

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

## Statement of Compatibility

### FOR

## Amendments during consideration in detail moved by the Honourable Ann Leahy MP, Minister for Local Government and Water and Minister for Fire, Disaster Recovery and Volunteers

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 38 of the *Human Rights Act 2019* (the HR Act), I, Ann Leahy MP, Minister for Local Government and Water and Minister for Fire, Disaster Recovery and Volunteers make this statement of compatibility with respect to the amendments to be moved during consideration in detail of the Local Government (Empowering Councils) and Other Legislation Amendment Bill 2025 (the Bill).

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

## Overview of the amendments

### Local government amendments

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.

The objectives of the amendments to the Bill are to:

- provide a regulation making power to prescribe additional persons as 'related parties' for the purposes of the new conflicts of interest framework (Amendments 9 and 11)
- insert transitional provisions for amendments in the Bill to the *Local Government Electoral Act 2011* about training requirements, election material and postal ballot applications (Amendment 13)
- clarify the scope of document disclosure requirements for Brisbane City Council (BCC) and insert amendments to the *Right to Information Act 2009* (RTI Act) to provide that

documents of BCC's Establishment and Coordination Committee are exempt information for a period of ten years (Amendments 3, 4, 5, 6, 7, 8 and 14), and

- make minor amendments to the local government employee superannuation provisions in the *Local Government Act 2009* (LGA) and the *Local Government Regulation 2012* (LGR) to align with the *Treasury Laws Amendment (Payday Superannuation) Act 2025* (Cwlth) (Payday Act), which is scheduled to commence on 1 July 2026 (Amendments 1, 2, 10 and 12).

### **Working with Children (Risk Management and Screening) Act 2000 amendments**

The amendments to the *Working with Children (Risk Management and Screening) Act 2000* (WWC Act) (Amendment 15) facilitate the sharing of information relevant to whether a person poses a risk to the safety of children by the Early Childhood Regulatory Authority (ECRA) to the chief executive (working with children). In particular, this will enable ECRA to disclose information about suspension directions, supervision directions and training directions (which are now powers available to ECRA under the Education and Care Services National Law (National Law)).

## **Human Rights Issues**

### **Human rights relevant to the Bill (Part 2, Division 2 and 3 *Human Rights Act 2019*)**

In my opinion, the human rights engaged by the amendments to be moved during consideration in detail are:

- freedom of expression (section 21 of the HR Act)
- taking part in public life (section 23 of the HR Act)
- property rights (section 24 of the HR Act)
- right to privacy (section 25 of the HR Act), and
- right of children to protection in their best interests (section 26(2) of the HR Act).

### **Local government amendments**

#### *Local government superannuation arrangements*

The *right to property* protects the right of all persons to own property and provides that people have a right to not be arbitrarily deprived of their property. Property includes real and personal property (e.g., land, chattels and money), including contractual rights, leases, shares, patents and debts. Property may include statutory rights and non-traditional or informal rights (e.g., licence to enter or occupy land and the right to enjoy uninterrupted possession of land) and other economic interests.

In a human rights context, 'arbitrary' refers to conduct that is capricious, unpredictable, unjust, or unreasonable in the sense of not being proportionate to a legitimate aim.

The term 'deprived' is not defined by the HR Act. However, the term 'deprived' in the context of property rights is considered to include the substantial restriction on a person's use or enjoyment of their property.

The Payday Act amends the *Superannuation Guarantee (Administration) Act 1992* (Cwlth) (SGA Act) to make changes to the timing of superannuation guarantee contributions. Amendments to the LGA and LGR will align with these changes.

The payday superannuation amendments:

- align the timing of local government employer superannuation contributions with the new timing of superannuation guarantee contributions
- provide that the timing of superannuation contributions will be enforced by the existing penalty of interest payable on overdue superannuation contributions
- align the definition of salary with qualifying earnings as the new earnings base, and
- update the reference to the charge percentage in the SGA Act.

The superannuation amendments promote property rights by incentivising local government employers to pay superannuation contributions sooner, which results in higher earnings for employees due to compounding effect and earlier investment, and appropriately compensating employees for unpaid superannuation. Employees are entitled to receive their superannuation. The amendments do not limit this entitlement.

**If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)**

*Document disclosure requirements - Brisbane City Council*

Clause 22 of the Bill amends section 171 of the COBA to provide that the power to request assistance or information apply to a councillor in relation to ‘committee information’ only if the councillor is a member of BCC’s Establishment and Coordination Committee (the committee). If the councillor is not a member of the 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 committee.

Clause 23 of the Bill amends section 172 of the COBA in the same way but with respect to the inspection of records of the committee containing ‘committee information’.

The Bill defines ‘committee information’ as information in a document made about, by or for the purposes of the 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, and
- (g) a draft of a document mentioned in any of paragraphs (a) to (f).

The Bill defines ‘finally resolved’, in relation to a matter, to mean:

- (a) the Establishment and Coordination Committee has, by resolution, made a final decision about the matter, or
- (b) the Establishment and Coordination Committee has decided, or is taken to have decided, the matter in a way prescribed by regulation.

BCC’s submission on the Bill to the Parliamentary Committee raised concerns that the proposed definition of ‘committee information’ is too broad and inconsistent with the intended objective, that is, to provide that certain documents of the committee are to remain confidential to enable good decision-making through open and frank discussions between committee members.

The objective of the amendments is achieved by amending clause 13 (Amendment 4), inserting new clause 13A (Amendment 5) and omitting clauses 22 and 23 of the Bill (Amendments 7 and 8) to provide that certain documents are to remain confidential to the committee and are not accessible by non-committee councillors under sections 171 or 172 of the COBA (even after a matter has been finally resolved by the committee), including:

- interim versions of committee submissions
- committee briefing notes
- notes of discussions in committee meetings
- a document prepared for presentation to the committee, and
- a draft of, or another document prepared for the purpose of, any of the following documents:
  - committee submissions
  - committee briefing notes
  - committee agendas
  - notes of discussions in committee meetings
  - committee minutes
  - committee decisions, and
  - a document prepared for presentation to the committee.

The amendments also insert a new definition of ‘general committee information’ to provide for the documents that are to be available to non-committee councillors under sections 171 or 172 of the COBA once a matter is finally resolved by the committee. These documents are:

- the version of a committee submission considered by the committee in making a final decision about the matter the subject of the submission
- committee agendas
- committee minutes, and
- committee decisions.

Of note, BCC will continue to publish these documents on its webpage in accordance with its existing publication scheme.

The definition of ‘finally resolved’ in the Bill is amended to reflect that a function of the committee is to consider certain matters before making a recommendation to BCC for a final decision. In such instances, the committee information is not to be disclosed until such time as BCC makes its final decision. Also, the reference in the definition to ‘by resolution’ is omitted as some decisions of the committee are not made by formal resolution.

In addition, the amendments insert new section 4A into schedule 3 of the RTI Act (Amendment 14) to provide that ‘committee information’ is exempt information for a period of 10 years. This means that the information is not available to members of the public or BCC councillors under the RTI Act during this period.

Additional amendments to the COBA provide that councillor requests for assistance or information under section 171 or the inspection of council records under section 172, must relate to the ward of Brisbane that the councillor represents. These restrictions are not to apply to the mayor, or to the chairperson of BCC or chairperson of a committee of BCC if the request or access relates to the role of the chairperson.

The amendments provide for all amendments relating to the document disclosure requirements of BCC to commence on Assent.

These amendments may limit the rights to freedom of expression and to take part in public life.

(a) the nature of the right

The *right to freedom of expression* protects the right of all persons to hold an opinion without interference, and the right of all persons to seek, receive and impart information and ideas of all kinds (including verbal and non-verbal communication).

The forms of protected expression are broad, and include almost all forms of expression, including verbal (oral, writing and print), or through art or conduct. The right to freedom of expression and the free flow of information and ideas between people and through the media, particularly about public and political issues, is considered to be a foundation stone of a free and democratic society.

The underlying values and interests represented by a right to the freedom of expression have been described as freedom, self-actualisation and democratic participation for individuals personally; and freedom, democracy under the rule of law and ensuring governmental transparency and accountability for society generally. The right includes a concept of freedom of expression as a political right, aimed at integrating the individual in society with the focus on the political, collectivising function.

An additional aspect to the right to freedom of expression is that it creates an obligation for government to provide information. The *International Covenant on Civil and Political Rights Human Rights Committee General Comment No. 34* regarding Article 19: Freedoms of opinion and expression, states: ‘Parties should make every effort to ensure easy, prompt, effective and practical access to such information’. This obligation is necessary for governments to be transparent and accountable.

The *right to take part in public life* protects the right and opportunity, without discrimination, of all persons to participate in the conduct of public affairs, directly or through freely chosen representatives, covering all aspects of public administration and the formulation and implementation of policy at all levels of government.

The United Nations Human Rights Council (UNHRC) has indicated that the conduct of public affairs is a broad concept which relates to the exercise of political power, in particular, the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels.

In addition, there is an intrinsic connection between the right to participate in public affairs and the right to freedom of expression. The UNHRC has noted that citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organise themselves. This participation is supported by ensuring freedom of expression, assembly and association.

The amendments mean certain committee information, which is currently accessible under the RTI Act to councillors who are not members of the committee and to members of the public, will no longer be accessible for 10 years.

Further, councillor requests for assistance or information or the inspection of council records must relate to the ward of Brisbane that the councillor represents.

These amendments limit the right to freedom of expression and the right to take part in public life for members of the public by limiting the freedom of the public to seek and receive committee information regarding decision-making and potentially to participate in dialogue with councillors about matters affecting the community, where matters relate to issues outside a councillor's ward.

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The Establishment and Coordination Committee (the committee) is the pre-eminent committee among the BCC standing committees and section 24(6) of the COBA provides that the committee is collectively responsible to BCC.

The purpose of the limitation is to promote robust decision-making and good governance at BCC by allowing committee decision-makers to consider and discuss issues freely, without needing to factor in how information considered or discussed for deliberative processes may be used or portrayed.

The purpose of the limitation is also to facilitate the committee's established practice of collective decision-making responsibility in a party-political environment by allowing committee members to exchange differing views in the decision-making process in a confidential environment.

This ensures committee decision-making and policy development is not unnecessarily inhibited.

The purpose of the limitation relating to a councillor's ward is to ensure that BCC may direct its resources most effectively, to provide councillors with advice and information relevant to representing their local communities.

The purpose of the limitation is consistent with a free and democratic society based on human dignity, equality and freedom for the following reasons.

By promoting robust decision-making and good governance, the amendments align with:

- the purpose of the COBA, which includes providing for a system of local government in Brisbane that is accountable, effective, efficient and sustainable,<sup>1</sup> and
- the local government principles provided for in the COBA, which include decision-making in the public interest and good governance of, and by, local government.<sup>2</sup>

Members of the Brisbane public have the regular opportunity to vote for local government election candidates who they believe appropriately represent their interests, including considering how candidates will perform their responsibilities consistently with the local government principles.

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<sup>1</sup> Section 3(1)(b), *City of Brisbane Act 2010* (Qld).

<sup>2</sup> Section 4(2)(a) and (d), *City of Brisbane Act 2010* (Qld).

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limitations imposed by the amendments directly help to achieve the purpose.

By allowing the committee to maintain the confidentiality of documents where required, committee decision-makers can undertake robust consideration and deliberation and maintain the collective decision-making responsibility of the committee.

By limiting requests for information or inspection of records to matters relating to a councillor's ward, BCC may process requests more efficiently and therefore prioritise its resources most effectively in the interests of the whole community.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill

There are no less restrictive or reasonably available ways to achieve the purpose of the amendments, noting:

- measures are in place to promote the public's appropriate access to information which make the human rights limitations less restrictive, as discussed under section (e) below, and
- providing the RTI Act exemption for a shorter period of time or capturing fewer kinds of documents in the exemptions would diminish the level of confidentiality provided to the committee thereby detracting from the purpose of the amendments.

As noted above, the restrictions on requests for information or inspection (where matters do not relate to a councillor's ward) do not apply to the mayor, or to the chairperson of BCC or chairperson of a committee of BCC if the request or access relates to the role of the chairperson.

(e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

The importance of promoting robust decision-making and good governance at BCC and facilitating the committee's established practice of collective decision-making responsibility in a party-political environment outweighs the limitations which the amendments have on the right to freedom of expression and the right to take part in public life.

In terms of the importance of the amendments, the purpose of the amendments support:

- the purpose of the COBA, which includes providing for a system of local government in Brisbane that is accountable, effective, efficient and sustainable, and
- the local government principles of decision-making in the public interest and good governance of, and by, local government.

In terms of the nature and extent of the limitation, the RTI Act provides that, despite an agency (including a local government) or Minister being able to refuse access to all or part of a document on the grounds the document is exempt information under Schedule 3, the agency or Minister may give access.<sup>3</sup>

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<sup>3</sup> Section 48(3), *Right to Information Act 2009* (Qld).

(f) any other relevant factors

Not applicable.

**Working with Children (Risk Management and Screening) Act 2000 amendments**

**If human rights may be subject to limitation if the Bill is enacted – consideration of whether the limitations are reasonable and demonstrably justifiable (section 13 *Human Rights Act 2019*)**

(a) the nature of the right

The amendment promotes the *right of children to protection in their best interests* (section 26(2), HR Act) by prioritising their safety and wellbeing, while necessarily limiting the right to privacy to the extent required to achieve the purpose of the proposed amendments.

The *right to privacy* (section 25, HR Act) protects the individual from all interferences and attacks upon their privacy, family, home, correspondence (written and verbal) and reputation. The amendments to the WWC Act limit the right to privacy by overriding limitations on the disclosure of confidential or protected information contained in the National Law and allowing information about a person (namely, suspension directions, supervision directions and training directions) to be disclosed to the chief executive (working with children).

(b) the nature of the purpose of the limitation to be imposed by the Bill if enacted, including whether it is consistent with a free and democratic society based on human dignity, equality and freedom

The purpose of the limitation on the right to privacy imposed by the WWC Act amendments is to promote child safety, by ensuring the chief executive (working with children) can consider all relevant information in determining whether a person is eligible to hold, or continue to hold, a blue card.

(c) the relationship between the limitation to be imposed by the Bill if enacted, and its purpose, including whether the limitation helps to achieve the purpose

The limitation on the right to privacy helps to achieve the purpose of the WWC Act amendments to promote child safety by removing limitations on the disclosure of confidential or protected information that, if disclosed, would support effective risk assessments by the blue card system. The imposition by ECRA of a suspension direction, supervision direction or training direction in relation to an early childhood education and care (ECEC) worker is a response to misconduct by an ECEC worker and is assessable information which may be highly relevant in determining whether the person poses a risk to the safety of children.

(d) whether there are any less restrictive (on human rights) and reasonably available ways to achieve the purpose of the Bill.

The limitation is the only way to achieve the purpose of the WWC Act amendments, as there is no least restrictive way to facilitate disclosure of information to the chief executive (working with children). Obligations on the use or disclosure of information in section 384 and 385 of the WWC Act will apply to the information received from ECRA, ensuring the chief executive (working with children) can only use the information for the intended purpose.

- (e) the balance between the importance of the purpose of the Bill, which, if enacted, would impose a limitation on human rights and the importance of preserving the human rights, taking into account the nature and extent of the limitation

On one side of the scales, the protection of the right to privacy – a right which is broad in nature – is fundamental to a democratic society by ensuring that personal information about individuals cannot be unlawfully collected, stored, used, disclosed or published, particularly by government agencies. Information that is shared between government agencies should be for a lawful and justifiable purpose.

On the other side of the scales, it is essential to promote and protect the rights and safety of children given their inherent vulnerability in society. Ensuring the blue card system is effective in protecting children from risks of harm when participating in activities that support their development and wellbeing is an important purpose. The measures proposed are precise, and only go as far as is necessary to achieve the purpose by being limited to authorising the sharing of information by ECRA that is reasonably considered necessary for the performance of the chief executive's functions under section 8 of the WWC Act.

Weighing these factors, it is considered that the limitation on human rights is justified and the amendments are compatible with human rights.

- (f) any other relevant factors

Nil.

## **Conclusion**

In my opinion, the amendments to be moved during consideration in detail of the Bill are compatible with human rights under the HR Act because they limit human rights only to the extent that is reasonable and demonstrably justifiable in a free and democratic society based on human dignity, equality and freedom.

**ANN LEAHY MP**  
MINISTER FOR LOCAL GOVERNMENT AND WATER AND  
MINISTER FOR FIRE, DISASTER RECOVERY AND VOLUNTEERS