

Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025

Explanatory Notes

Short title

The short title of the Bill is the Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025 (the Bill).

Policy objectives and the reasons for them

The Bill delivers on the Queensland Government's commitment to re-empower Queensland's 77 local governments by reducing red tape and giving them the resources and legislative framework they need to deliver for their communities. It represents a focussed suite of amendments which address priority issues identified by the local government sector.

Empowering local governments is a key Government priority and continued collaboration with the local government sector will ensure fit-for-purpose legislation which allows councillors to serve their communities without unnecessary regulatory burden.

The overarching policy objectives of the Bill are to:

- empower councils
- empower mayors
- improve the councillor conflicts of interest and register of interests frameworks
- reduce unnecessary red tape and regulation
- provide certainty to councillors about matters relating to remuneration, leaves of absence, vacation of office, and eligibility
- promote good governance and decision-making
- enhance safeguards for local government election candidates and participants, and
- make various minor, administrative and/or technical amendments.

Empowering councils

To empower councils, the Bill:

- provides that senior executive employees of a local government are appointed by a panel of the local government, rather than solely by the chief executive officer (CEO)
- provides that Brisbane City Council (BCC) appoints its senior contract employees, rather than the CEO
- facilitates local government access to essential State-owned quarry materials, and
- clarifies Indigenous local government rating powers and provides a framework to facilitate Indigenous local government rating in the future.

Appointment of senior executive employees of a local government

The policy objective is to amend the *Local Government Act 2009* (LGA) to provide that a local government's senior executive employees are appointed by a panel of the local government. A senior executive employee is defined as an employee of the local government who reports directly to the CEO and whose position ordinarily would be considered to be a senior position in the local government's corporate structure (schedule 4 of the LGA).

It is proposed to empower local governments to establish an appointment panel consisting of the mayor, the CEO, and either the relevant committee chairperson or deputy mayor, to appoint their senior executive employees (as was the case from 2012 to 2019).

Because deputy mayors and committee chairpersons (other than the mayor) have no delegation powers under the LGA, it is also proposed to allow local governments to appoint another councillor to a panel if the deputy mayor or committee chairperson is unable to take part, for example, due to absence.

Currently, section 196 of the LGA provides that the CEO appoints local government employees (which includes senior executive employees). The proposed amendments mean that the CEO will no longer have sole responsibility for the appointment of senior executive employees. The CEO will continue to be solely responsible for the appointment of all other local government employees. Also, the CEO will remain solely responsible for the day-to-day management, direction and discipline of all local government employees, including senior executive employees.

It is not proposed to amend the *City of Brisbane Act 2010* (COBA) which provides for BCC to appoint its senior executive employees, not the CEO.

Appointment of senior contract employees of Brisbane City Council

The policy objective is to amend the COBA to restore the ability of BCC to appoint its senior contract employees (including at the General Manager level). Prior to amendments made to the COBA in October 2020, BCC appointed its senior contract employees (that is, employees employed on a contractual basis and classified by BCC as 'senior executive service'), and the CEO appointed all other BCC employees.

Currently, section 192 of the COBA provides that BCC appoints its senior executive employees (that is, employees who report directly to the CEO and whose position ordinarily would be considered to be a senior position in BCC's corporate structure), and section 193 provides that the CEO appoints all other employees (which includes senior contract employees).

The proposed amendments mean that BCC will be responsible for appointing both its senior executive employees and senior contract employees, and that the CEO will appoint all other BCC employees. The CEO will remain solely responsible for the day-to-day management, direction and discipline of BCC's senior contract employees and all other employees.

In addition, it is proposed to make a complementary amendment to section 242J of the *City of Brisbane Regulation 2012* (CBR) to allow BCC to close meetings to discuss the appointment of senior contract employees.

Local government access to essential State-owned quarry materials

The policy objective is to facilitate local government access to essential State-owned quarry materials by amending the LGA.

The proposed amendments will primarily clarify the operation of chapter 5, part 2, division 2 of the LGA in relation to the giving of reasonable entry notices, particularly those which enable local governments to access and remove materials, including quarry materials such as gravel, from State-owned land.

For the purposes of section 143 of the LGA (Entry by a local government worker, with reasonable entry notice, to take materials), it is proposed that a reasonable entry notice be given to the owner and occupier of the relevant land within a reasonable period prior to entry, rather than at least 7 days before the property is proposed to be entered (as is currently the case).

In addition, several minor amendments are proposed to chapter 5, part 2, division 2 of the LGA to provide greater clarity.

As this is a specific issue primarily impacting certain rural and remote local governments, it is not proposed to make equivalent amendments to the COBA with respect to BCC.

Indigenous local government rating powers and framework to facilitate future rating

The policy objective is to clarify the current policy position that Queensland's 14 Indigenous local governments as well as Aurukun Shire Council and Mornington Shire Council are not permitted to levy rates (including general rates, special rates and separate rates).

The LGA defines Indigenous local governments as:

- Cherbourg Aboriginal Shire Council
- Doomadgee Aboriginal Shire Council
- Hope Vale Aboriginal Shire Council
- Kowanyama Aboriginal Shire Council
- Lockhart River Aboriginal Shire Council
- Mapoon Aboriginal Shire Council
- Napranum Aboriginal Shire Council
- Palm Island Aboriginal Shire Council
- Pormpuraaw Aboriginal Shire Council
- Woorabinda Aboriginal Shire Council
- Wujal Wujal Aboriginal Shire Council
- Yarrabah Aboriginal Shire Council
- Northern Peninsula Area Regional Council, and
- Torres Strait Island Regional Council.

It is proposed to establish a framework which would enable Indigenous local governments and Aurukun Shire Council and Mornington Shire Council to potentially levy rates in the future.

Currently, section 94 of the LGA provides that each local government must levy general rates on all rateable land within the local government area, and may levy special rates and charges, utility charges, and separate rates and charges. Conversely, section 71(2) of the *Local Government Regulation 2012* (LGR) provides that a provision of chapter 4 of the LGR (Rates and charges) does not apply to the local government area of an Indigenous local government to the extent the provision relies on the valuation of land under the *Land Valuation Act 2010* (LVA), ultimately preventing Indigenous local governments from levying general rates, special rates and separate rates.

The majority of land in Indigenous local government areas has been historically held by the local government in trust, resulting in the land being unrateable. The land tenure arrangements in Aurukun and Mornington Shire Councils are comparable to the land tenure arrangements in Indigenous local governments, making it impracticable to levy rates in those local governments. For these reasons, exemptions from the annual valuation of land requirements in the LVA have been routinely sought for the land in these local government areas, pursuant to section 74 of the LVA.

The proposed amendments seek to provide certainty about the rating powers of Indigenous local governments and Aurukun and Mornington Shire Councils and automatically exempt these local governments from annual land valuations under the LVA. Most importantly, the amendments seek to provide flexibility for these local governments to levy rates in the future if it would be practicable for them to levy rates on rateable land.

The existing powers for these local governments to levy charges (special charges, utility charges and separate charges) will not be affected by the proposed amendments.

Empowering mayors

To empower mayors, the Bill:

- reinforces that the mayor is the official spokesperson of a local government, and
- clarifies that the mayor is the default chairperson of ordinary and special meetings of a local government, and committees for which the mayor is the chairperson. This role includes managing the conduct of the participants at the meeting.

Responsibility of mayor – official spokesperson

The policy objective is to amend the LGA to put beyond doubt the longstanding position that the mayor is the official spokesperson of a local government.

The proposed amendment addresses an emergent issue which has impacted the operations of several local governments about who is authorised to be the official spokesperson of the local government. It is not proposed to make an equivalent amendment to the COBA, taking into account the existing responsibilities of the mayor of BCC under section 14(4) and the absence of mayoral delegation powers under the COBA.

In addition, it is proposed to amend the LGA to clarify that all other councillors may communicate with the community about local government matters, however they would be doing so as individual councillors and not as the official spokesperson on behalf of the local government.

Responsibility of mayor – default chairperson of ordinary and special meetings

The policy objective is to amend the LGA to reinforce that the mayor of a local government is the default chairperson of ordinary and special meetings of the local government, and committees for which the mayor is the chairperson, ensuring that a local government cannot resolve to remove the mayor (or their delegate) as the chairperson.

Also, if the mayor is not present at a meeting of the local government, and the mayor has not delegated their responsibility to chair the meeting, the intention is that the acting mayor is the chairperson (see LGA, section 165 (Acting mayor)).

The proposed amendment is consistent with current section 12(4) of the LGA which provides that an extra responsibility of the mayor is leading and managing meetings of the local government at which the mayor is the chairperson, including managing the conduct of the participants at the meetings. Also, in accordance with current sections 12(5) and 258 of the LGA, a mayor can delegate the mayor's extra responsibilities, including the chairing of meetings of the local government, to another councillor.

In relation to committee meetings, the chairperson of a committee meeting will continue to be determined in accordance with current section 267 of the LGR. That is to say, a local government may appoint a chairperson of each committee. If the local government does not appoint a chairperson for a committee, the committee may appoint one of its members as chairperson.

It is not proposed to make equivalent amendments to the COBA which provides that BCC must, by resolution, appoint a chairperson of BCC from its councillors (other than the mayor or deputy mayor) (see COBA, section 25 (Chairperson of the council)). The chairperson of BCC presides at all meetings of BCC (other than meetings of committees of BCC) and is responsible for ensuring BCC's procedures for the conduct of its meetings are observed and enforced.

Councillors' conflicts of interest and register of interests frameworks

Conflicts of interest

The policy objective is to replace the current conflicts of interest framework in the COBA and LGA with the framework that was in place from 2013 to early 2018, with some minor modifications, to provide additional conflict of interest exceptions for councillors and to clarify penalties for breaches.

This approach will have the following benefits and will support effective, transparent and accountable decision-making:

- a focus on local government meetings where actual, binding decisions will be made by the local government
- removal of the requirement for non-conflicted councillors to vote on whether to allow a conflicted councillor to participate in decision-making, which is open to political manipulation where councillors could be voted out based on their political views rather than the public interest

- removal of the concept of a ‘close personal relationship’ with a councillor from conflicts of interests. This concept lacks specificity and in smaller communities could lead to councillors having a conflict of interest in nearly every decision, and
- removal of the duty on a councillor to report a belief or suspicion of another councillor’s conflict, which is open to misuse for political reasons and creates fear of possible reprisals.

In summary, it is proposed to amend the COBA and LGA to:

- repeal the current conflicts of interest framework which is based on the concepts of *prescribed conflicts of interest* and *declarable conflicts of interest*
- reinstate the concepts of *material personal interest* and *conflict of interest*
- retain the current conflict of interest exceptions for councillors which have been requested by stakeholders, for example, small value gifts and hospitality, club memberships, religious beliefs and political affiliations; and the current ordinary business matters of a local government, including the development of whole of local government documents such as the budget and operational plan
- update the framework for dealing with breaches, including penalties:
 - serious breaches (that is, the intention to gain a benefit, or avoid a loss, for a councillor or someone else) – maximum penalty of 200 penalty units or 2 years imprisonment, and
 - other breaches – dealt with as ‘misconduct’ under the councillor conduct framework.

Register of interests

The policy objective is to refine the register of interests framework in the CBR and LGR to align with the proposed new conflicts of interest framework for councillors under the COBA and LGA.

Chapter 8, part 5 of the CBR and LGR is about registers of interests for relevant persons, including councillors and persons related to councillors. A register of interests must contain the financial and non-financial particulars mentioned in schedule 3 of the CBR or schedule 5 of the LGR for an interest held by the person. Local governments must make a copy of each councillor’s register available for inspection at the local government’s public office.

In addition, local governments must make an extract of each councillor’s register of interests available for inspection on the local government’s website. An extract must show the particulars mentioned in schedule 3 of the CBR or schedule 5 of the LGR:

- for each interest mentioned in column 1 of schedule 3A of the CBR or schedule 5A of the LGR that is held by a councillor, and
- for the period mentioned in column 2 of schedule 3A of the CBR or schedule 5A of the LGR opposite the interest.

The current reporting term for a councillor (or a person related to a councillor) is the ‘relevant term’ for the councillor.

Currently, the ‘relevant term’ for a councillor means the councillor’s current term of office, and the period:

- starting on the day after the conclusion of the quadrennial election held before the most recent quadrennial election, and
- ending on the day immediately before the councillor’s current term of office started.

It is proposed to amend schedule 3 of the CBR and schedule 5 of the LGR to remove the concept of ‘relevant term’, and instead provide that the reporting term for a councillor (or a person related to a councillor) is the councillor’s current term, rather than the councillor’s current term and previous term.

Complementary amendments are also proposed to schedule 3A of the CBR and schedule 5A of the LGR to consolidate the interests that councillors must show in an extract of their registers of interests as well as to adjust the period of time that those interests must be shown (the financial year). The full register of interests for a councillor’s current term will remain available for inspection at the council’s offices.

The overall intent is to provide that the reporting term for a councillor, or a person related to a councillor, for a councillor’s register of interests, is the councillor’s current term. In relation to an extract of a councillor’s register of interests, particulars about gifts, donations and sponsored travel or accommodation benefits will only need to be shown for the financial year in which the gift or sponsored travel or accommodation benefit is received or the donation is made.

All other interests under schedule 3 of the CBR and schedule 5 of the LGR that must be shown in an extract will continue to be shown for the period the councillor holds the interest.

Reducing unnecessary red tape and regulation

To reduce unnecessary red tape and regulation, the Bill:

- provides the Minister with the power to issue a general approval to local governments to make major policy decisions about disaster recovery funding arrangements (DRFA) assistance during local government election caretaker periods
- simplifies the councillor conduct framework by removing conduct breaches and capturing serious conduct breaches in the definition of ‘misconduct’
- removes duplication in the publishing of councillor conduct particulars
- streamlines mandatory training requirements for local government election candidates and councillors
- removes the power to make regulations in relation to the functions and key responsibilities of councillor advisors
- enables local governments to make postal ballot applications directly to the Electoral Commissioner, rather than to the Minister who then refers the application to the Electoral Commissioner
- streamlines the process of reviewing wards/divisions and councillors before quadrennial elections by providing that the Electoral Commission of Queensland conducts the reviews, rather than individual local governments
- aligns the deadline for reviewing divisions/councillors under the LGA, and wards of Brisbane under the COBA, before quadrennial elections, and

- removes the requirement for local governments to give the Minister a copy of a public benefit assessment report and all resolutions made in relation to the report, when conducting a public benefit assessment of a new significant business activity.

Ministerial power to issue an approval – major policy decisions by local governments about DRFA assistance during caretaker periods

The policy objective is to amend section 92B of the COBA and section 90B of the LGA to give the Minister the power to issue a general approval to local governments to make major policy decisions about DRFA assistance during local government election caretaker periods. The policy objective is to provide that the Minister may issue an approval which applies to multiple local governments for multiple decisions.

This will streamline the current process whereby local governments must apply to the Minister for approval to make a major policy decision during caretaker where exceptional circumstances apply.

Difficulties were experienced by local governments in the aftermath of ex-Tropical Cyclone Jasper, which coincided with the caretaker period ahead of the 2024 quadrennial local government elections, where recovery efforts were delayed because of the requirement for local governments to seek a Ministerial exemption before progressing contracts for disaster recovery works.

The proposed approach is considered a more effective solution than relying on the delegation of Ministerial powers provisions (COBA, section 236 and LGA, section 255) as a means of expediting exemption approval processes.

Remove conduct breaches from the councillor conduct framework

The policy objective is to amend chapter 5A of the LGA to remove the conduct breach category from the councillor conduct framework. This reflects feedback from the local government sector that the conduct breach category:

- is open to misuse on political and personal grounds – with councillors required to determine whether a fellow councillor has breached the code of conduct
- has led to unwarranted reputational harm for councillors
- has significant cost implications for councils, including paying for independent investigations, and
- is a disproportionate way of dealing with lower-level councillor behavioural issues.

The councillor conduct framework currently deals with councillors' unsuitable meeting conduct; and complaints, notices and information about councillors' suspected conduct breaches, misconduct and corrupt conduct. The system applies to all local governments in Queensland, including BCC.

In accordance with section 150SD of the LGA, the Independent Assessor must make a preliminary assessment of all complaints, notices and information about councillor conduct before deciding how the conduct should be dealt with. In relation to the suspected conduct breach of a councillor, the Independent Assessor may refer the suspected conduct breach to the relevant local government to deal with. The provisions that govern the way a local government must deal with the suspected conduct breach of a councillor are stated in the LGA chapter 5A, part 3, division 5.

A 'conduct breach' is defined in section 150K of the LGA. Generally, conduct breach allegations are at the lower end of the scale and include minor matters such as allegations of disrespectful language and behaviour (standards of behaviour outlined in the *Code of Conduct for Councillors in Queensland*) and the failure to comply with a policy, procedure or resolution of the local government.

These sorts of conduct breaches (if proven) do not attract substantial penalties – usually a reprimand or an order for an apology or to undertake training. However, allegations about conduct breaches do often have a disproportionate impact on councillor reputations and the operations of local governments. Also, while the number of conduct breach allegations is relatively low, the time and resources that local governments expend investigating the allegations and reporting on the allegations, can be significant. It is also understood that councillors are reluctant to sit in judgement of their peers because of fears it can negatively impact working relationships and fears of potential reprisals.

Under the proposed amendments, local governments will continue to deal with the poor behaviour of councillors in local governments meetings as 'unsuitable meeting conduct', consistent with how Parliament deals with the behaviour of its members. The councillor conduct framework will also continue to deal with councillors' misconduct and corrupt conduct, however, councillor conduct that falls short of misconduct or corrupt conduct will no longer be assessed or actioned under the framework.

To ensure the more serious types of councillor conduct that are currently captured by the definition of 'conduct breach' continue to be appropriately assessed and actioned by the Independent Assessor, with potential referral to the Councillor Conduct Tribunal for determination, it is proposed to amend the definition of 'misconduct'. The amendments provide that the following conduct is misconduct: bullying, sexual harassment, and failing to comply with an order of the chairperson of a local government meeting to leave and stay away from the place at which the meeting is being held. This is considered appropriate given such conduct has the potential to cause significant harm to persons and to the reputation of local government.

Where a local government employee is at risk of harm or their safety is threatened because of a councillor's conduct, the local government CEO also has a duty to take action under the *Work Health and Safety Act 2011* and can give an enforceable direction to a councillor to protect the staff if warranted. A failure by a councillor to comply with such a direction could, depending on the circumstances, be misconduct and fall within the jurisdiction of the Independent Assessor.

Remove duplication – publishing of councillor conduct particulars

The policy objective is to remove the requirement for a local government to publish councillor conduct particulars in its annual report, if the particulars are also required to be published in the local government's councillor conduct register.

Currently, section 178 of the CBR and section 186 of the LGR prescribe councillor information that must be included in a local government's annual report, including particulars about councillor conduct.

Section 150DY of the LGA prescribes the decisions and related details about councillor conduct that must be included in a councillor conduct register published on a local government's website.

To remove duplication, it is proposed that certain councillor conduct particulars no longer need to be published in a local government's annual report.

Changes to mandatory training requirements – election candidates and councillors

The policy objective is to remove onerous and unnecessary mandatory training requirements for existing councillors.

Currently, section 26(2) of the *Local Government Electoral Act 2011* (LGEA) provides that a person may be nominated as a candidate for an election only if the person has, within 6 months before the nomination day for the election, successfully completed a training course approved by the department's chief executive about:

- the person's obligations as a candidate, including the person's obligations under part 6 of the LGEA (Electoral funding and financial disclosure), and
- the person's obligations as a councillor, if the person is elected or appointed, including obligations under a Local Government Act within the meaning of the LGA.

It is proposed to empower incumbent councillors (including mayors) by only requiring new candidates to complete the mandatory candidate training under the LGEA. It is considered that sitting councillors who are nominating for re-election and who have completed the candidate training previously, should not be required to complete the training again.

Section 169A of the COBA and LGA require councillors to complete 'approved councillor training' about the responsibilities of councillors under the COBA or LGA. The training must be completed by a councillor within the period prescribed by regulation, or an extended period decided by the department's chief executive. The requirements for the training are prescribed by regulation.

Section 242AA of the CBR and section 254AA of the LGR provide that a councillor elected at a local government election must complete training about the code of conduct, registers of interests and conflicts of interest, within 6 months after the conclusion of the election.

It is proposed to empower returning councillors by only requiring new, and not returning councillors, to complete mandatory training on the prescribed topics within 6 months after the conclusion of the election.

However, it is intended that all councillors, both new and returning, be required to complete mandatory training within a certain time period during a local government term where legislative changes are implemented, for example, if changes are made to the conflict of interest requirements.

Remove power to make regulations in relation to the functions and key responsibilities of councillor advisors

The policy objective is to amend section 194C of the COBA and section 197D of the LGA to remove the ability for a regulation to limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment.

These regulation-making powers have not been used since the inception of councillor advisors in October 2020 and are deemed unnecessary.

Postal ballot applications – local governments to apply directly to Electoral Commissioner

The policy objective is to streamline the process relating to postal ballot applications at sections 45AA and 45AB of the LGEA.

It is proposed to amend the LGEA to empower local governments to make an application directly to the Electoral Commissioner for a poll to be conducted by postal ballot, instead of being required to first apply to the Minister.

The current process whereby the Electoral Commissioner considers the application and makes a recommendation to the Minister is proposed to remain in place. The Minister would consider the recommendation and decide whether to give a direction that the poll be conducted by postal ballot.

The proposed amendments cut unnecessary red tape and give the Electoral Commission of Queensland (ECQ) more time to consider postal ballot applications.

Review of wards/divisions and councillors before quadrennial elections

The policy objective is to streamline the process under the COBA and LGA of reviewing wards/divisions and councillors before local government quadrennial elections.

Section 16 of the LGA requires local governments (other than BCC) to review whether each division of its local government area has a reasonable proportion of electors for each councillor elected for the division and, on completion of the review, provide the Electoral Commissioner and the Minister notice of the results of the review. Section 18 of the COBA requires BCC to conduct an equivalent review restricted to reviewing whether each of the wards of Brisbane has a reasonable proportion of electors.

These processes are considered inefficient as the ECQ initially provides each local government with the data on whether each division/ward has a reasonable proportion of electors, then the local government sends a notice back to the ECQ detailing what the ECQ initially provided.

To streamline this process, it is proposed to amend section 16 of the LGA and section 18 of the COBA to provide for the ECQ, rather than local governments, to initiate the divisional boundary review process ahead of a quadrennial election. The ECQ would give local governments and the Minister notice of the results of the review into whether divisions/wards have a reasonable proportion of electors.

Deadline for review of wards/divisions and councillors before quadrennial elections

The policy objective is to align the deadline for reviewing divisions/councillors under the LGA, and wards of Brisbane under the COBA, ahead of a quadrennial election.

Section 16 of the LGA provides that local governments must complete this review no later than 1 March in the year before the year of the quadrennial elections. Section 18 of the COBA provides that BCC must complete this review no later than 1 October in the year that is 2 years before the year of the quadrennial elections. ECQ has expressed that the time constraints imposed by the date under the LGA makes it difficult to complete the large volume of boundary reviews usually required to be conducted in the year before local government quadrennial elections.

It is proposed to amend the LGA to align the deadline for the review of divisions and councillors in the LGA with the deadline for the review of wards in the COBA in order to provide the Local Government Change Commission with more time to complete the necessary divisional boundary reviews.

Remove requirement to give Minister a copy of public benefit assessment report and associated resolutions

The policy objective is to reduce red tape by removing the requirement for local governments to give the Minister a copy of a public benefit assessment report and all resolutions made in relation to the report.

Currently, section 50 of the COBA and section 46 of the LGA require local governments to conduct a public benefit assessment of a new significant business activity identified in the local government's annual report and prepare a report that contains the local government's recommendations about the application of the competitive neutrality principle in relation to the significant business activity. The report must then be considered at a meeting of the local government and the local government must decide, by resolution, whether or not to apply the competitive neutrality principle in relation to the new significant business activity.

Any resolution that the competitive neutrality principle should not be applied must include a statement of the reasons why it should not be applied. Subsection (8) requires the local government to give the Minister a copy of the report and all resolutions made in relation to the report.

The requirement in subsection (8) is considered unnecessary as this information is already made publicly available in the minutes of the meeting at which the report is considered.

Providing certainty to councillors about matters relating to remuneration, leaves of absence, vacation of office, and eligibility

To provide certainty to councillors in relation to these matters, the Bill:

- clarifies that councillors are entitled to receive remuneration from the date their term starts or the date they are appointed, until the date their term ends
- clarifies that a councillor absent from meetings of the local government (with or without a leave of absence) is entitled to proper remuneration
- clarifies that a leave of absence does not preclude a councillor from participating in the meeting for which the leave has been granted, nor limits the councillor from undertaking the councillor's other responsibilities
- provides that a councillor's office automatically becomes vacant if, during a local government term, the councillor is elected or appointed the mayor of the local government, and
- provides for the automatic removal of a councillor from office upon nomination as a candidate for election as a member of the Legislative Assembly.

Start and end dates for councillor remuneration

The policy objective is to clarify councillor remuneration entitlements in relation to when remuneration is to start and when remuneration is to end.

Currently, the COBA and LGA do not provide for when a councillor or mayor is entitled to begin receiving remuneration following their election or appointment; or when their remuneration finishes.

Conversely, section 48(1) of the *Queensland Independent Remuneration Tribunal Act 2013* clearly provides that a person is entitled to salary as a member of the Legislative Assembly from the day of the poll at which the person is elected as a member until the day the person stops being a member.

To align the arrangements for councillors (and mayors) with the arrangements for members of the Legislative Assembly, it is proposed to amend the COBA and LGA to provide that a councillor is entitled to remuneration from the date of the start of their term, or from the date of their appointment, until the day on which the councillor's term ends.

Councillors entitled to remuneration when absent from meetings

The policy objective is to clarify the remuneration entitlements of councillors absent from meetings of the local government, with or without a leave of absence. The LGA and LGR are silent on this particular issue.

Current provisions provide:

- councillors are to participate in council meetings (LGA, section 12(3)(c))
- a councillor's office becomes vacant if the councillor is absent from 2 or more consecutive ordinary meetings of the local government over a period of at least 2 months, unless the councillor is absent with the local government's leave (LGA, section 162(1)(e)(ii)), and

- the maximum amount of remuneration payable to a councillor under the remuneration schedule (prepared under LGR, section 246) must be paid to the councillor, unless the local government, by resolution, decides the maximum amount is not payable to the councillor (LGR, section 247(2)).

Amendments are proposed to the LGR to clarify that a local government cannot resolve to reduce or remove the remuneration of a councillor for a period of time the councillor is absent from meetings of the local government, even if the councillor has not been granted leave.

It is not proposed to amend the COBA in the same way as the remuneration of BCC councillors is decided by BCC, rather than the Local Government Remuneration Commission.

Councillors may participate in meetings and perform other responsibilities during leaves of absence

The policy objective is to clarify the rights of councillors during granted leaves of absence. Currently, neither the COBA or LGA (nor the related regulations) contain provisions about councillors' leaves of absence.

Section 14 of the COBA and section 12 of the LGA provide for the responsibilities of councillors and mayors, although the primary duty of councillors (as elected officials) is to participate in meetings of the local government for the benefit of the local government's area.

It is intended to clarify that a local government granting a councillor a leave of absence relates solely to excusing the councillor's attendance at meetings of the local government and does not limit the councillor from carrying out their other responsibilities. It is also intended that a councillor who is granted leave can still attend the meeting/s for which the leave of absence has been granted, including as chairperson of the meeting/s if that is the councillor's normal responsibility.

In practice, a local government may approve a councillor's leave of absence by way of passing a resolution to accept an apology of the councillor for the current or future specified meetings of the local government. A motion to grant leave from a meeting does not need to be made by the councillor themselves and the local government may grant the leave in the absence of the councillor. If a councillor attends a meeting for which they have been granted leave, the leave of absence should be taken to have been rescinded for that meeting.

For noting, however, a councillor's office continues to become vacant if the councillor is absent from 2 or more consecutive ordinary meetings of the local government over a period of at least 2 months, unless the councillor is absent with the local government's leave (COBA, section 162(d)(ii) and the LGA, section 162(1)(e)(ii)).

Automatic vacation of office if elected or appointed the mayor of the local government

The policy objective is to provide for the automatic vacation of a councillor's office if, during a local government term, the councillor is elected or appointed to fill a vacancy in the office of the mayor.

While current section 162 of the COBA and LGA provide for a number of circumstances in which a councillor's office becomes vacant, the section does not provide for the above circumstance.

When a sitting councillor is elected as mayor during the beginning or middle of a term at a by-election, or is appointed by resolution of the local government during the final part of a term, it is not intended that the councillor hold both offices. The subsequent councillor vacancy should be filled as soon as possible in accordance with the existing processes under section 166 of the COBA and LGA.

Automatic removal from office upon nomination as a candidate for the Legislative Assembly

The policy objective is to provide for the automatic removal of a councillor from office upon nomination as a candidate for election as a member of the Legislative Assembly.

Currently, section 160A of the COBA and section 160B of the LGA provide that a councillor must take leave without pay for the duration of the period for which the councillor is a candidate for election as a member of the Legislative Assembly.

The proposed amendments will ensure stability, minimise disruption and reduce operational impacts of councillors running for State office.

Promoting good governance and decision-making

Disclosure of information relating to BCC's Establishment and Coordination Committee ('Civic Cabinet')

The policy objective is to enable sound and robust decision-making by BCC's Establishment and Coordination Committee ('Civic Cabinet') by providing for access to Civic Cabinet information by non-member councillors only after decisions are made.

Section 171 of the COBA provides that a councillor may, subject to any limits prescribed under a regulation, ask the CEO to provide information that the council has access to, relating to the council. If the request relates to a document, a copy of the document must also be provided. Further, section 172 of the COBA provides that a councillor may view and make a copy of, or take an extract from, council records. Council records include documents created by or kept by BCC about its operations, whether or not the records must be available to be viewed by the public. Both sections prescribe some exemptions to councillor requests for information and councillor requests to inspect council records.

Amendments are proposed to the COBA to provide that a councillor who is not a member of Civic Cabinet may only request or inspect Civic Cabinet information once a decision on the matter relating to the information has been made.

The proposed amendments will ensure the appropriate release of Civic Cabinet information while promoting transparency and accountability.

Prevent the disclosure of unauthorised information and documents to councillors

The policy objective is to implement a recommendation of the Ethics Committee in *Report No. 214 – Matter of privilege referred by the State Development and Regional Industries Committee on 26 May 2022 relating to an alleged unauthorised disclosure of committee proceedings (May 2023)*.

The then Ethics Committee recommended consideration be given to including parliamentary privilege as an exemption to councillor requests for assistance or information under section 170A of the LGA.

Generally, current section 170A of the LGA (and current section 171 of the COBA) provides 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 Act, and may ask the CEO to provide information that the local government has access to relating to the local government. If either request relates to a document, a copy of the document must also be provided.

The current exemptions to councillor requests for assistance or information are listed under subsection (4), namely, information or a document:

- that is a record of the conduct tribunal; or
- that was a record of a former conduct review body; or
- if disclosure of the information or document to the councillor would be contrary to an order of a court or tribunal; or
- that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

To implement the Ethics Committee recommendation, it is proposed to amend the LGA and COBA to provide a further exemption to councillor requests for assistance or information which prohibits the disclosure of information or a document that comprises proceedings in the Assembly as defined in section 9 of the *Parliament of Queensland Act 2001*.

Enhancing safeguards for local government election candidates and participants

The policy objective is to provide greater flexibility to election candidates and other participants in relation to the type of address that must be included with election material and how-to-vote cards.

Currently, section 177 of the LGEA provides that, during the election period for an election, the name and address (other than a post office box) of a person who authorises an advertisement, handbill, pamphlet or notice containing election material must appear, or be stated, with the advertisement, handbill, pamphlet or notice.

Similarly, section 178 of the LGEA requires the same particulars of a person who authorises a how-to-vote card to be stated on the how-to-vote card. Again, the address must not be a post office box.

To ease safety and privacy concerns raised by local government election candidates and participants and to enhance safeguards for these election candidates and participants, it is proposed to amend the LGEA to refine the personal particulars that must be included with election material and how-to-vote cards about a person authorising the election material or how-to-vote card.

Minor, administrative and/or technical amendments

Amendments are proposed to the COBA, LGA, CBR and LGR to make minor, administrative and/or technical amendments in relation to trustee councils, councillor conduct registers, the timing of BCC's budget, the process for dealing with competitive neutrality complaints, and the appointment of an acting Independent Assessor.

Trustee councils

The policy objective is to amend section 83(3)(b) of the LGA to make clear that the obligation for trustee councils to conduct their trustee business separately from other local government business applies to all trustee councils, not only to Indigenous regional councils. Those local governments that can be trustee councils are:

- Aurukun Shire Council
- Mornington Shire Council
- Indigenous local governments:
 - Cherbourg Aboriginal Shire Council
 - Doomadgee Aboriginal Shire Council
 - Hope Vale Aboriginal Shire Council
 - Kowanyama Aboriginal Shire Council
 - Lockhart River Aboriginal Shire Council
 - Mapoon Aboriginal Shire Council
 - Napranum Aboriginal Shire Council
 - Palm Island Aboriginal Shire Council
 - Pormpuraaw Aboriginal Shire Council
 - Woorabinda Aboriginal Shire Council
 - Wujal Wujal Aboriginal Shire Council
 - Yarrabah Aboriginal Shire Council
- Indigenous regional councils:
 - Northern Peninsula Area Regional Council
 - Torres Strait Island Regional Council.

Councillor conduct registers

The policy objective is to amend section 150DY of the LGA to ensure that a councillor conduct register includes the name of a councillor, including a chairperson, who engages in unsuitable meeting conduct.

Section 150DY provides for the decisions and related details that must be included in a councillor conduct register, including a summary of the decision and the reasons for the decision, the name of the councillor about whom the decision was made, and the date of the decision.

However, the name of the councillor whose conduct is the subject of the decision may only be included, if:

- the local government or Councillor Conduct Tribunal decided the councillor engaged in a conduct breach or misconduct, or
- the councillor agrees to the councillor's name being included.

The proposed amendment to include the name of a councillor, including a chairperson, who engages in unsuitable meeting conduct in a councillor conduct register aligns with the original intent of the provision to include relevant details about all findings of unsuitable meeting conduct in the register.

Timing of BCC's budget

The policy objective is to amend the CBR to provide BCC with a longer period of time to adopt its budget (if required) to more closely align with the budget requirements for all other local governments under section 170 of the LGR, that is, before 1 August in the financial year; or a later day decided by the Minister.

Currently, section 104(2) of the COBA provides that BCC must adopt its budget before the start of the financial year to which the budget relates.

Process for dealing with competitive neutrality complaints

The policy objective is to give local governments the opportunity to resolve competitive neutrality complaints under their administrative action complaints process in the first instance, rather than having to give the complaints to the Queensland Competition Authority for investigation. Only if a competitive neutrality complaint is unable to be resolved to a complainant's satisfaction under the administrative action complaints process, will a local government be required to refer the complaint to the Queensland Competition Authority to deal with. Importantly, local governments will no longer need to adopt two separate complaints processes.

Currently, local governments are required to adopt a process for resolving competitive neutrality complaints (COBA, section 52 and LGA, section 48), and a separate process for resolving administrative action complaints (COBA, section 250 and LGA, section 268).

The processes for resolving such complaints, including the minimum requirements that local governments must follow, are set out in chapter 3, part 2, division 6 of the CBR and chapter 3, part 2, division 7 of the LGR (for competitive neutrality complaints) and section 279 of the CBR and section 306 of the LGR (for administrative action complaints).

Appointment of acting Independent Assessor

The policy objective is to amend the LGA to remove the 6-month limit on the term of appointment of an acting Independent Assessor.

Section 150DD(1) of the LGA provides that the Minister may appoint a person to act as the Independent Assessor during a vacancy in the office or during a period the Independent Assessor is absent, or cannot perform the duties of the office, for any reason. Under section 150DD(2), the person cannot be appointed for more than 6 months in a 12-month period.

In view of the Government's election commitment to review the councillor conduct framework, amendments are proposed to enable the acting Independent Assessor to remain in place while the review is conducted. This will provide clarity, stability and certainty for the Office of the Independent Assessor and stakeholders.

Additional minor and/or technical amendments

Amendments are also proposed to provide for the consistent use of terminology and to insert a missing section reference. Further details about these amendments are provided below under 'Minor, administrative and/or technical amendments'.

Achievement of policy objectives

Empowering councils

Appointment of senior executive employees of a local government

The Bill achieves its objectives in relation to the appointment of senior executive employees of a local government by amending section 196 of the LGA (Appointing other local government employees).

Clause 69 of the Bill provides that a panel constituted by the following persons appoints a senior executive employee:

- the mayor;
- the CEO;
- either:
 - if the senior executive employee is to report to only 1 committee of the local government – the chairperson of the committee, or
 - otherwise – the deputy mayor.

If the deputy mayor or chairperson is unable to take part in the panel, the local government must appoint another councillor to replace the deputy mayor or chairperson in the panel.

The Bill clarifies that the CEO continues to appoint local government employees, other than senior executive employees.

The new provisions do not affect the existing delegation powers under chapter 7, part 5 of the LGA, including the delegation powers of a local government, mayor and CEO.

Also, the Bill consequentially amends section 170(2)(b) of the LGA and includes a transitional provision for existing senior executive employees of local governments (refer to clause 141, schedule 1, part 1, amendment 7 under the LGA, and clause 71, new section 364).

Appointment of senior contract employees of Brisbane City Council

The Bill achieves its objectives in relation to the appointment of senior contract employees of BCC by:

- amending section 192 of the COBA (Appointing senior executive employees) to provide that BCC must appoint qualified persons to be the council's senior executive employees and senior contract employees (refer to clause 15)
- amending section 193 of the COBA (Appointing other council employees) to provide that the CEO must appoint the council employees, other than senior executive employees and senior contract employees (refer to clause 16)
- relocating current section 193(4) of the COBA to a stand-alone section (new section 193A) to clarify that the conditions of appointment of council employees applies to all council employees, including senior executive employees and senior contract employees (refer to clauses 16 and 17), and
- amending section 242J of the CBR (Closed meetings) to provide that BCC or a committee of BCC may resolve that all or part of a meeting of BCC or the committee be closed to the public to discuss the appointment of a senior contract employee (refer to clause 37).

The new provisions do not affect the existing power under section 242J of the CBR to close all or part of a meeting to discuss the appointment, discipline or dismissal of a senior executive employee; or the existing delegation powers under chapter 7, part 5 of the COBA.

Also, the Bill provides a definition for 'senior contract employee' (refer to clause 21) and includes a transitional provision in relation to existing senior contract employees of BCC (refer to clause 20, new section 304).

Local government access to essential State-owned quarry materials

The Bill achieves its objective of facilitating local government access to essential State-owned quarry materials by amending chapter 5, part 2, division 2 of the LGA.

Clause 56 of the Bill amends section 138AA of the LGA (Notices for this division) to provide that a 'reasonable entry notice' is a notice about a proposed entry of a property that states:

- who is to enter the property
- the reason for entering the property, and
- the days and times when the property is to be entered.

The revised definition of 'reasonable entry notice' no longer states the period in which a notice is given to an owner or occupier. Instead, the requirement to give a notice within a stated period has been moved to each operative provision, namely sections 140, 142 and 143 of the LGA.

Clause 57 of the Bill amends section 140 of the LGA (Entry by an owner, with reasonable entry notice, under a remedial notice) to provide for the period when an owner of a property, in the circumstances, gives a reasonable entry notice to the occupier of the property. The original period to give the notice (under current section 138AA) continues to apply, that is, at least 7 days before the property is to be entered. Some minor amendments have been made to subsection (2)(a) to clarify that entry does not include a home on the property and that the owner or the owner's agent may enter the property on each day at the times stated in the reasonable entry notice.

Clause 58 of the Bill amends section 142 of the LGA (Entry by a local government worker, with reasonable entry notice, under a remedial notice) to provide for the period when a local government worker, in the circumstances, gives a reasonable entry notice to the owner or the occupier of the property who is required to take the action stated in the remedial notice (the ‘responsible person’). The original period to give the notice (under current section 138AA) continues to apply, that is, at least 7 days before the property is to be entered. Some minor amendments have been made to subsection (2)(a) to clarify that a local government worker may enter the property (other than a home on the property) on each day at the times stated in the reasonable entry notice.

Clause 59 of the Bill amends section 143 of the LGA (Entry by a local government worker, with reasonable entry notice, to take materials) to provide for the period when a local government worker gives a reasonable entry notice to the owner and the occupier of relevant land in order to enter the land, search for the required materials, and remove the materials from the land. A reasonable entry notice is to be given to the owner and the occupier of the relevant land within a reasonable period before the land is to be entered.

Other amendments to section 143 clarify that a local government worker may enter the land without the permission of the occupier of the land on each day at the times stated in the reasonable entry notice, and omit the example under subsection (4)(c).

In addition, clause 55 of the Bill amends section 138(3)(a) of the LGA to replace the reference to ‘owner or the owner’s employee’ with ‘owner or the owner’s agent’ to achieve consistency with the current wording in section 140(2).

Indigenous local government rating powers and framework to facilitate future rating

The Bill achieves its objectives in relation to the rating powers of Indigenous local governments and Aurukun and Mornington Shire Councils by amending the LGA and LGR.

Clause 54 of the Bill amends the LGA by inserting new section 94A to provide a head of power to prescribe, by regulation, that any of the Indigenous local governments and Aurukun Shire Council and Mornington Shire Council must not levy general, special or separate rates, that is, rates that rely on the valuation of land under the LVA.

New section 94A(3) provides that the Minister may recommend to the Governor in Council the making of a regulation in relation to a local government only if the Minister considers it would be impracticable for the local government to levy rates on rateable land in the local government’s area.

Clause 119 of the Bill inserts new section 73A into the LGR to prescribe, for the purposes of section 94A of the LGA, the following local governments:

- Aurukun Shire Council
- Cherbourg Aboriginal Shire Council
- Doomadgee Aboriginal Shire Council
- Hope Vale Aboriginal Shire Council
- Kowanyama Aboriginal Shire Council
- Lockhart River Aboriginal Shire Council
- Mapoon Aboriginal Shire Council
- Mornington Shire Council
- Napranum Aboriginal Shire Council
- Palm Island Aboriginal Shire Council
- Pormpuraaw Aboriginal Shire Council
- Woorabinda Aboriginal Shire Council
- Wujal Wujal Aboriginal Shire Council
- Yarrabah Aboriginal Shire Council
- Northern Peninsula Area Regional Council, and
- Torres Strait Island Regional Council.

The above amendments provide the flexibility needed to facilitate the commencement of a rating program by any of the prescribed local governments in the future, should they have the capacity to do so. Amendments to the LGR would be required at that time to remove the relevant local government/s from the prescribed list.

In addition, clause 117 of the Bill omits current section 71(2) of the LGR which provides that a provision of chapter 4 of the LGR (Rates and charges) does not apply to the local government area of an Indigenous local government to the extent that the provision relies on the valuation of land under the LVA.

Empowering mayors

Responsibility of mayor – official spokesperson

The Bill achieves its objectives by amending the LGA.

Clause 49 of the Bill amends section 12 of the LGA (Responsibilities of councillors) to provide that the mayor's responsibilities under subsection (4) include being the official spokesperson of the local government about local government matters.

Clause 49 also amends section 12 to clarify that all other councillors may communicate with the community about local government matters, other than as the official spokesperson of the local government.

For information, a mayor can delegate the mayor's powers to another councillor of the local government under current section 258 of the LGA.

Responsibility of mayor – default chairperson of ordinary and special meetings

The Bill achieves its objective by amending section 12 of the LGA (Responsibilities of councillors) to provide that the mayor's responsibilities under subsection (4) include leading and managing meetings of the local government as chairperson, and any committee meetings for which the mayor is the chairperson, including managing the conduct of the participants at the meetings (refer to clause 49).

A mayor can delegate the mayor's extra responsibilities, including the chairing of meetings of the local government, to another councillor of the local government under current section 258 of the LGA.

It is not necessary to amend the COBA, as that Act already provides that a chairperson, who is appointed from its councillors (other than the mayor or deputy mayor), chairs meetings of the council.

Councillors' conflicts of interests and registers of interests

Conflicts of interests

The Bill achieves its objective of improving the conflicts of interest framework for councillors by amending the COBA and LGA. The amendments commence on a day to be fixed by proclamation.

Clause 24 of the Bill replaces chapter 6, part 2, division 5A of the COBA (Councillors' conflicts of interest) with new chapter 6, part 2, division 5A (Dealing with personal interests of councillors). The following new sections are inserted:

- section 177A (Matters in relation to which division does not apply)
- section 177B (What is a *material personal interest*)
- section 177C (What is a *conflict of interest*)
- section 177D (Who is an *associate* of a councillor)
- section 177E (Who is a *related party* of a councillor)
- section 177F (Councillor's material personal interest at a meeting), and
- section 177G (Councillor's conflict of interest at a meeting).

Clause 25 of the Bill amends section 198D of the COBA (Dishonest conduct of councillor or councillor advisor) to remove provisions from the definition of 'relevant integrity provision'.

Clause 27 of the Bill inserts new chapter 8, part 13, division 3 into the COBA to provide for the necessary transitional arrangements.

Clause 28 of the Bill amends schedule 1, part 2 of the COBA (Integrity offences) to remove provisions from the list of integrity offences for that Act and include new section 177F(3) in relation to a councillor's material personal interest at a meeting.

Clause 29 of the Bill amends schedule 2 of the COBA (Dictionary) to omit redundant definitions, insert definitions for 'associate' of a councillor, 'conflict of interest' and 'material personal interest', and update the section reference for the definition of 'related party'.

Clause 141 of the Bill (schedule 1, part 2, amendment 1 under the COBA) consequentially amends section 194A of the COBA (Appointment and functions of councillor advisors) to replace the term ‘close associate’ in subsection (2)(a), with the updated term ‘associate’ as defined in new section 177D.

Clause 107 of the Bill makes equivalent amendments to the LGA to replace chapter 5B (Councillors’ conflicts of interest) with new chapter 5B (Dealing with personal interests of councillors). New chapter 5B contains new sections 150ED-150EJ.

The remaining equivalent amendments to the LGA are at clauses 108, 110, 111, 112 and 141, schedule 1, part 2, amendment 1 under the LGA, respectively.

In addition, the LGA section 150L (What is *misconduct*) and section 150AY (Functions of investigators) have been amended to update existing conflict of interest section references (refer to clauses 79 and 101 respectively).

Finally, a number of consequential amendments have been made to provisions about meeting requirements in the CBR and LGR to update conflict of interest terminology and section references (refer to clause 141, schedule 1, part 2, amendments 1-2 under the CBR and amendments 1-2 under the LGR).

These amendments allow councillors to get on with the job for which they were elected. The onus is appropriately placed on councillors to consider whether they have a conflict of interest in a matter while trusting councillors to manage any conflicts in the public interest. This is backed by significant penalties for those who fail to comply with the framework.

Registers of interests

The Bill achieves its objective of improving the register of interests framework for councillors by amending the CBR and LGR. The amendments commence on a day to be fixed by proclamation.

Clause 45 of the Bill amends schedule 3 of the CBR (Financial and non-financial particulars for registers of interests) by omitting the definition of ‘conflict of interest’ in section 1, replacing the term ‘relevant term’ with ‘councillor’s term of office’ for the purpose of the definition of ‘reporting term’ in section 1, and omitting the definitions of ‘employment-related or upgraded’ and ‘sponsored travel or accommodation benefit’ in section 13.

Clause 46 of the Bill replaces schedule 3A of the CBR (Content of extracts of registers of interests of councillors) with new schedule 3A to consolidate the interests held by a councillor that must be shown in an extract of the councillor’s register of interests and to adjust the period of time that the interests must be shown in the extract.

Clause 47 of the Bill amends schedule 4 of the CBR (Dictionary) to omit the definition of ‘conflict of interest’ and insert a definition for ‘sponsored travel or accommodation benefit’.

Clauses 130, 131 and 132 of the Bill make equivalent amendments to schedule 5, schedule 5A and schedule 8 of the LGR respectively.

These new requirements align with the new conflict of interest framework for councillors under the COBA and LGA.

Reducing unnecessary red tape and regulation

Ministerial power to issue an approval – major policy decisions by local governments about DRFA assistance during caretaker periods

The Bill achieves its objective of providing the Minister with the power to issue a general approval to local governments to make major policy decisions about DRFA assistance during local government election caretaker periods, by amending the COBA and LGA.

Clause 6 of the Bill amends the COBA by replacing section 92B with new sections 92B, 92BA and 92BB.

To provide greater clarity, the provisions that comprise current section 92B have been separated out into two new sections, namely new section 92B (Prohibition on major policy decisions during caretaker period) and new section 92BA (Approval to make major policy decisions in exceptional circumstances).

New section 92BB (Approval to make major policy decisions related to disaster recovery funding arrangements) provides the Minister with the power to issue an approval to BCC (without BCC having to first apply for an approval under new section 92BA) to make major policy decisions about eligible DRFA assistance during a caretaker period for the council.

The approval may state the types of major policy decisions that may be made and that the decisions may be made only in relation to a stated matter. Also, the approval may be given on conditions with which BCC must comply.

New section 92BB applies if, during a caretaker period for BCC, the City of Brisbane is eligible for assistance under the DRFA and the Minister considers it is necessary for the council to make major policy decisions during the caretaker period to achieve the objectives of the DRFA.

For all other local governments, the Bill makes equivalent amendments to the LGA by replacing section 90B with new sections 90B, 90BA and 90BB (refer to clause 52). Under the LGA, new section 90BB applies if, during a caretaker period for a local government, the local government's local government area is eligible for assistance under the DRFA and the Minister considers it is necessary for the local government to make major policy decisions during the caretaker period to achieve the objectives of the DRFA.

As a consequence, the Bill also amends section 92C of the COBA and section 90C of the LGA (Invalidity of major policy decision in caretaker period without approval) to provide that a major policy decision is invalid to the extent a local government does not have the Minister's approval under new sections 92BA or 92BB of the COBA or new sections 90BA or 90BB of the LGA; or to the extent a local government does not comply with any conditions imposed on the approvals (refer to clause 141, schedule 1, part 1, amendments 1-2 under the COBA and amendments 2-3 under the LGA).

Remove conduct breaches from the councillor conduct framework

Primarily, the Bill achieves its objective of removing conduct breaches from the councillor conduct framework by amending chapter 5A of the LGA (Councillor conduct) (refer to clauses 72-106).

Of note, clause 79 of the Bill amends section 150L to include in the definition of ‘misconduct’, the conduct of a councillor that:

- is or involves repeated unreasonable behaviour directed at another person that causes a risk to the health or safety of the other person
- is or involves harassment of a sexual nature, including, for example, unwelcome behaviour of a sexual nature and making a remark with a sexual connotation, or
- contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held.

The Bill also makes the following consequential amendments:

- amends schedule 4 of the LGA (Dictionary) to omit the definitions for ‘conduct breach’, ‘investigation policy’, ‘investigation report’ and ‘referral notice’ (refer to clause 112)
- amends section 238 of the COBA and section 257 of the LGA (Delegation of local government powers) to omit subsection (2) which provides for the delegation of a local government’s powers in relation to councillor conduct (refer to clauses 26 and 109 respectively), and
- various amendments to the CBR and LGR (refer to clauses 39-43 and 123-128 respectively).

The Bill includes appropriate transitional provisions to facilitate the removal of conduct breaches from the councillor conduct framework (refer to clause 44, clause 110 (new sections 365-370), and clause 129).

The amendments commence on a day to be fixed by proclamation. The *Code of Conduct for Councillors in Queensland* will be amended to reflect the removal of conduct breaches to coincide with the commencement of these amendments.

Remove duplication – publishing of councillor conduct particulars

The Bill achieves its objective by amending section 178 of the CBR (clause 35) and section 186 of the LGR (clause 120) to no longer require the following councillor conduct particulars to be published in a local government’s annual report:

- total number of orders made by a chairperson for the unsuitable meeting conduct of councillors, and total number of orders made by councillors for a chairperson’s unsuitable meeting conduct
- total number of orders made by the local government for conduct breaches
- total number of decisions, orders and recommendations made by the Councillor Conduct Tribunal for misconduct or a conduct breach
- name of each councillor for whom a decision, order or recommendation was made
- description of the unsuitable meeting conduct, conduct breach or misconduct engaged in by each of the councillors
- summary of the decision, order or recommendation made for each councillor

- number of applications heard by the Councillor Conduct Tribunal about whether a councillor engaged in misconduct or a conduct breach, and
- number of decisions made by the local government, after conducting an investigation, about whether a councillor engaged in a conduct breach and any disciplinary action to be taken.

These particulars, other than in relation to conduct breaches, will still be captured in a local government's councillor conduct register in accordance with section 150DY of the LGA.

Changes to mandatory training requirements – election candidates and councillors

The Bill achieves its objective of removing onerous and unnecessary mandatory training requirements for existing councillors by amending the LGEA, COBA and LGA.

Clause 134 of the Bill amends section 26(2) of the LGEA (Who may be nominated) to also provide that a person may be nominated as a candidate for an election if the person is a councillor:

- who has, at any time, successfully completed a training course under the current requirements (new subsection (2)(a)), and
- whose office has not, before the nomination day for the election, become vacant under section 162 of the COBA or LGA.

Clause 140 of the Bill makes consequential amendments to schedule 1, section 7 of the LGEA (Training course approved under Act, section 26).

Clause 12 of the Bill amends section 169A of the COBA to provide that a councillor must complete each approved training course unless the councillor has, at any time, previously completed the approved training course. The current concept of 'approved councillor training' has been replaced with 'approved training course'. Equivalent amendments have been made to section 169A of the LGA (refer to clause 66).

Clause 20, new section 303 and clause 71, new section 363 of the Bill insert a transitional provision into the COBA and LGA respectively to provide for the necessary transitional arrangements.

Remove power to make regulations in relation to the functions and key responsibilities of councillor advisors

The Bill achieves its objective of removing the power in the COBA and LGA to make regulations in relation to the functions and key responsibilities of councillor advisors by:

- amending section 194C of the COBA (Regulation may prescribe particular matters relating to councillor advisors) to reflect that a regulation can no longer limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment (refer to clause 19). A regulation may continue to prescribe the maximum number of councillor advisors each councillor of BCC may appoint and the Local Government Remuneration Commission is to still make recommendations to the Minister about any proposed regulation regarding councillor advisor numbers

- amending section 197D of the LGA (Regulation may prescribe particular matters relating to councillor advisors) to omit subsection (1)(c) which provides for a regulation to limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment (refer to clause 70). A regulation may continue to prescribe those local governments under the LGA that may allow a councillor to appoint a councillor advisor, and the maximum number of councillor advisors each councillor may appoint. Also, the Local Government Remuneration Commission is to still make recommendations to the Minister about any proposed regulation regarding local government eligibility to appoint councillor advisors and/or councillor advisor numbers, and
- updating the references to section 194C(1)(a) in section 194A(2)(b) of the COBA and section 255H of the CBR as a consequence of the amendments made to section 194C of the COBA above (refer to clause 18(2) and clause 141, schedule 1, part 1, amendment 1 under the CBR).

Postal ballot applications – local governments to apply directly to Electoral Commissioner

The Bill achieves its objective of streamlining the process for postal ballot applications by amending the LGEA.

Clause 135 of the Bill amends section 45AA of the LGEA (Application for direction that poll be conducted by postal ballot) to provide that a local government may apply directly to the Electoral Commissioner to make a written recommendation for a poll to be conducted by postal ballot. For a poll for a quadrennial election, the application must be made before 1 May in the year preceding the quadrennial election or a later day approved by the Electoral Commissioner.

Clause 136 of the Bill amends section 45AB of the LGEA (Referral of application to electoral commissioner for recommendation) to provide that, for an application by a local government under section 45AA, the Electoral Commissioner must as soon as practicable after the application is made, give the Minister notice of the application; consider the application; make a written recommendation about whether the application should be approved and the reasons for the recommendation; and give the recommendation and reasons to the Minister.

Clause 137 of the Bill amends section 45 of the LGEA (Direction that poll be conducted by postal ballot) to provide that the Minister must consider the Electoral Commissioner's recommendation and decide whether to give a direction that the poll the subject of the recommendation be conducted by postal ballot.

Review of wards/divisions and councillors before quadrennial elections

The Bill achieves its objective of streamlining the internal boundary review process ahead of local government quadrennial elections by amending the COBA and LGA.

Clause 4 of the Bill amends section 18 of the COBA (Review of wards of Brisbane) to require the ECQ (rather than BCC) to review the wards of Brisbane ahead of quadrennial elections to determine whether each ward has a reasonable proportion of electors; and to give BCC and the Minister written notice of the results of the review.

Clause 50 of the Bill amends section 16 of the LGA (Review of divisions and councillors) to require the ECQ (rather than individual local governments) to review whether each division of a local government's local government area has a reasonable proportion of electors for each councillor elected for the division; and to give the local government and the Minister written notice of the results of the review.

Deadline for review of wards/divisions and councillors before quadrennial elections

The Bill achieves its objective by amending section 16 of the LGA (Review of divisions and councillors) to provide that the review of divisions and councillors ahead of quadrennial elections, must be undertaken no later than 1 October in the year that is 2 years before the year of the quadrennial elections (refer to clause 50). Notice of the results of the review must also be given within this time.

The revised deadline aligns with the current deadline in section 18 of the COBA for the review of the wards of Brisbane ahead of quadrennial elections.

Remove requirement to give Minister a copy of public benefit assessment report and associated resolutions

The Bill achieves its objective of removing the unnecessary requirement for local governments to give the Minister a copy of a public benefit assessment report and all resolutions made in relation to the report by omitting subsection (8) from section 50 of the COBA (clause 5(1)) and section 46 of the LGA (clause 51(1)). This information will continue to be publicly available in the minutes of the meeting at which the report is considered.

The Bill also amends section 50(9) of the COBA (clause 5(2)) and section 46(9) of the LGA (clause 51(2)) to update the current drafting to better explain the current requirement for a local government to repeat the process within 3 years if the local government decides not to apply the competitive neutrality principle in relation to the significant business activity.

Further, the Bill omits the obsolete transitional provision in section 50(10) of the COBA and section 46(10) of the LGA (clause 5(1) and clause 51(1) respectively).

Providing certainty to councillors about matters relating to remuneration, leaves of absence, vacation of office, and eligibility

Start and end dates for councillor remuneration

The Bill achieves its objective of clarifying councillor remuneration entitlements by amending the COBA and LGA.

Clause 10 of the Bill inserts new section 160A (Remuneration to be paid for term) into the COBA to provide that a councillor is entitled to remuneration for the period starting on the day the councillor's term starts under section 159; and ending on the day the councillor's term ends under section 160.

Clause 64 of the Bill makes equivalent amendments to the LGA by inserting new section 160B (Remuneration to be paid for term).

Under section 159 of the COBA and LGA, a councillor's term starts on the day after the conclusion of the councillor's election or on the day on which the councillor is appointed. Section 160 of the COBA and LGA provide for when a councillor's term ends depending on the circumstances. For example, a councillor's term ends at the conclusion of the next quadrennial elections if the councillor was elected at quadrennial elections or at a fresh election.

The amendments are comparable to the existing remuneration arrangements for members of the Legislative Assembly.

Councillors entitled to remuneration when absent from meetings

The Bill achieves its objective by amending section 247 of the LGR (Remuneration payable to councillors) to provide that a decision (under current subsection (2)) not to pay the maximum amount of remuneration to a councillor must not be made only because the councillor was absent, with or without the local government's leave, for 1 or more ordinary meetings of the local government (refer to clause 122).

An equivalent amendment has not been made to the CBR, as the remuneration of BCC councillors is decided by BCC. The Local Government Remuneration Commission plays no role in deciding their remuneration.

Councillors may participate in meetings and perform other responsibilities during leaves of absence

The Bill achieves its objective of clarifying the rights of councillors during granted leaves of absence by amending the COBA and LGA.

Clause 14 of the Bill amends the COBA by inserting new chapter 6, part 2, division 6 (Responsibilities during leave of absence) which incorporates new section 178 (Responsibilities of councillors during leave of absence).

New section 178 declares that, if BCC grants a councillor a leave of absence for 1 or more ordinary meetings of the council, the councillor may perform any responsibility under section 14 of the COBA during the councillor's leave of absence.

For information, section 14 of the COBA lists the responsibilities of all councillors and the extra responsibilities of the mayor.

Clause 68 of the Bill makes equivalent amendments to the LGA by inserting new chapter 6, part 2, division 6 (Responsibilities during leave of absence) which incorporates new section 175A (Responsibilities of councillors during leave of absence). Under the LGA, the responsibilities that a councillor and mayor may perform during a leave of absence are listed in section 12.

Automatic vacation of office if elected or appointed the mayor of the local government

The Bill achieves its objective by amending section 162 of the COBA (clause 11) and section 162 of the LGA (clause 65) to provide that a councillor's office automatically becomes vacant if the councillor is elected or appointed as mayor of the local government.

The amendments ensure that, in this circumstance, councillors are not required to officially resign from their councillor position for the vacancy to occur.

Automatic removal from office upon nomination as a candidate for the Legislative Assembly

The Bill achieves its objective by amending the COBA and the LGA.

Clause 8 of the Bill amends section 155 of the COBA (Disqualification because of other high office) to provide that a person can not be a councillor while the person is an electoral candidate and that a person automatically stops being a councillor when the person becomes an electoral candidate. A person is an 'electoral candidate' if, under section 93(3) of the *Electoral Act 1992*, the person becomes a candidate for an election of a member of the Legislative Assembly.

Clause 62 of the Bill makes equivalent amendments to section 155 of the LGA (Disqualification because of other high office).

For noting, both section 155 of the COBA and the LGA continue to provide for the automatic disqualification of a councillor who becomes a 'government member', that is, a member of a Parliament of the Commonwealth or a State (including Queensland); or a councillor of a local government of another State.

As a consequence, the Bill also omits current section 160A of the COBA and section 160B of the LGA (refer to clause 10 and clause 64 respectively).

Promoting good governance and decision-making

Disclosure of information relating to BCC's Establishment and Coordination Committee ('Civic Cabinet')

The Bill amends the COBA to achieve its objective of enabling sound and robust decision-making by BCC's Establishment and Coordination Committee (the committee) by providing for access to committee information by non-member councillors only after decisions are made. To allow time for implementation, the amendments commence on a day to be fixed by proclamation.

Clause 22 of the Bill amends section 171 (Requests for assistance or information) to provide that subsections (2) and (3) apply to a councillor in relation to committee information only if the councillor is a member of the committee. If the councillor is not a member of the committee, subsections (2) and (3) apply only to the extent the committee information relates to a matter that has been finally resolved by the committee.

Clause 22 also provides definitions for 'committee information' and 'finally resolved' in relation to a matter.

Clause 23 of the Bill amends section 172 (Inspection of particular records by councillors) to provide that subsection (1) applies in relation to a record of the committee containing committee information within the meaning of section 171, only if the councillor is a member of the committee. If the councillor is not a member of the committee, subsection (1) applies only to the extent the record relates to a matter that has been finally resolved by the committee.

It is considered that this will enable good decision-making through open and frank confidential discussions with the information used for such deliberations/decision-making not being available to non-committee members until after decisions are made.

Prevent the disclosure of unauthorised information and documents to councillors

The Bill achieves its objective of implementing the Ethics Committee recommendation to include parliamentary privilege as an exemption to councillor requests for assistance or information, as follows.

Clause 13 of the Bill amends section 171 of the COBA (Requests for assistance or information) to provide that current subsections (2) and (3) about requests for advice or information, including related documents, do not apply to information or a document that comprises proceedings in the Assembly, as defined in section 9 of the *Parliament of Queensland Act 2001*.

Clause 67 of the Bill makes equivalent amendments to the LGA by amending section 170A (Requests for assistance or information).

Enhancing safeguards for local government election candidates and participants

The Bill achieves its objective of refining the personal particulars that must be included with election material and how-to-vote cards by amending sections 177 and 178 of the LGEA.

Clause 138 of the Bill amends section 177 of the LGEA (Author of election material must be named) to provide that the following particulars must appear, or be stated, with an advertisement, handbill, pamphlet or notice containing election material:

- the name of the person who authorised the advertisement, handbill, pamphlet or notice, and
- the person's address, post office box or other address prescribed by regulation.

Clause 139 of the Bill amends section 178 of the LGEA (Distribution of how-to-vote cards) to provide that the particulars that must be stated on a how-to-vote card are:

- the name of the person who authorised the card, and
- the person's address, post office box or other address prescribed by regulation.

Minor, administrative and/or technical amendments

The Bill makes the following minor, administrative and/or technical amendments:

- replaces 'indigenous regional council' in section 83(3)(b) of the LGA with 'local government' to make clear that the obligation for trustee councils to conduct their trustee business separately from their other local government business applies to all trustee councils (refer to clause 141, schedule 1, part 1, amendment 1 under the LGA)

- amends section 150DY(3) of the LGA to provide that if a decision relates to an order made against a councillor for unsuitable meeting conduct, the councillor's name must be included in the local government's councillor conduct register (refer to clause 61)
- removes the requirement in section 104(2) of the COBA that BCC must adopt its budget before the start of the financial year to which the budget relates (refer to clause 7). A transitional provision provides that current section 104 of the COBA continues to apply in relation to BCC's budget for the 2025-2026 financial year (refer to clause 20, new section 301)
- inserts a new provision in section 162 of the CBR to provide that BCC must adopt its budget for a financial year before 1 August in the financial year; or a later day decided by the Minister (refer to clause 34). A transitional provision provides that new section 162(1) of the CBR (as inserted by the Bill) does not apply in relation to BCC's budget for the 2025-2026 financial year (refer to clause 38, new section 315)
- amends sections 32, 33 and 36 of the CBR and sections 44, 45 and 48 of the LGR to provide for competitive neutrality complaints to be made to local governments and for a local government's process for resolving administrative action complaints to be used to resolve a competitive neutrality complaint in the first instance. If a complainant is not satisfied with a local government's decision about a competitive neutrality complaint, the local government must give the complaint (and supporting documentation) to the Queensland Competition Authority (refer to clauses 31-33 and 114-116 respectively)
- amends section 179 of the CBR and section 187 of the LGR to require a local government's annual report to contain information about competitive neutrality complaints (in addition to information about administrative action complaints) (refer to clause 36 and clause 121 respectively)
- replaces the heading 'Local Government Electoral Act' in the COBA schedule 1, part 1 and schedule 1, part 2 with the short title reference '*Local Government Electoral Act 2011*', to achieve consistency throughout the COBA (refer to clause 141, schedule 1, part 1, amendment 4 under the COBA)
- replaces the short title reference '*Local Government Electoral Act 2011*' in sections 90D(3) and 152 of the LGA, with the defined term 'Local Government Electoral Act', to achieve consistency throughout the LGA (refer to clause 141, schedule 1, part 1, amendment 4 and amendment 6 under the LGA, respectively)
- includes a reference to section 150SE in section 150AU(1) of the LGA to confirm the original policy intent that a person given a notice under section 150SE (Notice of preliminary assessment) following the dismissal of a frivolous complaint by the Independent Assessor at the assessment stage, can be prosecuted for making the same or substantially the same complaint to the Independent Assessor again without a reasonable excuse (refer to clause 141, schedule 1, part 1, amendment 5 under the LGA). This offence was always intended to apply to decisions at the assessment stage as evidenced by section 150SE(4)(e) which mentions the offence and refers the reader to section 150AU for the offence
- replaces 'sustainability' with 'planning' in section 252(2)(j) of the COBA to align the wording of the regulation-making power with the equivalent power in section 270(2)(k) of the LGA, that is, a regulation may be made about the financial planning and accountability of the council, including the systems of financial management (refer to clause 141, schedule 1, part 1, amendment 3 under the COBA), and

- removes the restriction in section 150DD(2) of the LGA that limits the term of appointment of an acting Independent Assessor to 6 months in a 12-month period (refer to clause 60). In effect, a term of not more than 1 year will apply to a person acting in the office of the Independent Assessor because of a vacancy, and the same term will apply to any reappointment of the person to act in the office thereafter (see the *Acts Interpretation Act 1954*, section 24B(5)). For clarity, the Bill includes a transitional provision in relation to the existing acting Independent Assessor (refer to clause 71, new section 362).

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives other than by legislative amendment.

Estimated cost for government implementation

The proposed amendments either have no financial implications or can be implemented through existing resources.

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).

Abrogation of established statutory rights and liberties

The FLPs require that abrogation of established statute law rights and liberties must be justified.

A change to legislation that adversely affects rights and liberties previously granted under legislation needs to be justified. Legislation must also be reasonable and fair in its treatment of individuals.

Section 160A of the COBA and section 160B of the LGA provide that a councillor must take leave without pay for the duration of the period for which the councillor is a candidate for election as a member of the Legislative Assembly.

Clause 8 of the Bill amends section 155 of the COBA (Disqualification because of other high office) to provide that a person can not be a councillor while the person is an electoral candidate and that a person automatically stops being a councillor when the person becomes an electoral candidate. A person is an 'electoral candidate' if, under section 93(3) of the *Electoral Act 1992*, the person becomes a candidate for an election of a member of the Legislative Assembly. Clause 62 makes equivalent amendments to section 155 of the LGA (Disqualification because of other high office). The Bill repeals section 160A of the COBA and section 160B of the LGA.

The amendments remove a councillor's existing right under the legislation to return from compulsory leave and resume their responsibilities in the office of councillor if unsuccessful in a State election. The councillor's office is instead vacated. It is considered that the amendments are justified in order to ensure council stability, minimise disruption and reduce operational impacts on the council and their community of councillors running for State office. Importantly, the amendments do not disqualify a person from subsequently becoming a councillor again.

Proportionality and relevance

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, consequences imposed by legislation are proportionate and relevant to the actions to which the consequences are applied by the legislation. Legislation must impose penalties which are proportionate to the offence.

Material personal interests – offences and disqualification

As outlined above, the Bill updates the framework for dealing with conflicts of interest, including penalties (clause 24, new section 177F(3) of the COBA and clause 107, new section 150EI(3) of the LGA) for serious breaches of the material personal interest requirements (that is, with the intention to gain a benefit, or avoid a loss, for a councillor or someone else) – maximum penalty of 200 penalty units or 2 years imprisonment.

The penalties are proportionate and relevant and are consistent with:

- the current penalties under section 198D of the COBA (Dishonest conduct of councillor or councillor advisor) and section 201D of the LGA (Dishonest conduct of councillor or councillor advisor), where dishonesty is established
- the current penalties under section 177J(2) of the COBA (Dealing with prescribed conflict of interest at a meeting) and section 150EM(2) of the LGA (Dealing with prescribed conflict of interest at a meeting), and
- the former penalties under former section 174(5) of the COBA (Councillor's material personal interest at a meeting) and former section 172(5) of the LGA (Councillor's material personal interest at a meeting) where there was intention to gain a benefit or avoid a loss. These provisions applied in early 2018 (refer to reprints 29 March 2018). While the 2018 provisions applied a penalty of 85 penalty units where there was no intention to gain a benefit or avoid a loss, the Bill provides for this conduct to be captured under the revised definition of 'misconduct' (refer below).

Further, clause 28 and clause 111 of the Bill amend schedule 1, part 2 of the COBA and LGA respectively to prescribe the material personal interest offences as 'integrity offences'. If convicted of an integrity offence, a person is disqualified from being a councillor for a period of 4 years (section 153 and schedule 1 of both the COBA and LGA). A councillor is automatically suspended if charged with an integrity offence (section 186B of the COBA and section 175K of the LGA). It should be noted that current section 177J(2) of the COBA (Dealing with prescribed conflict of interest at a meeting) and current section 150EM(2) of the LGA (Dealing with prescribed conflict of interest at a meeting) are listed as integrity offences in schedule 1, part 2 of the COBA and LGA respectively. It should also be noted that former section 174(5) of the COBA and former section 172(5) of the LGA were prescribed as integrity offences under former section 153(5) of the COBA and former section 153(5) of the LGA.

These consequences are substantial, but appropriate, to reflect the serious nature of the conduct being addressed and to ensure integrity in local government decision-making. They reflect the local government principles that decision-making must be in the public interest and supported by transparent and effective processes, and that behaviour of councillors must be ethical and legal.

Definition of misconduct

Clause 79 of the Bill amends section 150L of the LGA to expand the definition of ‘misconduct’ to include conduct of a councillor that:

- is or involves repeated unreasonable behaviour directed at another person that causes a risk to the health or safety of the other person
- is or involves harassment of a sexual nature, including, for example, unwelcome behaviour of a sexual nature and making a remark with a sexual connotation, or
- contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held.

Further, contravention of the new requirements in relation to material personal interests (where there is no intention to gain a benefit or avoid a loss) and conflicts of interest is also included in the revised definition.

The Councillor Conduct Tribunal decides whether a councillor has engaged in alleged misconduct and what action should be taken under section 150AR of the LGA (Disciplinary action against councillor) to discipline the councillor. Changes to the definition of ‘misconduct’ raise issues of proportion and relevance, given the range of disciplinary measures, including a recommendation for suspension or dismissal, that might be applied following a finding of misconduct.

It is considered that the Bill has sufficient regard to the rights and liberties of individuals, as the amendments ensure that behaviour at the most serious level of the existing range of ‘conduct breaches’ continues to be assessed by the Office of the Independent Assessor and potentially determined by the Councillor Conduct Tribunal.

Further, it is appropriate that contravention of the requirements in relation to material personal interests and conflicts of interest is ‘misconduct’, as this is consistent with current requirements in the legislation for contravention of the requirements for prescribed and declarable conflicts of interest where there is no intent to dishonestly obtain a benefit or dishonestly cause a detriment.

As noted above in relation to penalties, these consequences reflect the local government principles that behaviour of councillors must be ethical and legal, and that decision-making must be in the public interest and supported by transparent and effective processes.

Repeated frivolous complaints – expansion of offence

Section 150SD(3)(b)(i) allows the Independent Assessor, following a preliminary assessment, to dismiss a councillor conduct complaint if satisfied the complaint is frivolous. A person who makes a complaint that is dismissed as frivolous must be given a notice under section 150SE(4)(e) advising the person that if they make the same or substantially the same complaint to the Independent Assessor again, they commit an offence punishable by a fine of up to 85 penalty units. A *Note* refers the reader to the LGA section 150AU for the offence.

Inadvertently, the offence provision under section 150AU of the LGA was not consequentially amended in November 2023 when the preliminary assessment process was introduced. Therefore, the offence provision continues to apply only to a person given a notice under section 150Z of the LGA in relation to the dismissal of a frivolous complaint following the investigation of a councillor's conduct by the Independent Assessor, not following a preliminary assessment by the Independent Assessor.

It could be argued that clause 141, schedule 1, part 1, amendment 5 under the LGA, expands the current offence in section 150AU of the LGA by including a reference to section 150SE. However, the original policy intent is evident from current section 150SE(4)(e) and was approved by the Legislative Assembly in November 2023.

The maximum penalty of 85 penalty units for repeated frivolous complaints is the same regardless of whether the original frivolous complaint was dismissed following the preliminary assessment process or following the investigation process and is equivalent to the maximum monetary penalty in the *Crime and Corruption Act 2001*. This is considered proportionate and reasonable to deter these kinds of complaints in view of the possible reputational damage to councillors.

Reasonable and fair treatment generally

Legislation should be reasonable and fair in its treatment of individuals. It should not be discriminatory. Even if legislation does not specifically encroach on rights and liberties recognised under the law, there remains the basic policy issue of whether the legislation is reasonable and fair.

The Bill includes amendments to facilitate local government access to essential State-owned quarry material. Clause 59 of the Bill provides that for the purposes of section 143 of the LGA (Entry by a local government worker, with reasonable entry notice, to take materials), a reasonable entry notice is to be given to the owner and occupier of the relevant land within a reasonable period prior to entry, rather than at least 7 days before the property is proposed to be entered.

The amendments are not establishing new rights of entry but clarify and improve the operation of the existing provisions giving rights of entry. It is also important to note that local governments can rely on section 143 of the LGA only if the requirements outlined in the relevant sections are met, in addition to giving a reasonable entry notice, namely that the local government:

- requires the materials to perform its responsibilities
- has no other reasonably practicable way of obtaining the materials, and
- pays compensation to the relevant person for the loss of the value of the materials removed.

A test of reasonableness applies, which may mean that in some circumstances the period is longer than the current 7-day period and in some circumstances it is shorter. This approach provides more flexibility than the current 7-day period which may not be appropriate in all circumstances. It should be noted that State-owned quarry material is the only source of material for many councils, particularly in western and northern Queensland. It is particularly important for maintenance and rectification works, and natural disaster recovery (for example, to ensure the safety of local roads in rural and remote communities). The amendments are considered appropriate, reasonable and fair.

Administrative power should be sufficiently defined and subject to appropriate review

Whether legislation has sufficient regard to the 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 (section 4(3)(a) of the LSA).

Clause 135 of the Bill amends section 45AA of the LGEA (Application for direction that poll be conducted by postal ballot) to provide that a local government may apply directly to the Electoral Commissioner to make a written recommendation to the Minister that a poll be conducted by postal ballot.

Clause 136 of the Bill amends section 45AB of the LGEA (Referral of application to electoral commissioner for recommendation) to provide that, for an application by a local government under section 45AA, the Electoral Commissioner must as soon as practicable after the application is made, give the Minister notice of the application; consider the application; make a written recommendation about whether the poll should be conducted by postal ballot and the reasons for the recommendation; and give the recommendation and reasons to the Minister.

The amendments streamline the process relating to postal ballot applications by empowering local governments to make an application directly to the Electoral Commissioner for a poll to be conducted by postal ballot, instead of being required to first apply to the Minister.

The administrative power of the Electoral Commissioner is consistent with current provisions which require the Minister to refer an application to the Electoral Commissioner. The power is sufficiently defined and subject to appropriate review. While section 45A of the LGEA provides that a decision under part 4, division 3, subdivision 1 is not subject to appeal, the Minister retains the existing power to consider the Electoral Commissioner's recommendation. The Minister decides whether to give a direction that the poll be conducted by postal ballot. The amendments cut unnecessary red tape and give the ECQ more time to consider postal ballot applications.

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).

Ministerial power to issue an approval – major policy decisions by local governments about DRFA assistance during caretaker periods

Section 92B of the COBA and section 90B of the LGA prohibit local governments from making major policy decisions during local government election caretaker periods, including decisions about certain contracts and decisions that can be used to establish an exception to obtaining quotes or tenders when entering into a contract. However, a local government may apply to the Minister for approval to make a major policy decision where exceptional circumstances apply, and it is considered necessary to make the decision in the public interest.

Clause 6 and clause 52 of the Bill (new section 92BB of the COBA and new section 90BB of the LGA respectively) provide the Minister with the power to issue a general approval to all, or specified, local governments (without local governments having to first apply for the approval) to make major policy decisions about DRFA assistance during a caretaker period for the local government.

If the Minister considers it is necessary for the local government to make major policy decisions to achieve the objectives of the DRFA, the Minister may give approval to the local government to make the major policy decisions. The approval may state the types of major policy decisions that may be made by the local government and that the decisions may be made by the local government only in relation to a stated matter. The approval may be given on conditions.

In addition, the Bill amends section 92C of the COBA and section 90C of the LGA to provide that a major policy decision is invalid to the extent a local government does not have the Minister's approval under new section 92BB of the COBA or new section 90BB of the LGA; or to the extent a local government does not comply with any conditions imposed on the approval (refer to clause 141, schedule 1, part 1, amendments 1-2 under the COBA and amendments 2-3 under the LGA).

It could be argued that the amendments represent an inappropriate delegation of legislative power, however, the power is considered appropriate and justified to accommodate circumstances where the obligation on local governments to seek the Minister's approval before making such major policy decisions is not practical or represents a barrier to the timely progression of important disaster recovery works in the public interest.

Ministerial power to issue an approval – councillor taking part in a meeting – material personal interests

Clause 24 and clause 107 of the Bill (new section 177F(5) of the COBA and new section 150EI(5) of the LGA) provide that the Minister may, by signed notice, approve a councillor taking part in a meeting or being at the place where the meeting is being held, where a councillor would otherwise be contravening requirements to leave the place and stay out of the place while a matter is being discussed and voted on, due to having a material personal interest in the matter.

The delegation of legislative power is considered appropriate and justified to accommodate circumstances where, because of the number of councillors subject to the obligations to leave and not vote, holding of the meeting would be obstructed if the approval were not given. Further, the power in other circumstances is conditional on it appearing to the Minister to be in the interests of the local government area that the approval be given. The Minister has the power to give the approval subject to conditions that must be stated in the notice.

Ministerial power to approve later day for adoption of BCC's budget

Clause 34 of the Bill inserts new subsection (1AA), renumbered as (1), in section 162 of the CBR to provide that BCC must adopt its budget for a financial year before:

- 1 August in the financial year; or
- a later day decided by the Minister.

The current requirement in section 104 of the COBA for council to adopt its budget before the start of the financial year to which the budget relates is omitted by the Bill.

The power of the Minister to approve a later day is appropriate and consistent with the current arrangements for all other local governments under section 170 of the LGR.

Electoral Commissioner's power to approve later day for postal ballot application

As outlined above under the heading 'Administrative power should be sufficiently defined and subject to appropriate review', clause 135 of the Bill amends section 45AA of the LGEA (Application for direction that poll be conducted by postal ballot) to provide that a local government may apply directly to the Electoral Commissioner to make a written recommendation to the Minister that a poll be conducted by postal ballot. This replaces the current requirement that the application be made to the Minister.

Currently, for a poll for a quadrennial election, the application must be made before 1 May in the year preceding the quadrennial election or a later day approved by the Minister (refer to section 45AA(2)(a) of the LGEA). The Bill amends section 45AA(2)(a) of the LGEA to provide that the Electoral Commissioner may approve a later day (clause 135).

The delegation of power to the Electoral Commissioner is considered appropriate and consistent with the streamlining of the requirements to improve the overall efficiency of the application process. The power to approve a later day is consistent with the current delegation of power to the Minister. Further, Ministerial oversight of an application is retained, as the Bill provides for the Minister to ultimately make a direction about the application, after considering the recommendation of the Electoral Commissioner.

Regulation-making power – Indigenous local government rating powers and framework to facilitate future rating

Clause 54 of the Bill amends the LGA by inserting new section 94A to provide a head of power for a regulation to prescribe those local governments that are not permitted to levy general, special or separate rates, that is, rates that rely on a valuation of land under the LVA.

Clause 119 of the Bill amends the LGR by inserting new section 73A, for the purpose of new section 94A of the LGA, to prescribe the relevant local governments.

Including the amendments to the LGR in the Bill ensures that the initial exercise of the delegated legislative power is subject to the scrutiny of the Legislative Assembly. Future amendments to the LGR, for example to remove a local government from the list, will equally be subject to the scrutiny of the Legislative Assembly as they will be subject to disallowance.

The policy intent is to provide flexibility for individual local governments to levy rates in the future, should it be practicable for them to levy rates on rateable land. The delegation of legislative power is considered appropriate and justified to accommodate circumstances where it may be appropriate for one or more local governments to be removed from the prescribed list, according to their individual capacity to commence rating.

Regulation-making power – exceptions from requirements applying to personal interests

The Bill replaces the current conflicts of interest framework in the COBA and LGA with the framework that was in place from 2013 to early 2018, with modifications, including providing additional exceptions for councillors.

Clause 24 of the Bill inserts new section 177A (Matters in relation to which division does not apply) in the COBA. Clause 107 of the Bill inserts new section 150ED (Matters in relation to which chapter does not apply) in the LGA. They provide that the requirements do not apply in relation to a councillor's personal 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 / a Local Government Act.

Clause 40 of the Bill replaces section 242AB of the CBR (Ordinary business matters relating to documents—Act, s 177C) and clause 125 of the Bill replaces section 254AB of the LGR (Ordinary business matters relating to documents—Act, s 150EF), to prescribe a local government's annual operational plan for these sections.

The delegation of legislative power is appropriate, as the regulation-making power replicates current section 177C(1)(d) of the COBA and section 150EF(1)(d) of the LGA. Including the amendments to the CBR and the LGR in the Bill ensures that the initial exercise of the delegated legislative power is subject to the scrutiny of the Legislative Assembly. Future amendments to the CBR and LGR, for example to add documents, will equally be subject to the scrutiny of the Legislative Assembly as they will be subject to disallowance.

Regulation-making power – material personal interests – definition of ‘associate’

Clause 24 of the Bill (new section 177D(g) of the COBA) and clause 107 of the Bill (new section 150EG(g) of the LGA) provide for a person prescribed by regulation to be an ‘associate’ for the purposes of the operation of the ‘material personal interest’ requirements.

Under new section 177B of the COBA (clause 24) and new section 150EE of the LGA (clause 107), a councillor has a material personal interest in a matter if the councillor or an associate of the councillor stands to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter at a local government meeting.

The delegation of legislative power is appropriate to provide the flexibility to prescribe additional persons as ‘associates’ where a risk of the requirements being circumvented emerges and the Government is required to rapidly address the risk. The power is subject to the scrutiny of the Parliament through the disallowance process for subordinate legislation.

Regulation-making power – minutes of meetings where material personal interests and conflicts of interest arise

As part of the amendments to the conflicts of interest framework, clause 24 and clause 107 of the Bill provide for certain information to be recorded in the minutes of a meeting, for example, the nature of an interest, whether a councillor took part in a meeting, or how a councillor dealt with a real or perceived conflict (new sections 177F(7) and 177G(6) of the COBA and new sections 150EI(7) and 150EJ(6) of the LGA).

Currently, under the LGR and CBR, an advisory committee may be exempted from taking minutes. A regulation may provide for information to be recorded in another way – refer to section 150FA of the LGA (Records about prescribed conflicts of interest or declarable conflicts of interest—meetings) and section 254G of the LGR; and the corresponding section 177X of the COBA and section 242G of the CBR.

New sections 177F(7) and 177G(6) of the COBA and new sections 150EI(7) and 150EJ(6) of the LGA provide a regulation-making power for information to be recorded other than in the minutes of a meeting. The Bill makes consequential amendments to section 242G of the CBR and section 254G of the LGR, ensuring that the initial exercise of the delegated legislative power is subject to the scrutiny of the Legislative Assembly (refer to clause 141, schedule 1, part 2, amendment 2 under the CBR and amendment 2 under the LGR).

Future amendments to the LGR or CBR, for example, to prescribe a different way of providing information, will equally be subject to the scrutiny of the Legislative Assembly as they will be subject to disallowance. It is appropriate to provide for flexibility to ensure that transparency in council decision-making is maintained. The new regulation-making powers are consistent with existing regulation-making powers in section 177X of the COBA and section 150FA of the LGA.

Regulation-making power – Disclosure of information relating to BCC’s Establishment and Coordination Committee (‘Civic Cabinet’)

Clause 22 of the Bill amends section 171 of the COBA (Requests for assistance or information), including to provide a definition in relation to a matter ‘finally resolved’ by BCC’s Establishment and Coordination Committee. This definition is also incorporated into the amendment (clause 23) to section 172 of the COBA (Inspection of particular records by councillors). The definition of ‘finally resolved’ includes that the Establishment and Coordination Committee has decided, or is taken to have decided, the matter in a way prescribed by regulation.

The delegation of legislative power is considered appropriate and justified, providing a level of flexibility to ensure matters have been brought to a conclusion by the committee before information or access is provided to non-member councillors. The power is subject to the scrutiny of the Parliament through the disallowance process for subordinate legislation and allows for sound and robust decision-making by the committee.

Regulation-making power – election material and how-to-vote cards

As outlined above under the heading Policy Objectives, the Bill refines the personal particulars that must be included with election material and how-to-vote cards about a person authorising the election material or how-to-vote card.

Clause 138 of the Bill amends section 177 of the LGEA (Author of election material must be named) to provide that the particulars that must appear, or be stated, with an advertisement, handbill, pamphlet or notice containing election material include the person’s address, post office box or other address prescribed by regulation.

Clause 139 of the Bill amends section 178 of the LGEA (Distribution of how-to-vote cards) to provide that the particulars that must be stated on a how-to-vote card include the person’s address, post office box or other address prescribed by regulation.

It is considered appropriate for a regulation to prescribe other appropriate kinds of address, to provide flexibility in allaying safety and privacy concerns raised by election candidates. Further, a regulation when made will sufficiently subject the exercise of the delegated legislative power to Parliamentary scrutiny.

Consultation

Targeted consultation on proposed amendments in the Bill was undertaken with key stakeholders, including BCC, Local Government Association of Queensland, Local Government Managers Australia (Queensland), ECQ, Office of the Independent Assessor, Local Government Remuneration Commission, and Queensland Parliamentary Service.

The proposed amendments are generally supported. However, certain stakeholders raised concerns about the following proposed amendments:

- providing that ‘senior executive employees’ of a local government are appointed by a panel consisting of the mayor, CEO and deputy mayor or committee chairperson

- providing that ‘senior contract employees’ (including at the General Manager level) at BCC are appointed by the council
- removing conduct breaches from the councillor conduct framework
- removing the mandatory training requirements for sitting councillors or candidates
- proposed conflicts of interest framework, and
- providing for the automatic removal from office of a councillor upon nomination as a candidate for the Legislative Assembly.

The issues raised by stakeholders were considered during the drafting of the Bill.

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 (Empowering Councils) and Other Legislation Amendment Act 2025*.

Clause 2 Commencement

Clause 2 states that the following provisions commence on a day to be fixed by proclamation:

- part 2, division 3;
- part 3, division 3;
- part 4, division 3;
- part 5, division 3;
- schedule 1, part 2.

Part 2 Amendment of City of Brisbane Act 2010

Division 1 Preliminary

Clause 3 Act amended

Clause 3 provides that this part amends the *City of Brisbane Act 2010*.

Division 2 Amendments commencing on assent

Clause 4 Amendment of s 18 (Review of wards of Brisbane)

Clause 4 amends section 18 to require the Electoral Commission of Queensland (rather than Brisbane City Council) to review, before local government quadrennial elections, whether each of the wards of Brisbane has a reasonable proportion of electors. The Commission must give the council and the Minister written notice of the results of the review.

Clause 5 Amendment of s 50 (Assessing public benefit)

Clause 5 omits subsection (8) from section 50 to remove the requirement for Brisbane City Council to give the Minister a copy of a public benefit assessment report and all resolutions made in relation to the report.

Clause 5 also amends subsection (9) to better explain the current requirements; and omits subsection (10) to remove an obsolete transitional provision.

Clause 6 Replacement of s 92B (Prohibition on major policy decision in caretaker period)

Clause 6 replaces current section 92B with new sections 92B, 92BA and 92BB.

New section 92B (Prohibition on major policy decisions during caretaker period) provides that Brisbane City Council must not make a major policy decision during a caretaker period for the council.

New section 92BA (Approval to make major policy decisions in exceptional circumstances) applies if Brisbane City Council considers that, because exceptional circumstances exist, it is necessary and in the public interest to make a major policy decision during a caretaker period for the council. The council may apply to the Minister for approval to make the major policy decision during the caretaker period. The Minister may give the approval if the Minister is satisfied that, because exceptional circumstances exist, it is necessary and in the public interest for the council to make the major policy decision during the caretaker period. The approval may be given on conditions with which the council must comply.

New section 92BB (Approval to make major policy decisions related to disaster recovery funding arrangements) applies if, during a caretaker period for Brisbane City Council, the City of Brisbane is eligible for assistance under the disaster recovery funding arrangements and the Minister considers it is necessary for the council to make major policy decisions during the caretaker period to achieve the objectives of the disaster recovery funding arrangements. The Minister may give approval to the council to make the major policy decisions. The approval may state the types of major policy decisions that may be made by the council and that the decisions may be made by the council only in relation to a stated matter. The approval may be given on conditions and Brisbane City Council must comply with those conditions.

Therefore, subject to the Minister's approval under new section 92BB, Brisbane City Council will not be required to apply to the Minister each time this type of major policy decision needs to be made during a caretaker period for the council. This reduces red tape and enables important disaster recovery works to progress without unnecessary delays.

Clause 7 Amendment of s 104 (Approval of budget)

Clause 7 omits subsection (2) from section 104 to remove the requirement for Brisbane City Council to adopt its budget before the start of the financial year to which the budget relates. The Bill contains an amendment to section 162 of the *City of Brisbane Regulation 2012* to revise the timing for the adoption of council's budget to more closely align with the budget requirements for all other local governments.

Clause 8 Amendment of s 155 (Disqualification because of other high office)

Clause 8 amends section 155 to provide that a person can not be a councillor while the person is an electoral candidate; and that a person automatically stops being a councillor when the person becomes an electoral candidate.

Clause 8(3) inserts new subsection (2A), renumbered as (3), to provide a definition for ‘electoral candidate’, that is, a person is an electoral candidate if, under the *Electoral Act 1992*, section 93(3), the person becomes a candidate for an election of a member of the Legislative Assembly.

Clause 9 Amendment of ch 6, pt 2, div 2, hdg (Councillor’s term of office)

Clause 9 amends the heading for chapter 6, part 2, division 2 to include a reference to councillor’s entitlement to remuneration.

Clause 10 Replacement of s 160A (Compulsory leave without pay)

Clause 10 replaces current section 160A with new section 160A (Remuneration to be paid for term).

Current section 160A is omitted in its entirety as a consequence of the amendments to section 155 which provide for the automatic removal of a councillor from office upon nomination as a candidate for election as a member of the Legislative Assembly.

New section 160A clarifies councillor remuneration entitlements in relation to when remuneration is to start and when remuneration is to end, that is, a councillor is entitled to remuneration for the period:

- starting on the day the councillor’s term starts under section 159 of the *City of Brisbane Act 2010*; and
- ending on the day the councillor’s term ends under section 160 of that Act.

Clause 11 Amendment of s 162 (When a councillor’s office becomes vacant)

Section 162 of the *City of Brisbane Act 2010* provides for a number of circumstances in which the office of a councillor becomes vacant.

Clause 11 amends section 162 to also provide that a councillor’s office become vacant if the councillor is elected or appointed as mayor of the council. This ensures that if a councillor is elected or appointed to fill a vacancy in the office of the mayor, the councillor is not required to officially resign from their current office and the subsequent councillor vacancy can be filled as soon as possible in accordance with existing processes.

Clause 12 Amendment of s 169A (Councillor training)

Section 169A(1) of the *City of Brisbane Act 2010* requires all councillors to complete ‘approved councillor training’ about the responsibilities of councillors under section 14 of that Act. Under subsections (2) and (3), the training must be completed 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. Subsection (7) provides that a regulation may prescribe the requirements for the training.

Currently under section 242AA of the *City of Brisbane Regulation 2012*, a councillor elected at a local government election must complete approved councillor training within 6 months after the conclusion of the election.

Clause 12 amends section 169A(1) to provide that a councillor must complete each approved training course unless the councillor has, at any time, previously completed the approved training course. *Clause 12(5)* amends section 169A(8) to replace the definition ‘approved councillor training’ with the definition ‘approved training course’ to mean a course of training approved by the department’s chief executive that:

- is about a councillor’s responsibilities under section 14 of the *City of Brisbane Act 2010*, and
- meets the requirements under section 169A(7) of that Act.

Clause 13 Amendment of s 171 (Requests for assistance or information)

Section 171(1) provides that a councillor of Brisbane City Council may ask a council employee to provide advice to assist the councillor to carry out his or her responsibilities under the *City of Brisbane Act 2010*. Under subsection (2), a councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information that the council has access to, relating to the council. Subsection (3) provides that if the advice or information requested under subsection (1) or (2) relates to a document, the requirement to comply with the request includes a requirement to provide a copy of the document. Subsection (4) provides several exemptions to councillor requests for assistance or information, for example, information or a document that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Clause 13 amends section 171(4) to provide a further exemption to councillor requests for assistance or information. New subsection (4)(ba), renumbered as (4)(c), provides that section 171(2) and (3) do not apply to information or a document that comprises proceedings in the Assembly under the *Parliament of Queensland Act 2001*, section 9.

Clause 14 Insertion of new ch 6, pt 2, div 6

Clause 14 inserts new chapter 6, part 2, division 6 about councillors’ responsibilities during leaves of absence.

New section 178 (Responsibilities of councillors during leave of absence) applies if Brisbane City Council grants a councillor a leave of absence for 1 or more ordinary meetings of the council. It is declared that the councillor may perform any responsibility under section 14 of the *City of Brisbane Act 2010* during the councillor’s leave of absence.

This would include a councillor attending a meeting for which a leave of absence has been granted, including as chairperson of the meeting if that is the councillor’s normal responsibility.

Under current section 162(d)(ii) of the *City of Brisbane Act 2010*, a councillor’s office continues to become vacant if the councillor, without the council’s leave, is absent from 2 or more consecutive ordinary meetings of the council over a period of at least 2 months.

Clause 15 Amendment of s 192 (Appointing senior executive employees)

Clause 15 amends section 192(1) to provide that Brisbane City Council must appoint qualified persons to be the council’s senior contract employees. This is in addition to council appointing its senior executive employees.

Clause 15 also amends the section heading and subsection (2) to complement the amendments to subsection (1).

Clause 16 Amendment of s 193 (Appointing other council employees)

Clause 16 amends section 193(3) to provide that the CEO of Brisbane City Council must appoint the council employees, other than senior executive employees and senior contract employees. The amendments are consequential to the amendments to section 192 above.

Clause 16 also omits subsection (4) which has been relocated to a stand-alone section, new section 193A.

Clause 17 Insertion of new s 193A

Clause 17 inserts new section 193A (Conditions of appointment of council employees) to clarify that the conditions of appointment of council employees (currently under section 193(4) of the *City of Brisbane Act 2010*) apply to all council employees, including senior executive employees and senior contract employees. Consequently, section 193(4) is omitted by the Bill.

Clause 18 Amendment of s 194A (Appointment and functions of councillor advisors)

Clause 18 amends section 194A(2)(b) to update the reference to section 194C(1)(a) as a consequence of the amendments to section 194C which remove the power for a regulation to limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment.

Clause 19 Amendment of s 194C (Regulation may prescribe particular matters relating to councillor advisors)

Clause 19 makes various amendments to section 194C to reflect that a regulation can no longer limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment.

Section 194C, as amended, continues to provide that a regulation may prescribe the maximum number of councillor advisors each councillor of Brisbane City Council may appoint.

Clause 20 Insertion of new ch 8, pt 13

Clause 20 inserts new chapter 8, part 13, divisions 1 and 2 (sections 300-304) to provide transitional provisions for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

Division 1 Preliminary

New section 300 (Definitions for part) provides definitions for 'amendment Act', 'former', 'new' and 'transitional provision'.

Division 2 Provisions for amendments commencing on assent

New section 301 (Budget for 2025-2026 financial year) provides that section 104 of the *City of Brisbane Act 2010* as in force immediately before the commencement of the amendment Act continues to apply in relation to Brisbane City Council's budget for the 2025-2026 financial year.

New section 302 (Councillors who were candidates immediately before commencement) applies if, before the commencement of the amendment Act, a councillor had become a candidate under section 93(3) of the *Electoral Act 1992* for an election of a member of the Legislative Assembly, and immediately before the commencement of the amendment Act, the election period for the election had not ended under that Act. Sections 155 and 160A of the *City of Brisbane Act 2010* as in force immediately before the commencement of the amendment Act continue to apply to the councillor until the election period ends. Therefore, such councillors are not subject to automatic removal from office because they are a candidate for election as a member of the Legislative Assembly.

New section 303 (Councillor training) provides that training that was, immediately before the commencement of the amendment Act, approved councillor training for a matter under section 169A of the *City of Brisbane Act 2010* as in force immediately before the commencement is, from the commencement of the amendment Act, taken to be an approved training course for the same matter under new section 169A.

New section 304 (Existing senior contract employees) applies to a person if, immediately before the commencement of the amendment Act, the person held an appointment under section 193 of the *City of Brisbane Act 2010* as in force immediately before the commencement of the amendment Act, and the person was employed on a contractual basis and classified by Brisbane City Council as 'senior executive service'. From the commencement of the amendment Act, the person's contract and conditions of employment continue and the person is taken to have been appointed by council as a senior contract employee under new section 192.

Clause 21 Amendment of sch 2 (Dictionary)

Clause 21 amends schedule 2 (Dictionary) to insert a new definition for 'senior contract employee', and to amend the definition of 'council employee'.

Division 3 Amendments commencing by proclamation

Clause 22 Amendment of s 171 (Requests for assistance or information)

Section 171(1) provides that a councillor of Brisbane City Council may ask a council employee to provide advice to assist the councillor to carry out his or her responsibilities under the *City of Brisbane Act 2010*. Under subsection (2), a councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information that the council has access to, relating to the council. Subsection (3) provides that if the advice or information requested under subsection (1) or (2) relates to a document, the requirement to comply with the request includes a requirement to provide a copy of the document. Subsection (4) provides several exemptions to councillor requests for assistance or information, for example,

information or a document that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Clause 22(1) inserts new subsection (4A), renumbered as (5), to provide that section 171(2) and (3) apply to a councillor in relation to committee information only if the councillor is a member of the Establishment and Coordination Committee. If the councillor is not a member of the Establishment and Coordination Committee, section 171(2) and (3) apply only to the extent the committee information relates to a matter that has been finally resolved by the Establishment and Coordination Committee.

Clause 22(4) inserts definitions for ‘committee information’ and ‘finally resolved’, in relation to a matter.

‘Committee information’ means information in a document made about, by or for the purposes of the Establishment and Coordination Committee, including the following documents—

- (a) committee submissions;
- (b) committee briefing notes;
- (c) committee agendas;
- (d) notes of discussions in committee meetings;
- (e) committee minutes;
- (f) committee decisions;
- (g) a draft of a document mentioned in any of paragraphs (a) to (f).

‘Finally resolved’, in relation to a matter, means the Establishment and Coordination Committee has, by resolution, made a final decision about the matter; or the Establishment and Coordination Committee has decided, or is taken to have decided, the matter in a way prescribed by regulation.

Clause 23 Amendment of s 172 (Inspection of particular records by councillors)

Section 172(1) provides that a councillor may view and make a copy of, or take an extract from, council records. Subsection (3) provides several exemptions to councillor requests to inspect council records, for example, a record that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Clause 23 inserts new subsection (3A), renumbered as (4), to provide that section 172(1) applies in relation to a record of the Establishment and Coordination Committee containing committee information within the meaning of section 171, only if the councillor is a member of the Establishment and Coordination Committee. If the councillor is not a member of the Establishment and Coordination Committee, section 172(1) applies only to the extent the record relates to a matter that has been finally resolved by the Establishment and Coordination Committee.

Clause 24 Replacement of ch 6, pt 2, div 5A (Councillors’ conflicts of interest)

Clause 24 replaces chapter 6, part 2, division 5A with new chapter 6, part 2, division 5A (Dealing with personal interests of councillors).

New section 177A (Matters in relation to which division does not apply) provides that division 5A does not apply in relation to a councillor's personal interest in a matter if the matter is solely, or relates solely to:

- the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the council
- making a planning scheme that applies to the whole of Brisbane
- amending a planning scheme, if the amendment applies to the whole of Brisbane
- 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 an associate or related party of a 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
- employment-related or upgraded travel or accommodation undertaken or used by a councillor, or an associate or related party of a councillor
- the remuneration or reimbursement of expenses of councillors or members of a committee of the council
- the provision of superannuation entitlements or insurance for councillors, or
- a matter of interest to the councillor solely as a candidate for election or appointment as mayor, deputy mayor, councillor or member of a committee of the council.

New division 5A also does not apply in relation to:

- a councillor's interest in a matter if the interest of the councillor, or an associate or related party of the councillor, is no greater than the personal interests in the matter of a significant proportion of persons in Brisbane, or
- a councillor's interest in a matter relating to a corporation or association that arises solely because of a nomination or appointment of the councillor by the council to be a member of the board of the corporation or association.

Section 177A(4) provides definitions for 'employment-related or upgraded travel or accommodation' and 'government agency'.

New section 177B (What is a *material personal interest*) provides that a councillor has a 'material personal interest' in a matter if the councillor or an associate of the councillor stands to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter at a council meeting. However, a councillor has a 'material personal interest' in relation to an associate only if the councillor knows, or ought reasonably to know, about the associate's involvement in the matter.

New section 177C (What is a *conflict of interest*) provides that a 'conflict of interest' is a conflict between a councillor's personal interests, or the personal interests of a related party of the councillor, and the public interest that might lead to a decision that is contrary to the public interest.

However, a councillor does not have a ‘conflict of interest’ in a matter if the conflict of interest arises solely because:

- the councillor undertakes an engagement in the capacity of councillor for a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation
- the councillor, or a related party of the councillor, is a member or patron of a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation
- the councillor, or a related party of the councillor, is a member of a political party
- the councillor, or a related party of the councillor, has an interest in an educational facility or provider of a child care service as a student or former student, or a parent or grandparent of a student, of the facility or service
- of the religious beliefs of the councillor or a related party of the councillor
- the councillor, or a related party of the councillor, receives a gift, loan or sponsored travel or accommodation benefit from an entity during a financial year, if the total gifts, loans and benefits given by the entity to the councillor or related party total less than \$500 in the financial year
- 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, a councillor does not have a ‘conflict of interest’ in a matter if the conflict of interest relates to the appointment, discipline, termination, remuneration or other employment conditions of a councillor advisor for the councillor, if the conflict of interest arises solely because the councillor advisor is a related party, other than an associate, of the councillor.

A councillor has a ‘conflict of interest’ in a matter in relation to a related party only if the councillor knows, or ought reasonably to know, about the related party’s involvement in the matter.

Section 177C(4) provides definitions for ‘patron’ and ‘sponsored travel or accommodation benefit’.

New section 177D (Who is an *associate* of a councillor) provides that each of the following persons is an ‘associate’ of a councillor:

- (a) a spouse of the councillor
- (b) a parent, child or sibling of the councillor
- (c) a person in a partnership with the councillor
- (d) an employer, other than a government entity, of the councillor
- (e) an entity, other than a government entity, of which the councillor is an executive officer or board member
- (f) an entity in which the councillor or a person mentioned in paragraphs (a) to (e) 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, section 9, or
- (g) another person prescribed by regulation.

New section 177E (Who is a *related party* of a councillor) provides that a person is a ‘related party’ of a councillor if the person is any of the following:

- (a) an associate of the councillor, other than an entity mentioned in section 177D(f)
- (b) a spouse of the councillor’s parent, child or sibling
- (c) a grandparent, uncle, aunt, nephew, niece or grandchild of the councillor or the councillor’s spouse
- (d) a parent, child or sibling of the councillor’s spouse
- (e) a spouse of a person mentioned in paragraph (c) or (d), or
- (f) an entity in which the councillor, or a person mentioned in paragraph (a), (b), (c), (d) or (e), has an interest.

New section 177F (Councillor’s material personal interest at a meeting) applies if a matter is to be discussed at a council meeting and a councillor has a material personal interest in the matter.

Section 177F(2) provides that the councillor must:

- (a) inform the meeting of the councillor’s material personal interest in the matter, and
- (b) leave the place where the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on.

A *Note* states that contravention of subsection (2) is misconduct under section 150L(1)(c)(iv) of the *Local Government Act 2009* that could result in disciplinary action being taken against the councillor.

Section 177F(3) provides that the councillor must not contravene subsection (2), including by voting on the matter, with an intention to gain a benefit or avoid a loss for the councillor or someone else. A maximum penalty of 200 penalty units or 2 years imprisonment applies.

Section 177F(4) provides that the councillor does not contravene subsection (2) by taking part in the meeting, or being at the place where the meeting is being held, if:

- (a) the councillor is a person to whom approval is given under subsection (5), and
- (b) the councillor complies with all conditions on which the approval is given.

Under section 177F(5), the Minister may, by signed notice, approve the councillor taking part in the meeting, or being at the place where the meeting is being held, if:

- (a) because of the number of councillors subject to the obligation under this section, the holding of the meeting would be obstructed if the approval were not given, or
- (b) it appears to the Minister to be in the interests of Brisbane that the approval be given.

Section 177F(6) provides that the Minister may give the approval subject to conditions stated in the notice.

Section 177F(7) provides that the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation:

- (a) the name of the councillor who has the material personal interest, or possible material personal interest, in a matter
- (b) the nature of the material personal interest, or possible material personal interest, as described by the councillor, and
- (c) whether the councillor took part in the meeting, or was at the place during the meeting, under an approval under subsection (5).

New section 177G (Councillor's conflict of interest at a meeting) applies if a matter is to be discussed at a council meeting, and a councillor at the meeting has a conflict of interest in the matter (a 'real conflict') or could reasonably be taken to have a conflict of interest in the matter (a 'perceived conflict').

Section 177G(2) provides that the councillor must deal with the real conflict or perceived conflict in a transparent and accountable way.

A *Note* states that contravention of this section is misconduct under section 150L(1)(c)(iv) of the *Local Government Act 2009* that could result in disciplinary action being taken against the councillor.

Section 177G(3) provides that, without limiting subsection (2), the councillor must inform the meeting of:

- (a) the councillor's personal interests in the matter, and
- (b) if the councillor participates in the meeting in relation to the matter—how the councillor intends to deal with the real conflict or perceived conflict.

Section 177G(4) provides that subsection (5) applies if a quorum at the meeting can not be formed because the councillor proposes to be excluded from the meeting to comply with subsection (2).

Under section 177G(5), the councillor does not contravene subsection (2) merely by participating, including, for example, by voting, in the meeting in relation to the matter if the attendance of the councillor, together with any other required number of councillors, forms a quorum for the meeting; and the councillor complies with subsection (3).

Section 177G(6) provides that the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation:

- (a) the name of the councillor who has the real conflict or perceived conflict
- (b) the nature of the personal interests, as described by the councillor
- (c) how the councillor dealt with the real conflict or perceived conflict
- (d) if the councillor voted on the matter—how the councillor voted on the matter, and
- (e) how the majority of persons who were entitled to vote at the meeting voted on the matter.

Section 177G(7) declares that non-participation in the meeting is not the only way the councillor may appropriately deal with the real conflict or perceived conflict in a transparent and accountable way.

Clause 25 Amendment of s 198D (Dishonest conduct of councillor or councillor advisor)

Clause 25 amends the definition 'relevant integrity provision' in section 198D(2) to omit the current conflict of interest provisions.

Clause 26 Amendment of s 238 (Delegation of council powers)

Clause 26 omits section 238(2) of the *City of Brisbane Act 2010* as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 27 Insertion of new ch 8, pt 13, div 3

Clause 27 inserts new chapter 8, part 13, division 3 (sections 305-307) to provide transitional provisions for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

Division 3 Provisions for amendments commencing by proclamation

New section 305 (Proceedings for particular offences) applies in relation to an offence against any of the following provisions of the *City of Brisbane Act 2010*, committed by a person before the commencement of the amendment Act:

- former section 198D in relation to a provision mentioned in former section 198D(2), definition ‘relevant integrity provision’, paragraph (a)(i) to (v)
- former section 177J(2)
- former section 177P(5), and
- former section 177V.

New section 305(2) provides that, without limiting section 20 of the *Acts Interpretation Act 1954*, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if sections 24 and 25 of the amendment Act had not commenced. New section 305(3) provides that subsection (2) applies despite section 11 of the Criminal Code.

New section 306 (Continued application of s 153 for former integrity offences) applies if a person is convicted of an offence against former section 177J(2) or 177V of the *City of Brisbane Act 2010* before or after the commencement of the amendment Act. The conviction is taken to be a conviction of an integrity offence for section 153(1)(d) of the *City of Brisbane Act 2010*, that is, the person can not be a councillor for 4 years after the person is convicted of the integrity offence.

New section 307 (Application of Local Government Act for contravention of former COI provisions) applies if, before the commencement of the amendment Act, a person had made a councillor conduct complaint to the Independent Assessor relating to a contravention of former section 177H, 177I, 177MA, 177N, 177T or 177W of the *City of Brisbane Act 2010* (the ‘former COI provisions’), and immediately before the commencement of the amendment Act, the complaint had not been resolved.

Section 307(2) provides that the *Local Government Act 2009*, chapter 5A, as it applies under chapter 9, part 20, division 3, subdivision 1 of that Act, applies in relation to the councillor’s conduct as if the former COI provisions had not been repealed, and contravention of a former COI provision continued to be ‘misconduct’ within the meaning of section 150L of the *Local Government Act 2009*.

Clause 28 Amendment of sch 1 (Serious integrity offences and integrity offences)

Clause 28 amends schedule 1, part 2 to update the list of integrity offences for the *City of Brisbane Act 2010* as a consequence of new chapter 6, part 2, division 5A (Dealing with personal interests of councillors).

Integrity offences for current sections 177J(2) and 177V of the *City of Brisbane Act 2010* have been replaced with an integrity offence for new section 177F(3) in relation to a councillor's material personal interest at a meeting.

Clause 29 Amendment of sch 2 (Dictionary)

Clause 29 amends schedule 2 (Dictionary) to omit the definitions of 'close associate', 'declarable conflict of interest', 'eligible councillor', 'employment-related or upgraded travel or accommodation' and 'prescribed conflict of interest'; to insert new definitions for 'associate' of a councillor, 'conflict of interest' and 'material personal interest'; and to update the section reference for the definition of 'related party'.

Part 3 Amendment of City of Brisbane Regulation 2012

Division 1 Preliminary

Clause 30 Regulation amended

Clause 30 provides that this part amends the *City of Brisbane Regulation 2012*.

Division 2 Amendments commencing on assent

Clause 31 Replacement of s 32 (Minimum requirements for complaint process)

Clause 31 replaces section 32 to provide that Brisbane City Council's adopted complaints management process under section 279 (Process for resolving administrative action complaints) applies to a competitive neutrality complaint in relation to the business entity.

Clause 32 Amendment of s 33 (Making a complaint)

Clause 32(1) replaces the requirement for a person who wants to make a competitive neutrality complaint to make the complaint in writing to Brisbane City Council or the Queensland Competition Authority, with a requirement to make the complaint in writing to Brisbane City Council.

Clause 32(2) omits section 33(2)(b)(iii) as a consequence of the amendments to section 32 of the *City of Brisbane Regulation 2012*.

Clause 32(3) amends subsection (3) to remove the requirement for competitive neutrality complaints received by Brisbane City Council to be given to the Queensland Competition Authority as soon as is practicable. Instead, a competitive neutrality complaint (and supporting information) must be given to the Queensland Competition Authority as soon as practicable if council makes a decision about the complaint that the complainant is not satisfied with.

Clause 33 Amendment of s 36 (Competition authority refusing to investigate)

Clause 33 omits section 36(1)(a) as a consequence of the amendments to section 32 of the *City of Brisbane Regulation 2012*.

Clause 34 Amendment of s 162 (Adoption and amendment of budget)

Clause 34 inserts new subsection (1AA), renumbered as (1), to provide that Brisbane City Council must adopt its budget for a financial year before:

- 1 August in the financial year, or
- a later day decided by the Minister.

The revised timing for the adoption of Brisbane City Council's budget is consistent with the current arrangements for all other local governments under section 170 of the *Local Government Regulation 2012*. The current requirement in section 104 of the *City of Brisbane Act 2010* for council to adopt its budget before the start of the financial year to which the budget relates is omitted by the Bill.

Clause 35 Amendment of s 178 (Councillors)

Clause 35 amends section 178(1) to omit requirements for particulars about certain councillor conduct matters to be included in Brisbane City Council's annual report. The amendments remove duplication as these matters are already captured in the council's councillor conduct register which is available on its website.

Clause 36 Amendment of s 179 (Administrative action complaints)

Clause 36 makes various amendments to section 179 to apply the current annual reporting requirements to both administrative action complaints and competitive neutrality complaints.

Clause 37 Amendment of s 242J (Closed meetings)

Clause 37 inserts new subsection (3)(aa) to provide that Brisbane City Council or a committee of the council may resolve that all or part of a meeting of the council or committee be closed to the public to discuss the appointment of a senior contract employee.

Clause 38 Insertion of new ch 10, pt 14

Clause 38 inserts new chapter 10, part 14 (section 315) to provide a transitional provision for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

New section 315 (Budget for 2025-2026 financial year) provides that section 162(1) of the *City of Brisbane Regulation 2012*, as in force on the commencement of the amendment Act, does not apply in relation to Brisbane City Council's budget for the 2025-2026 financial year. Therefore, the council's budget for the 2025-2026 financial year must be adopted before the start of that financial year.

Division 3 Amendments commencing by proclamation

Clause 39 Amendment of s 178 (Councillors)

Clause 39 amends section 178(1) to omit requirements for particulars about matters relating to councillor conduct breaches to be included in Brisbane City Council's annual report. The amendments are needed as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 40 Replacement of s 242AB (Ordinary business matters relating to documents—Act, s 177C)

Clause 40 replaces section 242AB with new section 242AB (Matters in relation to which the Act, ch 6, pt 2, div 5A does not apply—Act, s 177A) as a consequence of the new conflict of interest framework for councillors and the removal of conduct breaches from the councillor conduct framework.

Clause 41 Amendment of s 242D (Public availability of agendas)

Clause 41 amends the definition 'related report' in subsection (6) by omitting paragraph (b) as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 42 Amendment of s 242H (Recording of reasons for particular decisions)

Clause 42 omits subsection (2) as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 43 Amendment of s 242J (Closed meetings)

Clause 43 omits subsection (3)(j) as a consequence of removing conduct breaches from the councillor conduct framework, and omits subsection (4) as a consequence of the new conflict of interest framework for councillors.

Clause 44 Insertion of new s 316

Clause 44 inserts new section 316 to provide a transitional provision for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

New section 316 (Investigation reports and council meetings) applies if, under new section 366 of the *Local Government Act 2009*, an investigation report about the conduct of a councillor is prepared and given to Brisbane City Council. Former sections 242D, 242H and 242J of the *City of Brisbane Regulation 2012* continue to apply in relation to the investigation report.

Clause 45 Amendment of sch 3 (Financial and non-financial particulars for registers of interests)

Schedule 3 of the *City of Brisbane Regulation 2012* lists the financial and non-financial particulars of interests held by a councillor and a person related to a councillor that must be included in their register of interests. The ‘reporting term’ for a councillor or a person related to a councillor is the ‘relevant term’ for the councillor, that is, the councillor’s current term of office and previous term of office.

Clause 45(2) amends the definition ‘reporting term’ in schedule 3, section 1 to provide that the reporting term for a councillor or a person who is related to a councillor means the councillor’s term of office.

Clause 45(1) and (3) consequentially omit the definitions of ‘conflict of interest’, ‘employment-related or upgraded’ and ‘sponsored travel or accommodation benefit’.

Clause 46 Replacement of sch 3A (Content of extracts of registers of interests of councillors)

Clause 46 replaces schedule 3A of the *City of Brisbane Regulation 2012* with a new schedule 3A to consolidate the interests held by a councillor that must be shown in an extract of the councillor’s register of interests and to adjust the period of time that the interests must be shown in the extract. The required particulars about gifts, donations and sponsored travel or accommodation benefits are to be shown for the financial year in which the gift or sponsored travel or accommodation benefit is received or the donation is made.

The revised requirements align with the new conflict of interest framework for councillors under the *City of Brisbane Act 2010*.

Clause 47 Amendment of sch 4 (Dictionary)

Clause 47 amends schedule 4 (Dictionary) to omit the definition of ‘conflict of interest’ and insert a new definition for ‘sponsored travel or accommodation benefit’.

Part 4 Amendment of Local Government Act 2009

Division 1 Preliminary

Clause 48 Act amended

Clause 48 provides that this part amends the *Local Government Act 2009*.

Division 2 Amendments commencing on assent

Clause 49 Amendment of s 12 (Responsibilities of councillors)

Clause 49(1) amends section 12(4)(a) to clarify that the mayor of a local government is responsible for leading and managing meetings of the local government as chairperson, and any committee meetings for which the mayor is the chairperson, including managing the conduct of the participants at the meetings.

Clause 49(2) inserts new subsection (4)(fa), renumbered as (4)(g), to provide that the mayor of a local government is the official spokesperson of the local government about local government matters.

Clause 49(4) inserts new subsection (5A), renumbered as (6), to declare that new subsection (4)(g) does not prevent a councillor who is not the mayor from communicating with the community about local government matters other than as the official spokesperson of the local government.

Clause 50 Amendment of s 16 (Review of divisions and councillors)

Clause 50 amends section 16 to require the Electoral Commission of Queensland (rather than each local government) to review, no later than 1 October in the year that is 2 years before the year of the local government quadrennial elections, whether each division of the local government's local government area has a reasonable proportion of electors for each councillor for the division. The Commission must give the local government and the Minister written notice of the results of the review.

Clause 51 Amendment of s 46 (Assessing public benefit)

Clause 51 omits subsection (8) from section 46 to remove the requirement for a local government to give the Minister a copy of a public benefit assessment report and all resolutions made in relation to the report.

Clause 51 also amends subsection (9) to better explain the current requirements; and omits subsection (10) to remove an obsolete transitional provision.

Clause 52 Replacement of s 90B (Prohibition on major policy decision in caretaker period)

Clause 52 replaces current section 90B with new sections 90B, 90BA and 90BB.

New section 90B (Prohibition on major policy decisions during caretaker period) provides that a local government must not make a major policy decision during a caretaker period for the local government.

New section 90BA (Approval to make major policy decisions in exceptional circumstances) applies if a local government considers that, because exceptional circumstances exist, it is necessary and in the public interest to make a major policy decision during a caretaker period for the local government. The local government may apply to the Minister for approval to make the major policy decision during the caretaker period. The Minister may give the approval if the Minister is satisfied that, because exceptional circumstances exist, it is necessary and in the public interest for the local government to make the major policy decision during the caretaker period. The approval may be given on conditions with which the local government must comply.

New section 90BB (Approval to make major policy decisions related to disaster recovery funding arrangements) applies if, during a caretaker period for a local government, the local government's local government area is eligible for assistance under the disaster recovery funding arrangements and the Minister considers it is necessary for the local government to make major policy decisions during the caretaker period to achieve the objectives of the disaster recovery funding arrangements. The Minister may give approval to the local government to make the major policy decisions. The approval may state the types of major policy decisions that may be made by the local government and that the decisions may be made by the local government only in relation to a stated matter. The approval may be given on conditions and the local government must comply with those conditions.

Therefore, subject to the Minister's approval under new section 90BB, local governments will not be required to apply to the Minister each time this type of major policy decision needs to be made during a caretaker period for the local government. This reduces red tape and enables important disaster recovery works to progress without unnecessary delays.

Clause 53 Amendment of s 94 (Power to levy rates and charges)

Clause 53 amends section 94 as a consequence of new section 94A of the *Local Government Act 2009*.

Clause 54 Insertion of new s 94A

Clause 54 inserts new section 94A (Limitation on power to levy rates for particular local governments) to provide that a regulation may prescribe any of the following local governments as a local government to which this section applies:

- Aurukun Shire Council
- Mornington Shire Council, and
- an indigenous local government.

Clause 54(2) provides that a local government prescribed under subsection (1) must not levy general, special or separate rates.

Clause 54(3) provides that the Minister may recommend to the Governor in Council the making of a regulation under subsection (1) in relation to a local government only if the Minister considers it would be impracticable for the local government to levy rates on rateable land in the local government's area.

Clause 55 Amendment of s 138 (What this division is about)

Clause 55 amends section 138(3)(a) to replace the reference to 'owner or the owner's employee' with 'owner or the owner's agent' for consistency with section 140(2) of the *Local Government Act 2009*.

Clause 56 Amendment of s 138AA (Notices for this division)

Clause 56 amends section 138AA(3) to replace the current definition of ‘reasonable entry notice’ with a new definition. A ‘reasonable entry notice’ is a notice about a proposed entry of a property that states:

- who is to enter the property
- the reason for entering the property, and
- the days and times when the property is to be entered.

The requirement to give a notice within a stated period no longer appears in the definition but sits within each operative provision, namely sections 140, 142 and 143 of the *Local Government Act 2009*.

Clause 57 Amendment of s 140 (Entry by an owner, with reasonable entry notice, under a remedial notice)

Clause 57 amends section 140(2) to provide that at least 7 days after the owner gives a reasonable entry notice to the occupier of the property, the owner or the owner’s agent may enter the property (other than a home on the property) on each day at the times stated in the reasonable entry notice, and take the action that is required under the remedial notice.

Clause 58 Amendment of s 142 (Entry by a local government worker, with reasonable entry notice, under a remedial notice)

Clause 58(1) amends section 142(1)(a) to clarify that a local government gives a remedial notice to the owner or the occupier of a property who is required to take the action stated in the remedial notice.

Clause 58(2) and (3) amend section 142(2) to provide that at least 7 days after giving a reasonable entry notice to the occupier of the property, a local government worker may enter the property (other than a home on the property) without the permission of the occupier on each day at the times stated in the reasonable entry notice, and take the action that is required under the remedial notice.

Clause 59 Amendment of s 143 (Entry by a local government worker, with reasonable entry notice, to take materials)

Clause 59(1) amends section 143(4) to provide that a local government worker may, after giving a reasonable entry notice to the owner and the occupier of the relevant land within a reasonable period before the land is to be entered, enter the land without the permission of the occupier of the land; search for materials that the local government requires to perform its responsibilities; and remove the materials from the land.

Clause 59(2) amends subsection (4)(a) to clarify that a local government worker may enter the land without the permission of the occupier of the land on each day at the times stated in the reasonable entry notice.

Clause 59(3) omits the *example* under subsection (4)(c).

Clause 60 Amendment of s 150DD (Acting assessor)

Clause 60 omits subsection (2) from section 150DD to remove the 6-month time restriction applying to the appointment of an acting Independent Assessor, either during a vacancy in the office or during a period the Independent Assessor is absent or cannot perform the duties of the office for any reason.

In relation to a vacancy in the office, the effect of the amendment to section 150DD is that a term of not more than 1 year will apply to a person acting in the office of the Independent Assessor and the same term will apply to any reappointment of the person to act in the office thereafter (refer to section 24B(5) of the *Acts Interpretation Act 1954*).

Where the Independent Assessor is absent or cannot perform the duties of the office for any reason, section 24B(2) and (3) of the *Acts Interpretation Act 1954* provide that an acting appointment may be expressed to have effect only in the circumstances specified in the instrument of appointment; and that the appointer may determine the terms and conditions of the acting appointment (including remuneration and allowances), and end the appointment at any time.

Clause 61 Amendment of s 150DY (Content of register—decisions)

Clause 61 inserts new subsection (3)(aa) to provide that if a councillor engages in unsuitable meeting conduct, the councillor's name must be included in the councillor conduct register kept by the local government.

Clause 62 Amendment of s 155 (Disqualification because of other high office)

Clause 62 amends section 155 to provide that a person can not be a councillor while the person is an electoral candidate; and that a person automatically stops being a councillor when the person becomes an electoral candidate.

Clause 62(3) inserts new subsection (2A), renumbered as (3), to provide a definition for 'electoral candidate', that is, a person is an electoral candidate if, under the *Electoral Act 1992*, section 93(3), the person becomes a candidate for an election of a member of the Legislative Assembly.

Clause 63 Amendment of ch 6, pt 2, div 2, hdg (Councillor's term of office)

Clause 63 amends the heading for chapter 6, part 2, division 2 to include a reference to councillor's entitlement to remuneration.

Clause 64 Replacement of s 160B (Compulsory leave without pay)

Clause 64 replaces current section 160B with new section 160B (Remuneration to be paid for term).

Current section 160B is omitted in its entirety as a consequence of the amendments to section 155 which provide for the automatic removal of a councillor from office upon nomination as a candidate for election as a member of the Legislative Assembly.

New section 160B clarifies councillor remuneration entitlements in relation to when remuneration is to start and when remuneration is to end, that is, a councillor is entitled to remuneration for the period:

- starting on the day the councillor's term starts under section 159 of the *Local Government Act 2009*; and
- ending on the day the councillor's term ends under section 160 of that Act.

Clause 65 Amendment of s 162 (When a councillor's office becomes vacant)

Section 162 of the *Local Government Act 2009* provides for a number of circumstances in which the office of a councillor becomes vacant.

Clause 65 amends section 162 to also provide that a councillor's office become vacant if the councillor is elected or appointed as mayor of the local government. This ensures that if a councillor is elected or appointed to fill a vacancy in the office of the mayor, the councillor is not required to officially resign from their current office and the subsequent councillor vacancy can be filled as soon as possible in accordance with existing processes.

Clause 66 Amendment of s 169A (Councillor training)

Section 169A(1) of the *Local Government Act 2009* requires all councillors to complete 'approved councillor training' about the responsibilities of councillors under section 12 of that Act. Under subsections (2) and (3), the training must be completed 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. Subsection (7) provides that a regulation may prescribe the requirements for the training.

Currently under section 254AA of the *Local Government Regulation 2012*, a councillor elected at a local government election must complete approved councillor training within 6 months after the conclusion of the election.

Clause 66 amends section 169A(1) to provide that a councillor must complete each approved training course unless the councillor has, at any time, previously completed the approved training course. *Clause 66(5)* amends section 169A(8) to replace the definition 'approved councillor training' with the definition 'approved training course' to mean a course of training approved by the department's chief executive that:

- is about a councillor's responsibilities under section 12 of the *Local Government Act 2009*, and
- meets the requirements under section 169A(7) of that Act.

Clause 67 Amendment of s 170A (Requests for assistance or information)

Section 170A(1) provides 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 *Local Government Act 2009*. Under subsection (2), a councillor may, subject to any limits prescribed under a regulation, ask the chief executive officer to provide information that the local government has access to, relating to the local government. Subsection (3) provides that if the advice or information requested under subsection (1) or (2) relates to a document, the requirement to comply with the request includes a requirement to provide a copy of the document. Subsection (4) provides several exemptions to councillor requests for assistance or

information, for example, information or a document that would be privileged from production in a legal proceeding on the ground of legal professional privilege.

Clause 67 amends section 170A(4) to provide a further exemption to councillor requests for assistance or information. New subsection (4)(ba), renumbered as (4)(c), provides that section 170A(2) and (3) do not apply to information or a document that comprises proceedings in the Assembly under the *Parliament of Queensland Act 2001*, section 9.

Clause 68 Insertion of new ch 6, pt 2, div 6

Clause 68 inserts new chapter 6, part 2, division 6 about councillors' responsibilities during leaves of absence.

New section 175A (Responsibilities of councillors during leave of absence) applies if a local government grants a councillor a leave of absence for 1 or more ordinary meetings of the local government. It is declared that the councillor may perform any responsibility under section 12 of the *Local Government Act 2009* during the councillor's leave of absence.

This would include a councillor attending a meeting for which a leave of absence has been granted, including as chairperson of the meeting if that is the councillor's normal responsibility.

Under current section 162(1)(e)(ii) of the *Local Government Act 2009*, a councillor's office continues to become vacant if the councillor, without the local government's leave, is absent from 2 or more consecutive ordinary meetings of the local government over a period of at least 2 months.

Clause 69 Amendment of s 196 (Appointing other local government employees)

Clause 69(1) amends subsection (3) to provide that the CEO appoints local government employees, other than senior executive employees.

Clause 69(2) inserts new subsections (4) and (5) to provide that a senior executive employee of a local government is appointed by a panel constituted by the mayor, the CEO, and either (i) the chairperson of the committee (if the senior executive employee is to report to only 1 committee of the local government), or (ii) otherwise, the deputy mayor. If the deputy mayor or chairperson is unable to take part in the panel, the local government must appoint another councillor to replace the deputy mayor or chairperson in the panel, for example, because the deputy mayor or chairperson is absent.

Clause 70 Amendment of s 197D (Regulation may prescribe particular matters relating to councillor advisors)

Clause 70 omits subsection (1)(c) from section 197D to remove the power for a regulation to limit the functions and key responsibilities that may be provided for in a councillor advisor's contract of employment; and amends subsection (2) to update the reference 'subsection (1)(a) or (b)' to 'subsection (1)'.

Section 197D, as amended, continues to provide that a regulation may prescribe:

- a local government as a local government to which section 197A(1) applies, that is, those local governments that may, by resolution, allow a councillor to appoint a councillor advisor, and
- the maximum number of councillor advisors each councillor may appoint.

Clause 71 Insertion of new ch 9, pt 20

Clause 71 inserts new chapter 9, part 20, divisions 1 and 2 (sections 360-364) to provide transitional provisions for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

Division 1 Preliminary

New section 360 (Definitions for part) provides definitions for ‘amendment Act’, ‘former’, ‘new’ and ‘transitional provision’.

Division 2 Provisions for amendments commencing on assent

New section 361 (Councillors who were candidates immediately before commencement) applies if, before the commencement of the amendment Act, a councillor had become a candidate under section 93(3) of the *Electoral Act 1992* for an election of a member of the Legislative Assembly, and immediately before the commencement of the amendment Act, the election period for the election had not ended under that Act. Sections 155 and 160B of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act continue to apply until the election period ends. Therefore, such councillors are not subject to automatic removal from office because they are a candidate for election as a member of the Legislative Assembly.

New section 362 (Application of s 150DD for existing acting assessor) applies in relation to a person who was, immediately before the commencement of the amendment Act, appointed as the acting Independent Assessor under section 150DD of the *Local Government Act 2009*. New section 150DD applies in relation to any reappointment of the person.

New section 363 (Councillor training) provides that training that was, immediately before the commencement of the amendment Act, approved councillor training for a matter under section 169A of the *Local Government Act 2009* as in force immediately before the commencement is, from the commencement of the amendment Act, taken to be an approved training course for the same matter under new section 169A.

New section 364 (Existing senior executive employees) applies to a person if, immediately before the commencement of the amendment Act, the person held an appointment under section 196(3) of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act, and the person was classified as a senior executive employee. From the commencement of the amendment Act, the person’s contract and conditions of employment continue and the person is taken to have been appointed as a senior executive employee under new section 196(4).

Division 3 Amendments commencing by proclamation

Clause 72 Amendment of s 150B (Overview of chapter)

Clause 72 makes various amendments to section 150B as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 73 Amendment of s 150C (Definitions for chapter)

Clause 73 amends section 150C to omit the definitions of ‘conduct breach’, ‘investigation policy’, ‘investigation report’, and ‘referral notice’ as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 74 Amendment of s 150F (Department’s chief executive to make model procedures)

Clause 74 omits subsection (2)(c) as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 75 Amendment of s 150I (Chairperson may deal with unsuitable meeting conduct)

Clause 75 consequentially amends section 150I to insert a *Note* under subsection (2)(b) to provide that contravention of paragraph (b) is misconduct that could result in disciplinary action being taken against a councillor. The amendment is a consequence of removing conduct breaches from the councillor conduct framework.

Clause 76 Omission of s 150J (Unsuitable meeting conduct that becomes a conduct breach)

Clause 76 omits section 150J in its entirety as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 77 Amendment of ch 5A, pt 3, hdg (Dealing with conduct breaches, misconduct and corrupt conduct)

Clause 77 amends the heading for chapter 5A, part 3 as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 78 Omission of s 150K (What is a *conduct breach*)

Clause 78 omits section 150K in its entirety as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 79 Amendment of s 150L (What is *misconduct*)

Clause 79 amends section 150L to expand the definition of ‘misconduct’ to include conduct of a councillor that:

- is or involves repeated unreasonable behaviour directed at another person that causes a risk to the health or safety of the other person

- is or involves harassment of a sexual nature, including, for example, unwelcome behaviour of a sexual nature and making a remark with a sexual connotation, and
- contravenes an order of the chairperson of a local government meeting for the councillor to leave and stay away from the place at which the meeting is being held.

Clause 79(7) inserts a sectional definition for ‘health’ of a person.

The remaining amendments to section 150L have been made either as a consequence of the new conflict of interest framework for councillors or as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 80 Amendment of s 150M (Dealing with particular conduct if councillor elected or appointed after vacating office)

Clause 80 makes various amendments to section 150M as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 81 Amendment of s 150R (Local government official must notify assessor about particular conduct)

Clause 81 amends section 150R as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 82 Omission of s 150S (Local government must notify assessor about misconduct)

Clause 82 omits section 150S in its entirety as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 83 Amendment of s 150SA (Application of division)

Clause 83 amends section 150SA as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 84 Amendment of s 150SC (Assessor may ask for information)

Clause 84 amends section 150SC as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 85 Amendment of s 150SD (Preliminary assessment of complaints, notices or information)

Clause 85 amends section 150SD as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 86 Amendment of s 150SE (Notice of preliminary assessment)

Clause 86 amends section 150SE as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 87 Amendment of s 150SF (Assessor may make preliminary assessment on own initiative)

Clause 87 amends section 150SF as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 88 Amendment of s 150T (Assessor must investigate conduct of councillor)

Clause 88 amends section 150T as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 89 Amendment of s 150W (Decision about conduct)

Clause 89 amends section 150W as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 90 Amendment of s 150X (Decision to dismiss complaint)

Clause 90 amends section 150X as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 91 Amendment of s 150Y (Decision to take no further action)

Clause 91 amends section 150Y as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 92 Amendment of s 150AA (Notice and opportunity for councillor to respond)

Clause 92 amends section 150AA as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 93 Omission of ch 5A, pt 3, div 5 (Referral of conduct to local government)

Clause 93 omits chapter 5A, part 3, division 5 in its entirety as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 94 Amendment of ch 5A, pt 3, div 6, hdg (Application to conduct tribunal about misconduct and connected conduct breach)

Clause 94 amends the heading for chapter 5A, part 3, division 6 as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 95 Amendment of s 150AI (Application of division)

Clause 95 amends section 150AI as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 96 Amendment of s 150AJ (Application to conduct tribunal about alleged misconduct)

Clause 96 amends section 150AJ as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 97 Amendment of s 150AN (Role of the assessor)

Clause 97 amends section 150AN as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 98 Amendment of s 150AQ (Deciding about misconduct and connected conduct breach)

Clause 98 amends section 150AQ as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 99 Amendment of s 150AR (Disciplinary action against councillor)

Clause 99 amends section 150AR as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 100 Amendment of s 150AS (Notices and publication of decisions and orders)

Clause 100 amends section 150AS as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 101 Amendment of s 150AY (Functions of investigators)

Clause 101 updates various section references in section 150AY(b) either as a consequence of the new conflict of interest framework for councillors or as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 102 Amendment of s 150CU (Functions)

Clause 102 amends section 150CU as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 103 Amendment of s 150DU (Costs of conduct tribunal to be met by local government)

Clause 103 amends section 150DU as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 104 Amendment of s 150DX (Local governments to keep and publish register)

Clause 104 amends section 150DX as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 105 Amendment of s 150DY (Content of register—decisions)

Clause 105 amends section 150DY as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 106 Amendment of s 150EB (Annual report)

Clause 106 amends section 150EB as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 107 Replacement of ch 5B (Councillors' conflicts of interest)

Clause 107 replaces chapter 5B with new chapter 5B (Dealing with personal interests of councillors).

New section 150ED (Matters in relation to which chapter does not apply) provides that chapter 5B does not apply in relation to a councillor's personal interest in a matter if the matter is solely, or relates solely to:

- the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the local government
- making a planning scheme that applies to the whole of the local government area
- amending a planning scheme, if the amendment applies to the whole of the local government area
- the preparation, adoption or amendment of a budget for the local government
- preparing, adopting or amending a document prescribed by regulation that the local government is required to prepare or adopt under a Local Government Act
- the making of a donation to a religious, charitable or non-profit institution or organisation, unless a councillor, or an associate or related party of a councillor, receives a benefit because of the donation that is more than merely a benefit relating to reputation
- 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
- employment-related or upgraded travel or accommodation undertaken or used by a councillor, or an associate or related party of a councillor
- the remuneration or reimbursement of expenses of councillors or members of a committee of the local government
- the provision of superannuation entitlements or insurance for councillors, or
- a matter of interest to the councillor solely as a candidate for election or appointment as mayor, deputy mayor, councillor or member of a committee of the local government.

New chapter 5B also does not apply in relation to:

- a councillor's interest in a matter if the interest of the councillor, or an associate or related party of the councillor, is no greater than the personal interests in the matter of a significant proportion of persons in the local government area, or
- a councillor's interest in a matter relating to a corporation or association that arises solely because of a nomination or appointment of the councillor by the local government to be a member of the board of the corporation or association.

Section 150ED(4) provides definitions for 'employment-related or upgraded travel or accommodation' and 'government agency'.

New section 150EE (What is a *material personal interest*) provides that a councillor has a ‘material personal interest’ in a matter if the councillor or an associate of the councillor stands to gain a benefit or suffer a loss, either directly or indirectly, depending on the outcome of the consideration of the matter at a local government meeting. However, a councillor has a ‘material personal interest’ in relation to an associate only if the councillor knows, or ought reasonably to know, about the associate’s involvement in the matter.

New section 150EF (What is a *conflict of interest*) provides that a ‘conflict of interest’ is a conflict between a councillor’s personal interests, or the personal interests of a related party of the councillor, and the public interest that might lead to a decision that is contrary to the public interest.

However, a councillor does not have a ‘conflict of interest’ in a matter if the conflict of interest arises solely because:

- the councillor undertakes an engagement in the capacity of councillor for a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation
- the councillor, or a related party of the councillor, is a member or patron of a community group, sporting club or similar organisation, and is not appointed as an executive officer of the organisation
- the councillor, or a related party of the councillor, is a member of a political party
- the councillor, or a related party of the councillor, has an interest in an educational facility or provider of a child care service as a student or former student, or a parent or grandparent of a student, of the facility or service
- of the religious beliefs of the councillor or a related party of the councillor
- the councillor, or a related party of the councillor, receives a gift, loan or sponsored travel or accommodation benefit from an entity during a financial year, if the total gifts, loans and benefits given by the entity to the councillor or related party total less than \$500 in the financial year
- 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, a councillor does not have a ‘conflict of interest’ in a matter if the conflict of interest relates to the appointment, discipline, termination, remuneration or other employment conditions of a councillor advisor for the councillor, if the conflict of interest arises solely because the councillor advisor is a related party, other than an associate, of the councillor.

A councillor has a ‘conflict of interest’ in a matter in relation to a related party only if the councillor knows, or ought reasonably to know, about the related party’s involvement in the matter.

Section 150EF(4) provides definitions for ‘patron’ and ‘sponsored travel or accommodation benefit’.

New section 150EG (Who is an *associate* of a councillor) provides that each of the following persons is an ‘associate’ of a councillor:

- (a) a spouse of the councillor
- (b) a parent, child or sibling of the councillor
- (c) a person in a partnership with the councillor
- (d) an employer, other than a government entity, of the councillor
- (e) an entity, other than a government entity, of which the councillor is an executive officer or board member
- (f) an entity in which the councillor or a person mentioned in paragraphs (a) to (e) 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, section 9, or
- (g) another person prescribed by regulation.

New section 150EH (Who is a *related party* of a councillor) provides that a person is a ‘related party’ of a councillor if the person is any of the following:

- (a) an associate of the councillor, other than an entity mentioned in section 150EG(f)
- (b) a spouse of the councillor’s parent, child or sibling
- (c) a grandparent, uncle, aunt, nephew, niece or grandchild of the councillor or the councillor’s spouse
- (d) a parent, child or sibling of the councillor’s spouse
- (e) a spouse of a person mentioned in paragraph (c) or (d), or
- (f) an entity in which the councillor, or a person mentioned in paragraph (a), (b), (c), (d) or (e), has an interest.

New section 150EI (Councillor’s material personal interest at a meeting) applies if a matter is to be discussed at a local government meeting, and a councillor has a material personal interest in the matter.

Section 150EI(2) provides that the councillor must:

- (a) inform the meeting of the councillor’s material personal interest in the matter, and
- (b) leave the place where the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is discussed and voted on.

A *Note* states that contravention of subsection (2) is misconduct under section 150L(1)(c)(iii) of the *Local Government Act 2009* that could result in disciplinary action being taken against the councillor.

Section 150EI(3) provides that the councillor must not contravene subsection (2), including by voting on the matter, with an intention to gain a benefit or avoid a loss for the councillor or someone else. A maximum penalty of 200 penalty units or 2 years imprisonment applies.

Section 150EI(4) provides that the councillor does not contravene subsection (2) by taking part in the meeting, or being at the place where the meeting is being held, if:

- (a) the councillor is a person to whom approval is given under subsection (5); and
- (b) the councillor complies with all conditions on which the approval is given.

Under section 150EI(5), the Minister may, by signed notice, approve the councillor taking part in the meeting, or being at the place where the meeting is being held, if:

- (a) because of the number of councillors subject to the obligation under this section, the holding of the meeting would be obstructed if the approval were not given, or
- (b) it appears to the Minister to be in the interests of the local government area that the approval be given.

Section 150EI(6) provides that the Minister may give the approval subject to conditions stated in the notice.

Section 150EI(7) provides that the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation:

- (a) the name of the councillor who has the material personal interest, or possible material personal interest, in a matter
- (b) the nature of the material personal interest, or possible material personal interest, as described by the councillor, and
- (c) whether the councillor took part in the meeting, or was at the place during the meeting, under an approval under subsection (5).

New section 150EJ (Councillor's conflict of interest at a meeting) applies if a matter is to be discussed at a local government meeting, and a councillor at the meeting has a conflict of interest in the matter (a 'real conflict') or could reasonably be taken to have a conflict of interest in the matter (a 'perceived conflict').

Section 150EJ(2) provides that the councillor must deal with the real conflict or perceived conflict in a transparent and accountable way.

A *Note* states that contravention of this section is misconduct under section 150L(1)(c)(iii) of the *Local Government Act 2009* that could result in disciplinary action being taken against the councillor.

Section 150EJ(3) provides that, without limiting subsection (2), the councillor must inform the meeting of:

- (a) the councillor's personal interests in the matter, and
- (b) if the councillor participates in the meeting in relation to the matter—how the councillor intends to deal with the real conflict or perceived conflict.

Section 150EJ(4) provides that subsection (5) applies if a quorum at the meeting can not be formed because the councillor proposes to be excluded from the meeting to comply with subsection (2).

Under section 150EJ(5), the councillor does not contravene subsection (2) merely by participating, including, for example, by voting, in the meeting in relation to the matter if the attendance of the councillor, together with any other required number of councillors, forms a quorum for the meeting; and the councillor complies with subsection (3).

Section 150EJ(6) provides that the following information must be recorded in the minutes of the meeting or, if minutes are not required for the meeting, in another way prescribed by regulation:

- (a) the name of the councillor who has the real conflict or perceived conflict
- (b) the nature of the personal interests, as described by the councillor
- (c) how the councillor dealt with the real conflict or perceived conflict
- (d) if the councillor voted on the matter—how the councillor voted on the matter, and
- (e) how the majority of persons who were entitled to vote at the meeting voted on the matter.

Section 150EJ(7) declares that non-participation in the meeting is not the only way the councillor may appropriately deal with the real conflict or perceived conflict in a transparent and accountable way.

Clause 108 Amendment of s 201D (Dishonest conduct of councillor or councillor advisor)

Clause 108 amends the definition ‘relevant integrity provision’ in section 201D(2) to omit the current conflict of interest provisions.

Clause 109 Amendment of s 257 (Delegation of local government powers)

Clause 109 omits section 257(2) of the *Local Government Act 2009* as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 110 Insertion of new ch 9, pt 20, div 3

Clause 110 inserts new chapter 9, part 20, division 3 (sections 365-373) to provide transitional provisions for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

Division 3 Provisions for amendments commencing by proclamation

Subdivision 1 – Councillor conduct

New section 365 (Existing matters about particular unsuitable meeting conduct of councillor) applies if a local government started to deal with unsuitable meeting conduct of a councillor under former sections 150J(b) and 150AG of the *Local Government Act 2009* before the commencement of the amendment Act, and a decision about the conduct had not been made under former section 150AG immediately before the commencement of the amendment Act.

From the commencement of the amendment Act, the local government must take no further action in relation to the councillor’s unsuitable meeting conduct.

New section 366 (Preliminary assessment of conduct engaged in before commencement) applies if a councillor engaged in conduct before the commencement of the amendment Act, and either, a preliminary assessment about councillor conduct was started but not finished before the commencement of the amendment Act under former chapter 5A, part 3, division 3A of the *Local Government Act 2009*; or a preliminary assessment about councillor conduct is started on or after the commencement of the amendment Act under new chapter 5A, part 3, division 3A.

New chapter 5A, part 3 of the *Local Government Act 2009* applies in relation to the councillor's conduct, including for the completion of the preliminary assessment.

For a preliminary assessment started but not finished before the commencement of the amendment Act, anything done under former chapter 5A, part 3, division 3A is taken to have been done under new chapter 5A, part 3, division 3A.

On the completion of the preliminary assessment, the Independent Assessor may dismiss the complaint or decide to take no further action for the notice or information if:

- (a) the Independent Assessor reasonably suspects the councillor has engaged in misconduct mentioned in new section 150L(1)(b)(iii) or (iv) of the *Local Government Act 2009*, and
- (b) the Independent Assessor is satisfied at least 6 months have elapsed since the conduct occurred, and
- (c) it would not be in the public interest to take further action under new chapter 5A, part 3.

Also, after the completion of the preliminary assessment, if the Independent Assessor applies to the Councillor Conduct Tribunal under new section 150AJ of the *Local Government Act 2009* and the Tribunal decides that the councillor has engaged in misconduct mentioned in new section 150L(1)(b)(iii) or (iv), the Tribunal may make an order mentioned in section 150AH(a) or (b) of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act as if a reference in that section to the local government were a reference to the Tribunal and a reference to a conduct breach were a reference to the misconduct. This means that the Tribunal may only impose a penalty for the misconduct that a local government could have imposed under former section 150AH in relation to a conduct breach.

If the Independent Assessor reasonably suspects the councillor's conduct is a combination of misconduct mentioned in new section 150L and other conduct that is a conduct breach within the meaning of former section 150K of the *Local Government Act 2009*, the Independent Assessor must not proceed with the part of the conduct that is a conduct breach.

New section 367 (Existing matters referred to local governments) applies if the Independent Assessor referred a councillor's conduct to a local government under former section 150SD(4)(a) or 150W(b) of the *Local Government Act 2009* before the commencement of the amendment Act, and a decision about the councillor's conduct had not been made by the local government under former section 150AG of the *Local Government Act 2009* immediately before the commencement of the amendment Act. Sections 150K, 150L and 150M and chapter 5A, part 3, division 5 of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act continue to apply in relation to the conduct as if the conduct were a conduct breach. This means that local governments must continue to investigate and determine existing conduct breach matters that have not been finalised immediately before the commencement of the amendment Act.

New section 368 (Existing applications to conduct tribunal for particular matters) applies if, before the commencement of the amendment Act, the Independent Assessor had applied to the Councillor Conduct Tribunal under former section 150AJ(1)(b) of the *Local Government Act 2009* (that is, an application about a conduct breach that is connected to alleged misconduct), and immediately before the commencement of the amendment Act, the application had not been decided. The Tribunal may conduct, or continue to conduct, a hearing about the

application under chapter 5A, part 3 of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act.

New section 369 (Existing reviews by QCAT of particular matters) applies in relation to a review started, but not decided, under former section 150AT of the *Local Government Act 2009* before the commencement of the amendment Act that relates to an application under former section 150AJ(1)(b) of the *Local Government Act 2009* (that is, an application about a conduct breach that is connected to alleged misconduct). QCAT may continue to hear and decide the review under chapter 5A, part 3 of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act.

New section 370 (Existing review rights to QCAT for particular matters) applies if, immediately before the commencement of the amendment Act, a person could have but had not applied to QCAT for review of a decision under former section 150AT of the *Local Government Act 2009* for an application under former section 150AJ(1)(b) of the *Local Government Act 2009* (that is, an application about a conduct breach that is connected to alleged misconduct), and the period within which the person could apply for the review had not ended. The person may apply for a review of the decision under former section 150AT of the *Local Government Act 2009* and QCAT may hear and decide the review under chapter 5A, part 3 of the *Local Government Act 2009* as in force immediately before the commencement of the amendment Act.

Subdivision 2 – Dealing with personal interests of councillors

New section 371 (Proceedings for particular offences) applies in relation to an offence against any of the following provisions of the *Local Government Act 2009*, committed by a person before the commencement of the amendment Act:

- former section 201D in relation to a provision mentioned in former section 201D(2), definition ‘relevant integrity provision’, paragraph (a)(i) to (v)
- former section 150EM(2)
- former section 150ES(5), and
- former section 150EY.

New section 371(2) provides that, without limiting section 20 of the *Acts Interpretation Act 1954*, a proceeding for the offence may be continued or started, and the person may be convicted of and punished for the offence, as if sections 107 and 108 of the amendment Act had not commenced. New section 371(3) provides that subsection (2) applies despite section 11 of the Criminal Code.

New section 372 (Continued application of s 153 for former integrity offences) applies if a person is convicted of an offence against former section 150EM(2) or 150EY of the *Local Government Act 2009* before or after the commencement of the amendment Act. The conviction is taken to be a conviction of an integrity offence for section 153(1)(d) of the *Local Government Act 2009*, that is, the person can not be a councillor for 4 years after the person is convicted of the integrity offence.

New section 373 (Application of this Act for contravention of former COI provisions) applies if, before the commencement of the amendment Act, a person had made a councillor conduct complaint to the Independent Assessor relating to a contravention of former section 150EK, 150EL, 150EPA, 150EQ, 150EW or 150EZ of the *Local Government Act 2009* (the ‘former COI provisions’), and immediately before the commencement of the amendment Act, the complaint had not been resolved.

Section 373(2) provides that the *Local Government Act 2009*, chapter 5A, as it applies under subdivision 1, applies in relation to the councillor’s conduct as if the former COI provisions had not been repealed, and contravention of a former COI provision continued to be ‘misconduct’ within the meaning of section 150L of the *Local Government Act 2009*.

Clause 111 Amendment of sch 1 (Serious integrity offences and integrity offences)

Clause 111 amends schedule 1, part 2 to update the list of integrity offences for the *Local Government Act 2009* as a consequence of new chapter 5B (Dealing with personal interests of councillors).

Integrity offences for current sections 150EM(2) and 150EY of the *Local Government Act 2009* have been replaced with an integrity offence for new section 150EI(3) in relation to a councillor’s material personal interest at a meeting.

Clause 112 Amendment of sch 4 (Dictionary)

Clause 112 amends schedule 4 (Dictionary) to omit the definitions of ‘close associate’, ‘conduct breach’, ‘declarable conflict of interest’, ‘eligible councillor’, ‘employment-related or upgraded travel or accommodation’, ‘investigation policy’, ‘investigation report’, ‘prescribed conflict of interest’ and ‘referral notice’; to insert new definitions for ‘associate’ of a councillor, ‘conflict of interest’ and ‘material personal interest’; and to update the section reference for the definition of ‘related party’.

Part 5 Amendment of Local Government Regulation 2012

Division 1 Preliminary

Clause 113 Regulation amended

Clause 113 provides that this part amends the *Local Government Regulation 2012*.

Division 2 Amendments commencing on assent

Clause 114 Replacement of s 44 (Minimum requirements for complaint process)

Clause 114 replaces section 44 to provide that the relevant local government’s adopted complaints management process under section 306 (Process for resolving administrative action complaints) applies to a competitive neutrality complaint in relation to the business entity.

Clause 115 Amendment of s 45 (Making a complaint)

Clause 115(1) replaces the requirement for a person who wants to make a competitive neutrality complaint to make the complaint in writing to the relevant local government or the Queensland Competition Authority, with a requirement to make the complaint in writing to the relevant local government.

Clause 115(2) omits section 45(2)(b)(iii) as a consequence of the amendments to section 44 of the *Local Government Regulation 2012*.

Clause 115(3) amends subsection (3) to remove the requirement for competitive neutrality complaints received by a local government to be given to the Queensland Competition Authority as soon as is practicable. Instead, a competitive neutrality complaint (and supporting information) must be given to the Queensland Competition Authority only if the relevant local government makes a decision about the complaint that the complainant is not satisfied with.

Clause 116 Amendment of s 48 (Competition authority refusing to investigate)

Clause 116 omits section 48(1)(a) as a consequence of the amendments to section 44 of the *Local Government Regulation 2012*.

Clause 117 Amendment of s 71 (What ch 4 is about)

Clause 117 omits subsection (2) from section 71 as a consequence of new section 94A of the *Local Government Act 2009* and new section 73A of the *Local Government Regulation 2012*.

Clause 118 Amendment of ch 4, pt 2, hdg (Land exempt from rating)

Clause 118 amends the heading for chapter 4, part 2 to read ‘Land exempt from rating and prescribed local governments’ as a consequence of new section 73A of the *Local Government Regulation 2012*.

Clause 119 Insertion of new s 73A

Clause 119 inserts new section 73A (Local governments to which Act, s 94A applies) to prescribe the following local governments for the purposes of new section 94A(1) of the *Local Government Act 2009*:

- Aurukun Shire Council
- Cherbourg Aboriginal Shire Council
- Doomadgee Aboriginal Shire Council
- Hope Vale Aboriginal Shire Council
- Kowanyama Aboriginal Shire Council
- Lockhart River Aboriginal Shire Council
- Mapoon Aboriginal Shire Council
- Mornington Shire Council
- Napranum Aboriginal Shire Council
- Palm Island Aboriginal Shire Council
- Pormpuraaw Aboriginal Shire Council
- Woorabinda Aboriginal Shire Council

- Wujal Wujal Aboriginal Shire Council
- Yarrabah Aboriginal Shire Council
- Northern Peninsula Area Regional Council, and
- Torres Strait Island Regional Council.

While these local governments are currently unable to levy general, special or separate rates, a local government may be removed from the prescribed list if the Minister considers it would be practicable for the local government to levy rates on rateable land in its local government area.

Clause 120 Amendment of s 186 (Councillors)

Clause 120 amends section 186(1) to omit requirements for particulars about certain councillor conduct matters to be included in a local government's annual report. The amendments remove duplication as these matters are already captured in the local government's councillor conduct register which is available on its website.

Clause 121 Amendment of s 187 (Administrative action complaints)

Clause 121 makes various amendments to section 187 to apply the current annual reporting requirements to both administrative action complaints and competitive neutrality complaints.

Clause 122 Amendment of s 247 (Remuneration payable to councillors)

Clause 122(1) inserts new subsection (2A), renumbered as (3), to provide that a decision (under current subsection (2)) not to pay the maximum amount of remuneration to a councillor must not be made only because the councillor was absent, with or without the local government's leave, for 1 or more ordinary meetings of the local government.

Clause 122(2) and (3) make consequential amendments to update various subsection references.

Division 3 Amendments commencing by proclamation

Clause 123 Amendment of s 186 (Councillors)

Clause 123 amends section 186(1) to update a section reference and to omit requirements for particulars about matters relating to councillor conduct breaches to be included in a local government's annual report. The amendments are needed as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 124 Omission of s 239C (When summary of investigation report or investigation report must be made publicly available)

Clause 124 omits section 239C in its entirety as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 125 Replacement of s 254AB (Ordinary business matters relating to documents—Act, s 150EF)

Clause 125 replaces section 254AB with new section 254AB (Matters in relation to which the Act, ch 5B does not apply—Act, s 150ED) as a consequence of the new conflict of interest framework for councillors and the removal of conduct breaches from the councillor conduct framework.

Clause 126 Amendment of s 254D (Public availability of agendas)

Clause 126 amends the definition ‘related report’ in subsection (5) by omitting paragraph (b) as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 127 Amendment of s 254H (Recording of reasons for particular decisions)

Clause 127 omits subsection (2) as a consequence of removing conduct breaches from the councillor conduct framework.

Clause 128 Amendment of s 254J (Closed meetings)

Clause 128 omits subsection (3)(j) as a consequence of removing conduct breaches from the councillor conduct framework, and omits subsection (4) as a consequence of the new conflict of interest framework for councillors.

Clause 129 Insertion of new ch 27

Clause 129 inserts new chapter 27, section 382 to provide a transitional provision for the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2025*.

New section 382 (Investigation reports and local government meetings) applies if, under new section 366 of the *Local Government Act 2009*, an investigation report about the conduct of a councillor is prepared and given to a local government. Former sections 239C, 254D, 254H and 254J of the *Local Government Regulation 2012* continue to apply in relation to the investigation report.

Clause 130 Amendment of sch 5 (Financial and non-financial particulars for registers of interests)

Schedule 5 of the *Local Government Regulation 2012* lists the financial and non-financial particulars of interests held by a councillor and a person related to a councillor that must be included in their register of interests. The ‘reporting term’ for a councillor or a person related to a councillor is the ‘relevant term’ for the councillor, that is, the councillor’s current term of office and previous term of office.

Clause 130(2) amends the definition ‘reporting term’ in schedule 5, section 1 to provide that the reporting term for a councillor or a person who is related to a councillor means the councillor’s term of office.

Clause 130(1) and (3) consequentially omit the definitions of ‘conflict of interest’, ‘employment-related or upgraded’ and ‘sponsored travel or accommodation benefit’.

Clause 131 Replacement of sch 5A (Content of extracts of registers of interests of councillors)

Clause 131 replaces schedule 5A of the *Local Government Regulation 2012* with a new schedule 5A to consolidate the interests held by a councillor that must be shown in an extract of the councillor's register of interests and to adjust the period of time that the interests must be shown in the extract. The required particulars about gifts, donations and sponsored travel or accommodation benefits are to be shown for the financial year in which the gift or sponsored travel or accommodation benefit is received or the donation is made.

The revised requirements align with the new conflict of interest framework for councillors under the *Local Government Act 2009*.

Clause 132 Amendment of sch 8 (Dictionary)

Clause 132 amends schedule 8 (Dictionary) to omit the definition of 'conflict of interest' and insert a new definition for 'sponsored travel or accommodation benefit'.

Part 6 Amendment of Local Government Electoral Act 2011

Clause 133 Act amended

Clause 133 provides that this part amends the *Local Government Electoral Act 2011*.

Clause 134 Amendment of s 26 (Who may be nominated)

Section 26(2) provides that a person may be nominated as a candidate for an election only if the person has, within 6 months before the nomination day for the election, successfully completed a training course approved by the department's chief executive about—

- the person's obligations as a candidate, including the person's obligations under part 6 of the *Local Government Electoral Act 2011*, and
- the person's obligations as a councillor, if the person is elected or appointed, including obligations under a Local Government Act within the meaning of the *Local Government Act 2009*.

Clause 134 amends subsection (2) to reorganise the current requirements and provide that a person may also be nominated as a candidate for an election if the person is a councillor:

- who has, at any time, successfully completed a training course under the current requirements (new subsection (2)(a)), and
- whose office has not, before the nomination day for the election, become vacant under section 162 of the *City of Brisbane Act 2010* or section 162 of the *Local Government Act 2009*.

Clause 135 Amendment of s 45AA (Application for direction that poll be conducted by postal ballot)

Clause 135(2) amends subsection (1) to provide that a local government may apply to the electoral commissioner to make a written recommendation to the Minister that a poll be conducted by postal ballot.

Clause 135(3) amends subsection (2)(a) to provide that, for a poll for a quadrennial election, the application must be made before 1 May in the year preceding the quadrennial election or a later day approved by the electoral commissioner.

Clause 136 Amendment of s 45AB (Referral of application to electoral commissioner for recommendation)

Clause 136 makes various amendments to section 45AB as a consequence of the amendments to section 45AA of the *Local Government Electoral Act 2011* to enable local governments to make postal ballot applications directly to the electoral commissioner (rather than to the Minister).

Amended section 45AB(2) provides that for an application by a local government under section 45AA (as amended), the electoral commissioner must as soon as practicable after the application is made, give the Minister notice of the application; and consider the application; and make a written recommendation about whether the poll should be conducted by postal ballot and the reasons for the recommendation; and give the recommendation and reasons to the Minister.

Clause 137 Amendment of s 45 (Direction that poll be conducted by postal ballot)

Clause 137 makes various amendments to section 45 as a consequence of the amendments to sections 45AA and 45AB of the *Local Government Electoral Act 2011*.

Amended section 45(1) provides that after receiving the electoral commissioner's recommendation under section 45AB, the Minister must consider the recommendation and decide whether to give a direction that the poll the subject of the recommendation be conducted by postal ballot.

The remaining amendments to section 45 update terminology and section references.

Clause 138 Amendment of s 177 (Author of election material must be named)

For greater clarity, *clause 138(1)* amends the heading for section 177 to read 'Person who authorised advertisement etc. containing election material must be named'.

Clause 138(2) amends section 177(2) to revise the particulars that must appear, or be stated, with an advertisement, handbill, pamphlet or notice containing election material about the person who authorised the advertisement, handbill, pamphlet or notice containing election material.

The current particulars are the name and address, other than a post office box, of the person.

The revised particulars are the name of the person and the person's address, post office box or other address prescribed by regulation.

Clause 139 Amendment of s 178 (Distribution of how-to-vote cards)

Clause 139(1) amends section 178(2) to revise the particulars that must be stated on a how-to-vote card about the person who authorised the card.

The current particulars are the name and address, other than a post office box, of the person.

The revised particulars are the name of the person and the person's address, post office box or other address prescribed by regulation.

Clause 139(2) amends subsection (4) by omitting paragraph (a) which provides that an address must not be a post office box.

Clause 140 Amendment of sch 1 (Other matters nomination must contain)

Clause 140 amends schedule 1, section 7 (Training course approved under Act, s 26) as a consequence of the amendments made to section 26 of the *Local Government Electoral Act 2011*.

Amended section 7 of schedule 1 provides that a nomination must contain a statement that:

- the candidate has, within 6 months before the nomination day for the election, successfully completed a training course approved under section 26(2) of the *Local Government Electoral Act 2011*, or
- the candidate is a councillor who has, at any time, successfully completed a training course approved under section 26(2) of the *Local Government Electoral Act 2011*, and whose office has not, before the nomination day for the election, become vacant under section 162 of the *City of Brisbane Act 2010* or section 162 of the *Local Government Act 2009*.

Part 7 Minor and consequential amendments

Clause 141 Legislation amended

Clause 141 provides that Schedule 1 amends the legislation it mentions.