



# ***STATE DEVELOPMENT AND REGIONAL INDUSTRIES COMMITTEE***

**Members present:**

Mr CG Whiting MP—Chair  
Mr MJ Hart MP (virtual)  
Mr RI Katter MP  
Mr JE Madden MP  
Mr JJ McDonald MP  
Mr TJ Smith MP

**Staff present:**

Ms S Galbraith—Committee Secretary  
Ms R Stacey—Assistant Committee Secretary

## **PUBLIC BRIEFING—CONSIDERATION OF SUBORDINATE LEGISLATION (DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND PLANNING)**

### **TRANSCRIPT OF PROCEEDINGS**

**MONDAY, 22 FEBRUARY 2021**

**Brisbane**

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### **The committee met at 9.47 am.**

**CHAIR:** Good morning. I declare this public briefing open. I would like to begin by acknowledging the traditional owners of the land on which we meet today. My name is Chris Whiting, the member for Bancroft and chair of the committee. The other committee members with us today are: Mr Jim McDonald, deputy chair and the member for Lockyer; Mr Robbie Katter, the member for Traeger; Mr Jim Madden, the member for Ipswich West; and Mr Tom Smith, the member for Bundaberg. Mr Michael Hart, the member for Burleigh, is joining us today via teleconference.

The purpose of today's briefing is to hear from departmental officers from the Department of State Development, Infrastructure, Local Government and Planning in order to assist the committee with its consideration of the Local Government (Integrity) Amendment Regulation 2020. I remind committee members that officers are here today to provide factual or technical information. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

The committee's proceedings are proceedings of the Queensland parliament and are subject to the standing rules and orders of the parliament. Media may be present and will be subject to my direction. The media rules endorsed by the committee are available from committee staff. All those present today should note that it is possible you may be filmed or photographed during the proceedings. I ask that if officials take a question on notice the information is provided to the committee by 12 noon on Monday, 1 March 2021. Finally, I ask that everyone turn their mobile phones off or to silent mode.

**BLAGOEV, Mrs Bronwyn, Executive Director, Strategy and Service Delivery, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

**WATTS, Mr Jordan, Acting Director, Legislation, Local Government Division, Department of State Development, Infrastructure, Local Government and Planning**

**CHAIR:** Thank you both for appearing before the committee today. I invite you to make an opening statement, after which committee members may have questions for you.

**Mrs Blagoev:** I thank the committee for the opportunity to brief you today on the regulation. In essence, the regulation addresses three key areas for councils: firstly, council meetings; secondly, the concept of council advisers; and, thirdly, changes around registers of interest.

The amendments relating to council meetings and registers of interest seek to improve transparency within the local government sector. In particular, the amendments regarding council meetings will provide further information to the public around matters dealt with at council meetings. It will give them a better understanding of the issues that councils deal with at their meetings and the reasons certain resolutions are made. In essence, the department would like to see really good, robust debate at council meetings rather than matters being dealt with in closed session. It is also an opportunity for the public to better understand the issues and to get in what we call related reports, which are reports dealt with by councillors at council meetings. It is for these reasons we have narrowed the number of instances where a council can close a meeting. We have also introduced a new requirement that, with the exception of confidential information, reports to be considered at a meeting are provided to the public.

The amendments relating to registers of interest were made for two reasons: firstly, to clarify uncertainties that some councils were finding; and, secondly, to ensure greater consistency between the requirements on state members of parliament and councillors. For example, the new requirement to record donations is something that councillors have not had to do in the past, but it has been done because that is a requirement for state members of parliament. That is a brand new requirement and it is a good example of where we have tried to ensure greater consistency.

The amendments in the regulation relating to council advisers address a number of matters as a consequence of the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020, which received assent on 30 June last year. In particular, this regulation

prescribes which councils can have councillor advisers and the maximum number of councillor advisers they are allowed to have. The regulation also talks about factors the local government remuneration committee can consider if they are asked to consider particular matters by the Minister for Local Government. It prescribes certain criteria. Finally, it also updates register of interest requirements to reflect the fact that we now have councillor advisers and their related parties.

Consultation formed a really large part of the work the department did in the lead-up to the making of the regulation. We worked closely with the CEO network, which is a network established by the Local Government Association of Queensland. We ran workshops jointly with the CEOs. That was excellent because the CEOs were a really good source of intelligence around how something that sits on a piece of paper actually works in practice. We also worked with the local government liaison group to make sure they understood the issues and to seek their feedback. In 2019 the department also released a discussion paper regarding these matters. We received a large number of submissions from councils, councillors and even community groups.

The regulation commenced on 12 October 2020, and this aligned with the commencement of a lot of the provisions in the Integrity Act. The Integrity Act received assent on 30 June, but large parts of it did not actually start until 12 October. The reason for that was to understand the impact these changes had on councillors. Any matters dealing with conflicts of interest or registers of interest are complex, and we need to make sure that councillors understand what is required of them under the legislation. The gap between assent and 12 October gave the department enough time to do training with the councillors. We provided training for 75 councils. In excess of 500 councillors attended those sessions. We also held another six sessions purely on registers of interest. A departmental officer walked councillors through the actual register of interest form and took questions on what is required to be put where on the form.

The department understands that these matters are complex. The training provided was really in a COVID environment as well. Now that departmental officers are able to get out and travel, we are visiting each of the councils and working out within the new regime, be it the regulation or the Integrity Act, what they understand, what they do not understand and what they need more training on. That work is ongoing. We are now continuing with face-to-face sessions with our councils, in particular our Indigenous councils. We are doing refresher sessions there. There is a lot of work still going on in that space.

The ultimate point I would make about the regulation is that these are complex issues for councillors. There is also a fair amount of cultural change required for councils as part of these changes. Anything moving towards more transparency is a change for councils, so as a department we are continuing to get feedback. We receive regular feedback from council staff, CEOs and councillors, and we will pull all of that together at some point and work out if there are any further tweaks required to the Integrity Act or the regulation to make sure that what we have in the regulation works in practice on the ground for our councils. I am happy to take any questions.

**CHAIR:** You have certainly done a lot of training: 75 councils, 500 councillors and six more sessions. I think the provision of such intense training has been a new direction or a new emphasis for the department. Can you outline your plans to continue training in the areas of transparency, the new regulations and other reforms?

**Mrs Blagoev:** The department's focus has always been on training, but the reality is that the amount of change in the local government sector in the past term has been enormous. For example, a lot of the concepts around conflicts of interest are not new, but the legislative reform has really drawn out lots of questions from councillors. We are discovering that the level of comprehension probably was not where we thought it was in some instances. Whilst we are training on the new legislation we are also going back and training on fundamentals, particularly around conflicts of interest.

As we have said, our training program for 2020 was done differently. We did webinars, podcasts and a lot of things online. That was born out of necessity for the year that was 2020, but our focus with councils is on getting back face to face. What we are trying to focus on moving forward is a combination of the integrity work and going back and looking at what is a conflict of interest, what you have to do if you have a conflict of interest and how you record things in your register of interests. That has been the flavour of what we have done, but we are also moving forward as a department and trying to look at bigger questions around financial sustainability and what upskilling our councillors need around financial matters. To answer your question, there will be a continued focus on integrity but also recognising that the department's focus is starting to change a little bit and trying to work with councils to better understand what they need from us out of the integrity space but more so in the sustainability space.

**Mr McDONALD:** I was really heartened by your opening comments where you said that you want to promote good debate and strong debate within councils. I have two local governments in my area and I know there is a lot of concern around controls and restrictions and perhaps uncertainty in that space. Can you explain the balance of the new meeting procedures? An example is council having to set up a separate committee, outside of a council meeting, to consider its Australia Day awards recipients.

**Mrs Blagoev:** It is a good point. I am aware of the Australia Day awards issue. We have taken it on notice to look a bit more at that one in particular. This comes back to two issues: closed meetings and what happens outside of the council meeting. I want to be very clear that the legislation and the regulation only cover council and committee meetings. They do not cover the conversations or the workshops. All of that pre work is not covered by the regulation. The term 'local government meeting' just talks about council meetings and committee meetings.

The regulation itself makes a number of changes. For example, we had some really broad provisions in the last regulation which allowed a council basically to close any meeting to deal with a planning matter. That is really broad. Similarly, we have become aware of how councils are using the provisions that allow them to shut the meeting for budget. What we really mean with 'budget' is the working up of your budget; we do not mean every council decision that could impact on the budget, which is a lot. We did make some changes there to remove the planning matter, so planning matters do not default to being dealt with in closed meetings. For the council budget and rating concessions that continues.

We are trying to strike a balance in relation to an ordinary business matter where we need matters to be dealt with confidentially and matters where the public should get more information. It is not an exact science. As you have rightly said, something like the Australia Day awards do not fit into any of the exemptions so that has to be dealt with in open session. We have been working with a couple of councils to work out how best to structure that. That is a really good example of something we have taken on notice to think, 'That is not really what we intend to capture.' We understand that if council has an awards system there needs to be some mechanism to allow for confidential consideration of that versus what we are really focused on in terms of there being a really contentious or a big planning matter. That is what the community is interested in. They want to hear robust discussion around those sorts of matters, and the department understands that they should be able to.

To answer your question, it is a balancing act. The regulation has narrowed the instances where a meeting can be closed. We recognise that there will be instances that pop up that we need to further consider, as per the Australia Day one.

**Mr MADDEN:** You may not realise, but three former councillors sit on this committee.

**Mrs Blagoev:** I was well briefed.

**Mr MADDEN:** I declare that I served on the Somerset Regional Council. One thing I noticed in dealing with other councils was a complete contrast in the committee system among councils. In your study with regard to this regulation, were you concerned by the variation in how different councils across Queensland run the committee system and even the names of these committees? Sometimes it is the works committee; sometimes it is a finance committee. Was it of concern to you that councils vary in their structure?

**CHAIR:** Member for Ipswich West, can I suggest perhaps that we ask for some details of how that varies across the area?

**Mr MADDEN:** I am trying to think of how to reword it.

**Mrs Blagoev:** I could probably offer an opinion as to whether it was something we did consider as part of the making up of the regulation.

**CHAIR:** If you considered it or not.

**Mrs Blagoev:** We did not consider the issue you have raised. The local government legislation certainly allows councils to either have committees or not. You are right: the structure of committees does really vary. Some councils we are aware of have committees but every councillor is a member of the committee; other councils do not have committees at all and have done away with them. The legislation is framed in such a way that we really want councils to work out what works for their community and what works for them. It was not a consideration as part of the regulation in terms of 'you must have a committee on this' or 'you cannot have a committee on that'. That is not something the department will play in; it is up to each council.

**Mr HART:** I am from the Gold Coast and some of my local councillors have raised with me the conflict of interest regulations. In particular, they tell me that they spend a lot of time talking in council meetings about conflicts of interest they may have and what these conflicts may bring to the meeting they are having. Has there been any consideration of clarifying with our councillors what constitutes a conflict of interest? They tell me that they spend a lot of time talking about it but then they decide it is not a conflict of interest and they get on with their meeting.

**Mrs Blagoev:** It is an excellent question. As you have said, conflicts of interest have really dominated the local government landscape particularly over the last one to two years. Changes around conflicts of interest were made in the Integrity Act versus this regulation, but we are aware of that particular concern. It is a concern that we are working through with a lot of councils—making sure that a big chunk of their time in the meeting is not spent disclosing and discussing conflicts of interest more than it needs to be. For your information, as a result of the Integrity Act and the recommendations of the CCC, there now is a process where councillors who think they have a declarable conflict of interest will disclose that to their fellow councillors. Their fellow councillors will then discuss the nature of that conflict of interest. Is it a conflict of interest? If it is a conflict of interest, can that councillor still participate in the meeting? Not every interest amounts to a conflict of interest. That is really what we are talking to a lot of councillors about. We receive a lot of phone calls from councillors who say, ‘I have this interest.’ A lot of times they are not actually reaching that threshold for what is a conflict of interest.

In relation to that particular issue raised around the time taken at meetings, we encourage councillors to get advice before their meeting. Sometimes that is hard because meeting agendas are not out a long time beforehand. If a councillor can get some advice before the meeting, they will go into the meeting able to very firmly articulate if it is an interest, if it is a conflict of interest and, importantly, why they think they can still participate in the meeting or why they think they should leave the meeting.

We are conscious that in our smaller communities a lot of the conflicts of interest being declared are really local matters. Someone might own a local business that has donated to someone who then has sought funding from the council. The interests are relatively small and do not necessarily mean that a councillor cannot act in the public interest. That is where you would expect a roundtable conversation among the councillors to say, ‘Actually, that is a really small interest; I do not think it amounts to a conflict,’ or ‘It might be declarable but you can still participate.’

I would say to those councils: the more prepared the councillors are before a meeting, the smoother the meeting should run. I understand the LGAQ also has some standard template declarations that can be made that would speed it up. In the past we have liaised directly with councils to assist them with the wording of those declarations that need to be made and also to come up with some ways so that matters are dealt with in a more efficient manner. For example, if five councillors all have the same conflict of interest, how do we deal with that so we are not hearing the same story five times? There are ways to improve it. I am aware, as the member has said, that the Gold Coast City council is concerned about the time it is spending at its council meetings. All I can say is that this is still new. A lot of this started on 12 October. It will take time for councils to bed down, but the department is working with councils to try to come up with some efficiencies around that. As I said, a lot of these changes were really on the back of that original Operation Belcarra from the CCC.

**Mr HART:** What is the department’s rationale for limiting the number of advisers a mayor or councillors can have?

**Mrs Blagoev:** That is a good question. The regulation specifies which councils and, as the member has said, the maximum number. The content in the regulation around those two issues—which and how many—is a matter of policy for the government. I am aware that a number of councils are prescribed in the regulation as being able to have advisers but they have resolved not to have advisers, full stop. I am aware that some councils would like more than the maximum number prescribed in the regulation. The regulation now sets out a process whereby the minister can ask the Local Government Remuneration Commission to look at those sorts of issues. As I said, they will work through criteria. In terms of this regulation—which councils and how many—that was a matter of government policy.

**Mr SMITH:** I have a general question of interest; it is no reflection on the Bundaberg council. Could you provide more scope of the role of councillor adviser? What would be an avenue if an adviser felt as though council was leaning on them more for political purposes? Is there an avenue through which they could speak? Is it through the CEO or the department?

**Mrs Blagoev:** It is a really good question and one we did get early on: what do these council advisers do? The legislation does not prescribe. It does not say, ‘A council adviser does XYZ.’ The department has released a sample position description which can give councils a bit of a flavour for

what they can do. In a nutshell, they are really there to provide strategic advice. Council might, for example, have a planning matter in front of it and that council adviser could provide strategic advice around matters relating to that planning issue. We also recognise that how councillors will use council advisers varies. Some will have a policy and strategic advice focus; some might morph towards more of the admin support side: 'Can you organise this function? Can you organise for me to meet with a constituent?' The regulation does not prescribe what they do; the councils will work out what they do. Certainly, the position description from the department can assist councils to understand.

The important thing in terms of their tenure is that councillor advisers are appointed by the councillor but their contract of employment is with the local government. That discipline issue is one for the CEO. We appreciate that that could become quite strained, but what we were doing in drafting it was very intentional to reflect the fact that not all of our councillors have industrial relations experience. If you are starting to deal with matters of discipline which could expose a council to a claim, it is really important that the CEO is involved in that, runs that and can procure necessary HR or IR experience as required. To answer your question, it would be up through the CEO.

**Mr KATTER:** I will correct the member for Ipswich West: there are four former local government representatives, not three.

**Mr MADDEN:** My apologies, Robbie.

**Mr KATTER:** My observation since my time in council and probably from interacting with others is that there has been a real effort to tighten up practices around councils to address issues, all done with the best of intentions. Perhaps it has had different impacts at different levels with smaller rural councils, but my experience, if not reality, has certainly been that there is an impression of dilution of the latitude and power of the elected councillors. Whether that is a perception or not, it is reality in the way it is impacting. I would also add with regard to the consultants that I have observed an increase in their impact on policy direction. I had a CEO tell me that they were at a meeting espousing the virtues of seven-day trade and trying to influence the direction of the meeting, whereas I think that is almost the reverse of what should be happening. There is also that culture of disempowerment—the council is not talking up and listening to the consultant. It concerns me that it is probably just affirming a practice that is there in terms of consultants. Have you observed in rural areas that there has been a dilution of the latitude for councils to act?

**Mrs Blagoev:** The local government legislation, when it was refreshed in 2009, came out as principles based legislation. That—I think you are right—has changed over the years. I think we as the state have been reacting to a large number of CCC reports as well. We have prescribed things in legislation that probably previously had more of a principles base. It is a hard balance because we hear from some councils that they like prescription: 'Tell me what to do in this instance.'

**Mr KATTER:** I understand.

**Mrs Blagoev:** Certainly, I think the focus on integrity and implementing a lot of those integrity reforms has tightened up the legislation from where it started in 2009. I would agree with you on that point.

**Mr KATTER:** It is really difficult, because in some cases you think, 'It's lucky there is regulation there to stop shenanigans,' but I am still seeing evidence of shenanigans out there that the regulations miss.

**Mrs Blagoev:** It is really hard for the legislation to capture individual scenarios. That is what we have found in drafting. You know that something is happening. How do you draft for that? Like you said, it also varies between the large metropolitan areas and the small councils. I have certainly sat with a lot of the small councils and talked about their conflicts of interest. They are really different from the conflicts of interest that arise in our metropolitan areas. There are different considerations for the councils in the rural areas to get their heads around because a lot of their conflicts come from local business dealings or they just know everyone. If you are walking down the street you know everyone. That gets really difficult.

**CHAIR:** I agree with a lot of the things that have been said here. We have witnessed over the last few years an explosion in numbers of advisers. It seemed to me that once a couple of the larger councils here had them, everyone wanted them. It was very different to how it was done 20 years ago. On the issue of related reports that are related to closed sessions, I have seen the wheel go around over the last 20 years. There were no closed meetings, then suddenly there were a lot of closed meetings and now we are going back to opening them up. Can you give examples of related reports that should be published and those that perhaps should not be published?

**Mrs Blagoev:** ‘Related reports’, as you said, is a new term. There may be a council meeting and a report is handed out to the councillors as part of that meeting. Members of the public watching the meeting remotely or in the public gallery can hear the conversation but do not really know what the councillors are considering and talking about. We are trying to improve that so that members of the public not only hear what the councillors are talking about but also understand what is in the reports. Examples of related reports could be consultants’ reports that come in around acquisition of land or a planning matter. It is really broad.

One of the interesting questions we had when we were drafting was: what about reports that councillors might talk about that are not directly relevant to the agenda item? You are just sitting around talking about a matter and suddenly someone mentions another report. It is really important to know that we are not talking about everything that is mentioned in a council meeting; it has to be directly on point and directly relevant. One of the examples we were given during drafting was: what if council starts talking about the Magna Carta or something? That is not what we are trying to capture. It is just to give the public a greater understanding of what is sitting on the table in front of the councillor.

It does not include confidential information that might sit in that related report. We have intentionally not defined the term ‘confidential information’. We allow each council to determine for itself what in that report is confidential. I do not think we could have drafted something that captures everything. It is really important that councils strike that balance in knowing, ‘This report has to come out, but there are some confidential things here that should not go out.’ That remains a question for the council. I think it will be interesting to see how that is implemented by councils. I have not had any feedback on that point to date, so it will be interesting to see, as the regulation sits for longer and longer, how councils go in working out what is confidential and whether they are striking the right balance.

**Mr McDONALD:** On the issue of advisers, we experienced terrible floods in the Lockyer and we brought on additional staff to assist in the process. We were recovering from a disaster, but is there any impediment to bringing on people to give, say, the mayor or councillors of a smaller council additional resources in the event of that? Essentially, they are advisers.

**Mrs Blagoev:** It is an excellent question. The concept of councillor advisers came about originally because under the legislation a councillor, except in some circumstances, cannot give a direction to a council staff member. We knew that on the ground there were people performing that councillor adviser function and the mayor or the councillor might have said to them, ‘Can you do blah,’ which is a direction. We knew that this was happening on the ground, so the legislation is attempting to reflect that.

To answer your question, the number of people employed by a council is purely a budgetary decision. Then there is the issue of how they classify them. There are a number of types of employees: a CEO, local government employees, councillor advisers and administrative support staff. What category that person falls into will depend on the council. They cannot go over that maximum number prescribed in the regulation, but if you have other people providing services to councillors that is fine; that is a budgetary decision for the council. Keep in mind that unless they are a councillor adviser under the legislation the power of direction might become a problem. For instance, if a council was dealing with a particular issue they could say, ‘We need another 10 people.’ If the budget permits, great—bring the 10 people on—but you must make sure that the person who is defined as a councillor adviser does not go over the maximum number in the regulation.

**Mr McDONALD:** That is what I was getting at. For smaller councils that are not even outlined in the regulation, where do they sit?

**Mrs Blagoev:** They would be local government employees. You could bring on your 10 people but they would be local government employees. They are appointed through the CEO. They cannot be directed by the councillor. Again, they have an employment contract with the council. They are a local government employee.

**Mr McDONALD:** Could you take on board the issue of events of that nature so that at a point in time it might be picked up?

**Mrs Blagoev:** A council could request that they get councillor advisers if they are so inclined. That would go through a ministerial process with the local government remuneration committee’s recommendation.

**Mr KATTER:** There was a report to me once in a smaller council that a councillor felt they were being prejudiced by being asked to step out of the room and were then voted against in relation to something where they felt they were not compromised. I am just trying to get my head around it. It is

a genuine question; I am just not sure of all the pros and cons. Do you feel there is an unresolved issue with that? There may not be a perfect answer; I acknowledge that. How do you deal with that? I also acknowledge that that sort of prejudice could have existed before any of these changes. Do you think this has empowered that sort of activity? How do you think the legislation has changed any of that alleged activity?

**Mrs Blagoev:** Under the legislation prior to the CCC's Operation Belcarra, it really was up to each individual councillor to say, 'I have an interest. I think it amounts to a conflict of interest. I do not think I can resolve it. In the public interest I will step out of the room.' Following the CCC's recommendation, the amendments were made through the local government legislation that basically sees the declaration but then your fellow councillors make that determination. One thing I will say is that you can always step out. If you are a councillor and you think you have a conflict of interest and you think you cannot resolve it, you can always step out. What we are finding in practice around the process of your fellow councillors deciding your fate, so to speak, is that that requires debate. It requires understanding. Some councils were aware that once a councillor declares a conflict of interest they say, 'You must leave the room.' That is not what the legislation intends. The legislation says, 'You guys get around and talk about what is the interest,' because you can have serious conflicts of interest but then you have things that are really quite minor—for example, 'I received a small gift 12 years ago.'

To answer your question, the legislation has changed and it now empowers fellow councillors to determine a councillor's fate in staying. We as a department would like to see robust debate around the pros and cons of someone staying in the room to participate. There is the instance that if someone has a conflict of interest they can continue to participate and act in the public interest, but keep in mind that you can always step out. No-one can make you stay in the room. What you might say is—and I think this is your scenario, member—'I have a conflict of interest. I know I can vote in the public interest. I am going to declare it and I am going to stay.' That is what has changed recently in the legislation. It is your fellow councillors who determine if you stay. The strength of that conversation and that debate varies across councils.

**CHAIR:** Certainly, that is the advice I received as a young councillor: if in doubt, step out. I note that, in a council of seven people, if someone was staying in the room and they should not be, it was a debate. There were no rules or regulations, but we all piped up and the mayor said, 'We need to talk about this,' and we encouraged the person to leave for that. Those issues have always been there, but formalising a process whereby councillors can raise that would probably be very welcome. It is always good advice for councillors: if in doubt, step out.

There being no further questions, we will close this public briefing. There are no questions on notice. Thank you all for your attendance at today's briefing. The transcript of these proceedings will be available on the committee's parliamentary webpage in due course. I declare this briefing closed.

**The committee adjourned at 10.29 am.**