80 amends section 150DS to provide that, in the absence of the president, the deputy president may act as the president of the Councillor Conduct Tribunal for a period of not more than six months.

Clause 80 also amends section 150DS to provide that the Minister may appoint a casual member to act as president for no more than 3 months in a 12-month period if the office of the deputy president is vacant or because the deputy president is absent or cannot perform the duties of the office because of a conflict of interest or for any other reason.

Clause 81 Amendment of s 150DT (Conflict of interest)

Clause 81 makes consequential amendments to section 150DT to reflect the removal of the Councillor Conduct Tribunal's function of undertaking investigations on behalf of a local government and the establishment of the role of deputy president.

Clause 81 amends section 150DT to require that if both the president and deputy president of the Councillor Conduct Tribunal give the Minister a notice about a conflict of interest in

relation to a matter, the Minister must nominate a casual member to act as president in relation to the matter.

Clause 82 Amendment of s 150DU (Costs of conduct tribunal to be met by local government)

Clause 82 amends section 150DU to provide that a local government must pay the costs of the Councillor Conduct Tribunal for a hearing about the misconduct or conduct breach of a councillor.

This amendment reflects the removal of the Councillor Conduct Tribunal's function of undertaking investigations on behalf of a local government.

Clause 83 Amendment of s 150DX (Local governments to keep and publish register)

Clause 83 amends section 150DX to require that a local government's councillor conduct register must include information about orders made about the unsuitable meeting conduct of local government councillors, including the chairperson, and decisions to discontinue or not start investigating suspected conduct breaches of councillors pursuant to new section 150AEA.

Clause 83 also replaces the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 84 Amendment of s 150DY (Content of register – decisions)

Clause 84 expands the matters, prescribed by section 150DY, that are to be included in local governments' councillor conduct register. The register must now include a decision by a local government to make an order against a meeting chairperson under new section 150IA for unsuitable meeting conduct, and a decision by a local government not to start, or continue investigating a matter the subject of a referral notice pursuant to new section 150AEA.

Clause 84 also amends section 150DY to replace the note provided for section 150DY(2), and to amend section 150DY(4) to require that a summary of a decision included in a local government's councillor conduct register must not include the name of a person or information that could reasonably be expected to result in identification of the person, other than the name of councillor.

Clause 84 also amends section 150DY to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 85 Omission of s 150DZ (Content of register – dismissed complaints)

Clause 85 omits section 150DZ. This is consequential upon the amendments at clause 84.

Clause 86 Amendment of s 150EB (Annual report)

Section 150EB requires the Independent Assessor to provide the Minister with a written report about the operation of the Office of the Independent Assessor not later than 3 months from the end of the financial year.

Clause 86 provides that the Independent Assessor's annual report must include:

- complaints made, or referred, to the Independent Assessor about the conduct of councillors;
- decisions under section 150SD or 150W in relation to preliminary assessments or investigation;
- investigations conducted by the Office of the Independent Assessor;
- requests for further information under section 150SC that have not been complied with;
- decisions not to start, or to discontinue, investigations under section 150AEA;
- decisions in relation to suspected conduct breach under section 150AG;
- suspected conduct breach matters not decided under section 150AG, other than decisions not to start, or discontinue, investigations;
- suspected corrupt conduct notified to the Crime and Corruption Commission by the Independent Assessor;
- decisions about whether councillors engaged in misconduct or conduct breaches made by the Councillor Conduct Tribunal; and
- decisions in relation to vexatious complainants under sections 150AWA, 150AWB and 150AWC.

Clause 87 Amendment of s 150EF (Personal interests in ordinary business matters of a local government)

Chapter 5B provides for the management and disclosure of councillor conflicts of interest.

Section 150EF(1) provides that chapter 5B does not apply in relation to conflicts of interest in a matter if the matter relates to prescribed circumstances.

Clause 87 expands the prescribed circumstances where chapter 5B does not apply in relation to a conflict of interest to include where the matter:

- is solely, or relates solely to, the preparation, adoption or amendment of a budget for the local government;
- is solely, or relates solely to, preparing, adopting or amending a document prescribed by regulation that the local government is required to prepare or adopt under a Local Government Act;
- is solely, or relates solely to, the making of a donation to a religious, charitable or non-profit institution or organisation unless a councillor or close associate or related party of the councillor receives a benefit because of the donation that is more than merely a benefit relating to reputation;
- is solely, or relates solely to, a councillor representing the local government in an official capacity at an event held by a government agency or an entity that is wholly owned by the local government[7]; or
- is solely, or relates solely to, employment-related or upgraded travel or accommodation undertaken or used by a councillor or close associate or related party of a councillor.

Clause 88 Amendment of s 150EH (When councillor has prescribed conflict of interest – sponsored travel or accommodation benefits)

Clause 88 amends section 150EH to omit the definition of 'employment-related or upgraded'.

[7] New section 150EF(4) defines 'government agency' as the State, a government entity, or another local government, or another Australian government or an entity of another Australian government, or a local government of another State.

Clause 89 Amendment of s 150EJ (Who is a close associate of a councillor)

Clause 89 amends section 150EJ(2) to provide that a person is a close associate of the councillor in relation to a matter only if the councillor knows, or ought reasonably to know about the person's involvement in the matter.

Clause 90 Amendment of s 150EO (Interests that are not declarable conflicts of interest)

Clause 90 expands the circumstances in section 150EO where a councillor will not have a declarable conflict of interest in a matter to include when the conflict of interest arises solely because:

- the councillor is or has been a member of a group of candidates for an election or a previous election with another councillor;
- the same political party endorsed the candidature of the councillor and another councillor for an election or a previous election; or
- the councillor has been elected or appointed at the same, or has held office during the same period as another councillor.

Clause 91 Amendment of s 150EP (Who is a related party of a councillor)

Clause 91 amends section 150EP(2) to provide that any person listed in section 150EP is a related party of the councillor in relation to a matter only if the councillors knows, or ought reasonably to know, about the person's involvement in the matter.

Clause 92 Insertion of new s 150EPA

Clause 92 inserts new section 150EPA to clarify the consequences for when a councillor has a declarable conflict of interest in a matter.

New section 150EPA provides that if a councillor has a declarable conflict of interest in a matter, the councillor must not participate in a decision relating to the matter unless the councillor participates in the decision in compliance with a decision made under section 150ES (other councillors decided by resolution that the councillor may participate in the decision) or an approval given under section 150EV (Minister has approved that a councillor may participate in deciding a matter).

New section 150EPA also includes a note indicating that contravention of the section is misconduct that could result in disciplinary action being taken against a councillor.

Clause 93 Amendment of s 150EQ (Obligation of councillor with declarable conflict of interest)

Clause 93 makes consequential amendments to section 150EQ(2) to remove the requirement for a councillor with a declarable conflict of interest in matter to stop participating, and not further participate, in a decision relating to the matter. This requirement is now included at new section 150EPA.

Clause 94 Amendment of s 150EU (Procedure if no quorum for deciding matter because of prescribed conflicts of interest or declarable conflicts of interest)

Section 150EU provides a procedure for deciding matters at a council meeting where there is no quorum due to one or more councillors having a prescribed or declarable conflict of interest in a matter.

Clause 94 amends section 150EU to provide that a council cannot decide by resolution not to decide a matter, and to take no further action in relation to the matter, if the *Local Government Act 2009* or another Act provides that the local government must decide the matter.

Clause 94 also makes consequential amendments to replace references to sections 150EU(4), 150EQ(2)(a) or (3)(a) with a reference to new section 150EPA.

Clause 95 Amendment of s 150EW (Duty to report another councillor's prescribed conflict of interest or declarable conflict of interest)

Section 150EW applies if a councillor reasonably believes or reasonably suspects that another councillor has a prescribed or declarable conflict of interest in a matter and is participating in a decision about that matter in contravention of section 150EK or section 150EQ.

Clause 95 clarifies that if the councillor has a belief or suspicion in relation to more than one other councillor, the councillor must comply with their obligation to notify the person presiding at the meeting or the chief executive officer in relation to each other councillor separately.

Clause 96 Amendment of s 150EX (Obligation of councillor if conflict of interest reported under s 150EW)

Clause 96 amends section 150EX to clarify that if councillors, at a meeting, are deciding whether more than one councillor has a prescribed or declarable conflict of interest in a matter, the council must make separate decisions in relation to each councillor.

Clause 97 Insertion of new s 169A

Clause 97 inserts a new section 169A (Councillor training) to provide that approved councillor training must be completed by a councillor in relation to the responsibilities of councillors under section 12.

New section 169A(2) provides that the training must be completed by the councillor within the period as prescribed by regulation, or within an extended period if the department's chief executive extends the period for the councillor. New section 169A(3) provides that an extension to the period may only be given under subsection (2)(b) by the department's chief executive if they are satisfied that it would be appropriate in the circumstances – for example, if, due to an unavoidable absence, the councillor is unable to complete the training.

New sections 169A(4) and (5) require the department's chief executive to publish details about the approved councillor training on the department's website and give written notice to

the councils and councillors about the training and must publish a notice about the approved councillor training, including the requirements for successful completion of the training and when it must be completed.

New section 169A(7) includes a regulation making power to prescribe the requirements for the training. Subsection (8) defines the term *approved councillor training.*

Clause 98 Amendment of s 170 (Giving directions to local government staff)

Section 170(1) provides that a mayor may give direction to the chief executive officer of the local government. Subsection (2) provides a range of exceptions, for example, if the direction is inconsistent with a resolution of the local government. Contravention of subsection (2) is not currently misconduct under section 150L. Subsection (3) provides that no councillor, including the mayor, may give a direction to any other local government employee except in accordance with guidelines. Contravention of subsection (3) is currently misconduct.

Clause 98 inserts a new subsection (3A), renumbered as (4), to require that the mayor or another councillor must not give a direction in contravention of subsection (2) or (3).

Clause 98 omits the note currently provided under section 170(3). A note is instead provided under subsection (4) that states a contravention of this subsubsection is misconduct that could result in disciplinary action being taken against the mayor or a councillor.

Clause 99 Amendment of s 201D (Dishonest conduct of councillor or councillor advisor)

Section 201D provides that a councillor or councillor advisor must not contravene a relevant integrity provision with intent to dishonestly obtain a benefit for a person, or dishonestly cause detriment to another person (maximum penalty - 200 penalty units or 2 years imprisonment).

Clause 99 amends the definition of 'relevant integrity provision' to include section 150EPA (Councillor must not participate in decisions unless authorised).

Clause 100 Amendment of s 239 (Substituted service)

Clause 100 amends section 239 to provide that a document may be served on a person whose whereabouts are unknown by the local government by either publishing a notice that contains a copy of the document on the local government's website, or by publishing a notice that contains a summary of the document in a newspaper circulating generally throughout the State and in the gazette.

Clause 101 Amendment of s 257 (Delegation of local government powers)

Clause 101 amends section 257(2) to expand the matters that may be delegated to the mayor or a standing committee of the council to include a decision under section 150AEA not to start, or to discontinue, an investigation into a councillor conduct matter referred by the Independent Assessor.

Clause 102 Insertion of new ch 9, pt 18

Clause 102 inserts new part 18 into chapter 9 to provide transitional provisions for the *Local Government (Councillor Conduct) and Other Legislation Amendment Act 2023* (Amending Act).

New section 343 provides definitions for chapter 9, part 18 for 'amending Act', 'former', 'former councillor', and 'new'.

New section 344 provides that chapter 9, part 18 does not apply in relation to conduct engaged in by a councillor if section 322 (Dealing with particular pre-commencement complaints or conduct) applies in relation to the conduct.

New section 345 makes provision in relation to conduct engaged in by a councillor before commencement of the Amending Act. In deciding how to deal with the councillor's conduct under Chapter 5A, the Independent Assessor, local government official, local government and the Councillor Conduct Tribunal must apply the definition of 'inappropriate conduct' under former section 150K, as if a refence to a 'conduct breach' were a reference to 'inappropriate conduct' and the definition of 'misconduct' as defined under former section 150L.

New section 346 applies if before the commencement of the Amending Act, the Independent Assessor was required to investigate the conduct of a councillor who was the subject of a complaint, notice, or information under former section 150T(1)(a), (b), or (c) or the conduct of a councillor that was not suspected corrupt conduct under former section 150T(1)(e), or where the Independent Assessor has or could have investigated the conduct of a councillor on their own initiative pursuant to former section 150U, and immediately before the commencement of the Amending Act, the Independent Assessor had not made a decision about the conduct under former section 150W.

New Section 346 provides that on the commencement of the Amending Act:

- if an investigation had not started before commencement, the Independent Assessor is not required to start the investigation under former chapter 5A, part 3, division 4
- if an investigation had been started before commencement, the investigation is taken never to have been started, and
- the Independent Assessor must make a preliminary assessment of the matter under new chapter 5A, part 3 or new section 150SF (own initiative assessment), as if it were a matter mentioned in new section 150SA (complaints, notices and information).

New section 346 also provides that in making any preliminary assessment or conducting any further investigation of the matter, new chapter 5A, part 3, division 3A applies, other than new sections 150SB and 150SD(2)(b) and (3)(d) (period for making complaint), and the Independent Assessor may consider any information obtained by the assessor during any investigation of the councillor's conduct before the commencement of the Amending Act.

New section 347 applies if before the commencement of the Amending Act, the Independent Assessor had given a local government a referral notice about a councillor's conduct under former section 150AC, and immediately before the commencement of the Amending Act, the local government had not made a decision about the conduct the subject of the notice under former section 150AG.

New section 347(2) provides that the local government must continue to investigate and make a decision in relation to the conduct under former chapter 5A, part 3, division 5. However, the following apply to the local government's investigation and decision about the matter:

- new section 150AEA applies in relation to the investigation about the conduct (decision not to start, or discontinue, an investigation)
- new section 150AF(3)(a) applies in relation to information obtained in investigating the conduct (give information about suspected misconduct to the Independent Assessor)
- new section 150AH(1)(b)(i) applies in relation to the order the local government may make about the conduct under section 150AH (order that councillor give an apology)
- new section 150AHA applies in relation to a decision mentioned in that section (local government to provide notice of decision to Independent Assessor).

New section 347(4) provides that if before a decision about the conduct is make under section 150AG, an investigation policy is adopted by the local government in compliance with new section 150AE, the local government must, from the day the policy is adopted:

- comply with the investigation policy in investigating and making a decision about the conduct under new chapter 5A, part 3, division 5
- comply with new section 150AFA in relation to an investigation report about the conduct (summary of investigation report to be published), and
- if an investigation report is prepared under new section 150AFA, comply with new section 150AGA in relation to the investigation report (investigation report to be published).

New section 347(5) also provides that, on and from the commencement of the Amending Act, the local government must not start or must discontinue an investigation under former chapter 5A, part 3, division 5, if the councillor was a former councillor when the conduct was referred to the local government, or if the conduct relates solely to behaviour engaged in in a personal capacity.

If the local government is to discontinue or not start an investigation under former chapter 5A, part 3, division 5, the local government must as soon as practicable after the commencement of the Amending Act, give a notice to the Independent Assessor, the councillor or former councillor who engaged in the conduct, and if there is a complainant for the matter, the complainant advising that the investigation has been discontinued or not started.

New section 348 applies if before the commencement of the Amending Act, the Councillor Conduct Tribunal had started an investigation of the conduct of a councillor at the request of a local government, and immediately before the commencement of the Amending Act, the Councillor Conduct Tribunal had not completed the investigation or had referred the conduct to the Independent Assessor under former section 150DLA.

New section 348(2) provides that former sections 150DL (functions of the Councillor Conduct Tribunal), 150DLA (referral of alleged misconduct to Independent Assessor), and 150DU (costs met by local government) continue to apply in relation to the investigation as if the Amending Act had not been enacted. However, new section 348(8) provides that, if former section 150DLA applies, the Councillor Conduct Tribunal must refer the conduct to the Independent Assessor for a preliminary assessment under chapter 5A, part 3, division 3A,

despite former section 150DLA(2), and new chapter 5A, part 3 applies in relation to the conduct as if the referral were information given to the Independent Assessor about the conduct of the councillor mentioned in new section 150SA(c).

New section 349 applies if before the commencement of the Amending Act, the Councillor Conduct Tribunal had referred alleged conduct of a councillor to the Independent Assessor under former section 150DLA (referral of alleged misconduct to Independent Assessor), and immediately before the commencement of the Amending Act, the Independent Assessor had not started an investigation of the councillor's conduct under former chapter 5A, part 3, division 4.

New section 349(2) provides that, on commencement of the Amending Act, the Independent Assessor must make a preliminary assessment of the referral under new chapter 5A, part 3, division 3A, as if the referral were information given to the Independent Assessor about the conduct of the councillor mentioned in new section 150SA(c).

New section 349(3) provides that in making the preliminary assessment or conducting any further investigation, new chapter 5A, part 3, division 3A applies, other than new sections 150SB and 150SD(2)(b) and 3(d) (period for making complaint). The Independent Assessor may also consider any information obtained by the Councillor Conduct Tribunal during the investigation of the councillor's conduct before the commencement of the Amending Act.

New section 350 applies if before the commencement of the Amending Act, the Independent Assessor had applied to the Councillor Conduct Tribunal in relation to conduct engaged in by a councillor, including a former councillor, under former section 150AJ and immediately before the commencement of the Amending Act, the application had not been decided by the Councillor Conduct Tribunal under section 150AQ.

New section 350(1)(c) provides that if section 350 applies to a matter, the Independent Assessor must before the application is decided, withdraw the whole, or part of an, application from the Councillor Conduct Tribunal in the following circumstances:

- the councillor was a former councillor when the application was made
- after commencement, the councillor's office becomes vacant
- the relevant conduct relates solely to behaviour engaged in by the councillor in a personal capacity, unless the conduct is suspected corrupt conduct
- the conduct is a contravention of the acceptable request guidelines of a local government pursuant to section 170A or section 244 of the *City of Brisbane Act 2010,* but is not the subject of an application under former section 150AJ(1)(b) (inappropriate conduct that is connected to the conduct of the councillor that is alleged misconduct)
- the councillor or person was the chairperson of a local government meeting and the councillor's conduct relates solely to the councillor performing the role of chairperson at the meeting
- the relevant conduct relates to a conflict-of-interest matter mentioned in new sections 150EF(1)(c) – (f) or 150EO(1)(g) or sections 177C(1)(c) – (f) or 177L(1)(g) of the *City of Brisbane Act 2010*
- the conduct relates to a conflict-of-interest matter that involves a close associate of the councillor who, on the commencement of sections 11 or 89 of the Amending Act, stopped being a close associate of the councillor, or

- the relevant conduct relates to a conflict-of-interest matter that involves a related part of the councillor who, on the commencement of sections 13 or 91 of the Amending Act stopped being a related party of the councillor.

New section 350(3) provides that if an application, or part of an application, is withdrawn from the Councillor Conduct Tribunal, the Independent Assessor must as soon as practicable give a notice to the Councillor Conduct Tribunal advising of the withdrawal, and give a copy of the notice to councillor or former councillor, the relevant local government, and if there is a complainant for the matter and the Independent Assessor has the contact details of the complainant, the complainant.

New section 351 makes transitional provisions for a scenario where the following three circumstances all apply. First, before the commencement of the Amending Act, the Independent Assessor, a local government or the Councillor Conduct Tribunal had started an investigation of the conduct of a former councillor, or the Independent Assessor had applied to the Councillor Conduct Tribunal under former section 150AJ in relation to the conduct of a former councillor. Secondly, on or after the commencement, the investigation is discontinued under section 347(5) or the referral is withdrawn under section 350(1)(c)(i) and (2). Thirdly, within 12 months after the commencement of the Amending Act, the former councillor is elected or appointed as a councillor for a new term of office.

In this scenario, new Section 351(2) provides that the Independent Assessor must make a preliminary assessment under new chapter 5A, part 3, division 3A of the matter as if it were information given to the Independent Assessor about the conduct of the councillor mentioned in new section 150SA(c). New section 351(3) provides that new chapter 5A applies in relation to the conduct as if the complaint, notice, or information were made or given to the Independent Assessor on the day the new term of office starts.

New section 352 provides that a reference in an Act or document to inappropriate conduct may, if the context permits, be taken to be a reference to a conduct breach.

New section 353 provides that for a vexatious complainant declaration under new section 150AWA, the Independent Assessor may, for section 150AWA(2)(b) consider a complaint made by the person before the commencement of the Amending Act. However, a declaration can not be made for a person solely in relation to complaints made by the person before commencement of the Amending Act.

New section 354 provides that new sections 150ATA (parties to a proceeding for review) and 150ATB (Independent Assessor must help QCAT) apply in relation to an application for a review of a decision made after the commencement of the Amending Act, whether the decision the subject of the review is made before or after the commencement.

Clause 103 Amendment of sch 4 (Dictionary)

Clause 103 amends schedule 4 (Dictionary) to omit the definition of ‘inappropriate conduct’, and insert new definitions for ‘affected person’, ‘applicant’, ‘conduct breach’, ‘deputy president’, ‘employment-related or upgraded travel or accommodation’, ‘internal review’, 'investigation report’, ‘LGAQ Ltd’, ‘local government official’, ‘original decision’, ‘publicly available’ and ‘review decision’.

Clause 103 also amends the definition of 'casual member' to replace a reference to section 150DN(2) with a reference to section 150DN(1)(c).

Part 5 Amendment of Local Government Regulation 2012

Clause 104 Regulation amended

Clause 104 provides that this part amends the *Local Government Regulation 2012*.

Clause 105 Amendment of s 186 (Councillors)

Section 186 specifies matters that are to be included in a local government's annual report.

Clause 105 amends section 186 to require that local governments include the following matters in annual reports:

- number of orders the local government makes during a year relating to unsuitable meeting conduct by a meeting chairperson pursuant to new section 150IA;
- number of referral notices given to the local government pursuant to section 150AC(1)
- number of suspected conduct breaches;
- number of suspected conduct breaches for which an investigation was discontinued or not started under section 150AEA;
- number of decisions about alleged conduct breaches made by the local government pursuant to section 150AG;
- number of decisions not made by the local government about alleged conduct breaches pursuant to section 150AG; and
- average time taken by the local government in making a decision about alleged conduct breaches under section 150AG.

Clause 105 also amends section 186 to replace the term 'inappropriate conduct' with the term 'conduct breach'.

Clause 106 Insertion of new s 239C

New section 150AFA of the *Local Government Act 2009* prescribes that before making a decision about a councillor conduct matter, local governments must prepare a summary of investigation reports and make the summary publicly available on or before the day and time prescribed by regulation.

Clause 106 inserts new section 239C(1) to prescribe that the day and time prescribed for publication is 5:00 pm on the next business day after notice of the meeting at which the decision is to be made is given under either section 242C of the *City of Brisbane Regulation 2012* or section 254C of the *Local Government Act 2009*.

New section 239C(2) specifies that if the agenda for the meeting where the councillor conduct matter is to be determined is made publicly available before the day and time prescribed above, the prescribed day and time for publishing the summary of the investigation report is the day and time when the agenda is made publicly available.

New section 150AGA of the *Local Government Act 2009* provides that after making a decision about a councillor conduct matter at a local government meeting, local governments must make the investigation report publicly available on or before the day and time prescribed by regulation.

New section 239C(3) provides that the day and time prescribed for investigation reports to be made publicly available is 5:00 pm on the tenth day after the meeting at which the decision is made is held. However, if minutes for the meeting are made publicly available before the tenth day after the meeting at which the decision is made was held, then the day and time prescribed is the day and time when the minutes are made publicly available.

Clause 107 Amendment of s 254D (Public availability of agendas)

Section 254D provides that local governments are to make agendas and related reports for local government meetings publicly available at prescribed times.

Clause 107 amends the definition of 'related report' in section 254D to provide that an executive summary of an investigation report that is required to be made publicly available pursuant to new section 150AFA or an investigation report that is required to be made publicly available pursuant to new section 150AGA is not included in the definition.

Clause 108 Amendment of s 254H (Recording of reasons for particular decisions)

Clause 108 amends section 254H to include that where the council makes a decision pursuant to section 150AG of the LGA about a conduct matter that is inconsistent with a recommendation made by the entity who conducted the investigation the chief executive officer must ensure the minutes of the council meeting include a statement of the reasons for not adopting the recommendation or advice.

Clause 109 Amendment of s 254J (Closed meetings)

Section 254J provides that a local government, or a committee of the local government, may resolve that all or part of a meeting be closed to the public if they considered it necessary in order to discuss one or more of the circumstances prescribed in section 254J(3).

Clause 109 amends section 254J(3) to include that a local government, or committee, may decide to close or part of a meeting to discuss an investigation report.

Clause 110 Amendment of schedule 8 (Dictionary)

Clause 110 amends schedule 8 (Dictionary) of the *Local Government Regulation 2012* to omit the definition of 'publicly available'. This term is now defined in the schedule to the *Local Government Act 2009*.

Part 6 Amendment of Local Government Electoral Act 2011

Clause 111 Act amended

Clause 111 provides that this part amends the *Local Government Electoral Act 2011*.

Clause 112 Amendment of s 34 (Procedure if number of candidates not more than number required)

Clause 112 amends section 34 to provide that when nominees are taken to have been elected pursuant to section 34, instead of publishing a notice in the approved form in a newspaper circulating generally in a local government area the returning officer is to publish a notice in the approved form stating that the nominees are taken to have been elected on the Electoral Commission of Queensland's website and in other ways the returning officer considers appropriate.

Clause 113 Amendment of s 45 (Direction that poll be conducted by postal ballot)

Section 45 of the *Local Government Electoral Act 2011* provides that if the Minister approves that part of a local government election should be conducted by postal ballot, the local government is to publish details of the approval in a newspaper circulating generally in that part of the local government's area.

Clause 113 amends section 45 to remove the requirement that the notice of the approval be published in a newspaper circulating generally in a part of a local government area, and instead provides that a notice is to be published on the local government's website and in other ways the local government considers appropriate.

Clause 114 Replacement of s 202 (Local governments responsible for expenditure incurred by electoral commission)

Clause 114 replaces section 202 of the *Local Government Electoral Act 2011* to provide that a local government is liable to pay all costs incurrent by the Electoral Commission of Queensland for conducting an election in the local government's area, including the remuneration, allowances and reasonable expenses paid to members or staff of the Electoral Commission of Queensland.

The Electoral Commission of Queensland may decide to recover all or part of the costs they incur for conducting an election from a local government, including the remuneration, allowances and reasonable expenses paid to members or staff of the Electoral Commission of Queensland.

If an election is conducted by the Electoral Commission of Queensland in two or more local government areas using a shared and centrally administered service, the Electoral Commission of Queensland may recover the costs incurred from the local governments for the areas collectively.

Costs recoverable under section 202 include costs incurred by the Electoral Commission of Queensland in carrying out its functions relating to conducting elections generally, including the remuneration, allowances and reasonable expenses paid to members or staff, and the costs of making appropriate administrative arrangements for the conduct of elections.

Part 7 Amendment of Queen's Wharf Brisbane Act 2016

Clause 115 Act amended

Clause 115 provides that this part amends the *Queen's Wharf Brisbane Act 2016.*

Clause 116 Amendment of s 42 (Interpretation for part)

Clause 116 makes minor consequential changes to the definitions in section 42(1) to reflect the insertion of the new chapter 5, part 1, division 4.

Clause 117 Insertion of new ch 5, pt 1, div 4

Clause 117 inserts a new chapter 5, part 1, division 4 to facilitate the grant of fee simple tenure for the parcels in the Queen's Wharf Brisbane precinct specified in the proposed section 57A.

New section 57B provides that division 4 applies despite any limitations or requirements under the Land Act section 16 or 122 or any requirement that would otherwise apply, or right that would otherwise exist under the Land Act in relation to revoking a reserve or ending a lease. However, the division does not affect the operation of section 21 of the Land Act.

New section 57C identifies the land to which division 4 applies.

New section 57D provides that the Governor-in-Council must under the Land Act, grant the land in fee simple to the State. The land is taken to be unallocated State land to give effect to the grant in fee simple. The grant takes effect on registration of the deed of grant for the land in the freehold land register. The section provides that on registration, identified existing reserves and State headleases over the land will be revoked or end and all appointments of trustees are cancelled (because these cannot co-exist with the freehold title or will be superfluous when the deeds of grant are registered). All other interests in any part of the land in effect immediately before the registration will continue in effect, including the interests identified in this section. Registered interests that continue will be registered on the fee simple deed of grant for the relevant land, with any necessary modifications required to give effect to the registration.

Clause 118 Amendment of sch 2 (Dictionary)

Clause 118 inserts the additional definitions from the new chapter 5, part 1, division 4 into the Dictionary at schedule 2.

Part 8 Other amendments

Clause 119 Legislation amended

Clause 119 provides that Schedule 1 of the Bill amends the legislation it mentions.