ECONOMICS AND GOVERNANCE COMMITTEE

Members present:
Mr LP Power MP—Chair
Mr RA Stevens MP
Mr MJ Crandon MP
Mrs MF McMahon MP
Mr DG Purdie MP
Mr A Tantari MP

Staff present:
Ms L Manderson—Committee Secretary
Ms G Harrison—Graduate

PUBLIC HEARING—INQUIRY INTO THE INTEGRITY AND OTHER LEGISLATION AMENDMENT BILL 2023

TRANSCRIPT OF PROCEEDINGS

Friday, 11 August 2023

Brisbane

FRIDAY, 11 AUGUST 2023

The committee met at 10.31 am.

CHAIR: Good morning. I declare open this public hearing for the committee's inquiry into the Integrity and Other Legislation Amendment Bill 2023. I would like to respectfully acknowledge the traditional custodians of the land on which we meet today and pay our respects to elders past and present. We are extraordinarily fortunate to live in a country with two of the oldest continuing civilisations and cultures in those of Aboriginal and Torres Strait Islander peoples, whose lands, winds and waters we all share.

My name is Linus Power, the chair of the committee and member for Logan. The other committee members here with me today are: Mr Ray Stevens MP, deputy chair and member for Mermaid Beach; Mr Dan Purdie MP, member for Ninderry; Mr Michael Crandon MP, member for Coomera; Ms Melissa McMahon MP, member for Macalister; and Mr Adrian Tantari MP, member for Hervey Bay.

The purpose of today's hearing is to enable the committee to explore with stakeholders some of the issues raised in submissions on the bill. We will also have an opportunity to hear further from the department in relation to the matters discussed today at the conclusion of the proceedings. The hearing is a proceeding of the Queensland parliament and is subject to the parliament's standing rules and orders. While the hearing is open to the public to watch, only the committee and invited witnesses may participate in the proceedings. Witnesses are not required to give evidence under oath or affirmation, but I remind witnesses that intentionally misleading the committee, being a proceeding of parliament, is a serious offence.

The proceedings are being recorded and broadcast live on the parliament's website. Media may be present and are subject to the committee's media rules and my direction at all times. You may be filmed or photographed during the proceedings and images may also appear on the parliament's website or social media pages. Before we commence, I ask all present to please turn mobiles phones off or to silent mode.

HARTLEY, Ms Jayne, Director, Legal and Operations, Queensland Integrity Commission

SYMONS, Ms Lesley, Deputy Integrity Commissioner, Queensland Integrity Commission

WAUGH, Ms Linda, Queensland Integrity Commissioner, Queensland Integrity Commission

CHAIR: I would like to welcome representatives from the Office of the Queensland Integrity Commission. Good morning, all. We note your appointment, Ms Symons, and wish to congratulate you and welcome you to your role. We know that you commenced only last week, so most of our questions will be directed to you!

Ms Symons: Why, thank you!

CHAIR: Integrity Commissioner, would you like to make an opening statement before we start our questions?

Ms Waugh: I would, thank you, Chair. I welcome the opportunity to appear before you today. As you have introduced, Lesley is the Deputy Integrity Commissioner and has recently commenced in her role. Jayne is the Director of Legal and Operations and has been with my office since March. My opening remarks today are focused on the regulation of lobbying and the proposed amendments to chapter 4 of the Integrity Act.

Lobbying is an activity which is an important part of our liberal democracy and of our democratic representation. It is part of our democratic right to make representations to government and to have access to the process of making policy. Lobbying occurs all the time and comes in many different forms, from the constituent or club who wants a new block of toilets at the sports club or park to the mining company that wants new mining sites to be approved.

Lobbying has also changed over the last two to three decades. This is particularly with the rise of the professional lobbyists, whether they are employed in a lobbying firm or another business. It is well documented that many lobbyists and government relations officers are former politicians or political advisers or former public servants. That should not be surprising. They have particular expertise and experience in public policy areas and in public policymaking processes. However, they also bring with them associations and friendships, whether professional or personal or both. These may give rise to the perception that they have privileged access to decision-makers, or have more sway than others in persuading a decision-maker to move in one direction or another. I am not saying that these perceptions are always true or fair, but occasionally they are.

The most recent example is IBAC's Operation Sandon, published last month. In its investigation, IBAC did find evidence of privileged access and poor transparency around the access to elected officials. In the latter case, the report highlighted the problem of unreported lobbying contact at functions and events—in essence, where contact was incidental or otherwise not planned or scheduled. Operation Sandon also concluded that any lobbying activity, regardless of whether it is a regular part of or incidental to a person's profession or business, should be captured as lobbying activity. Governments respond to these risks, such as those exposed through that investigation, through codes of conduct and schemes to regulate.

In Queensland, we have arguably the strongest regulatory scheme in Australia—something to be proud of, I think. The Queensland scheme goes beyond just registering active lobbyists. Registered lobbyists are also required to record in the lobbying register each contact they have with the government or opposition representative where they are seeking to influence decision-making. This is a critically important element of a scheme which serves to make transparent to the general public what contacts are being made, for whom and about what. It is this level of transparency that is required, as Professor Coaldrake would say, to let the sunshine in, and to give the community confidence that access to decision-makers is equal and that decisions are free from undue or excessive influence.

I support Professor Coaldrake's position that the lobbying scheme and register can work in conjunction with the publication of ministerial and ministerial staff diary entries to make transparent to the community who is meeting with whom about what. I also support his comments that to be effective, however, they need to be more accessible and searchable than they currently are. Both Professor Coaldrake and Mr Yearbury made important recommendations, and this bill aims to implement those recommendations which require legislative amendments.

Overall, I support the amendments proposed by the bill, although, as I have outlined in my submission, in certain instances I think more could be done to better implement some recommendations or make the scheme operate more effectively. Ultimately, the underpinning policy and what amendments are made are a matter for government and the parliament. I would simply say that the design of a regulatory scheme should be principles based, and the legislation should be clear and unambiguous and be able to be understood by those who need to understand it and apply it.

Of course, as the regulator, and with the amendments proposed, I will have an important role in assisting stakeholders through training and education and through the provision of advisory and guidance publications. I look forward to working on those materials and publications as well as reviewing the lobbyists code of conduct and consulting with my key stakeholders in the coming months. Thank you for the opportunity to make this short opening statement. I welcome your questions.

CHAIR: Thank you, Ms Waugh.

Mr STEVENS: First of all, may I welcome you with your great experience to the role. I am looking forward to a long association with you as an integrity commissioner in the EGC. In relation to my initial question with regard to your report on this integrity bill, in your submission you suggest removing the proposed provision that communicating with a representative in the ordinary course of professional or technical service is not a lobbying activity. In other words, architects, lawyers or even in-house operatives in companies that have submissions requiring government approval at different levels are not, in your view, lobbyists. Can you explain further the difference between a professional making professional submissions, and even a professional working for a company, and an outside lobbyist company? Do you understand my question?

Ms Waugh: I think I understand the question. My submission is really addressing the Coaldrake recommendation. I think what Professor Coaldrake was saying was that professionals, which would encompass professional services firms, architects, lawyers, engineering firms and town planners, ought to be captured by this scheme and so should be included in the definition of 'lobbyist'. They are different—and, again, this is Professor Coaldrake's view, which I support—in that an

in-house lobbyist does exactly the same thing for the company that they represent, but, as he would say, when you inspect a ministerial diary or a ministerial staff diary you know that they are representing company ABC. That is the difference, in Professor Coaldrake's report, and how he distinguishes between the two. With an in-house lobbyist, you know who they are representing because they work for that company, whereas with a professional lobbyist or a consulting firm or an engineering firm you do not know who they are representing.

Mr STEVENS: So a lobbyist working for a company—it might be Fred Nerk, partner of big firm AWC; I will not mention the firm—is able to not be a lobbyist; is that right?

Ms Waugh: Correct, yes.

Mr STEVENS: I find that he is probably even more of a lobbyist—because that is what he has his partnership through—than the professional guy who is probably running through issues of (a) legality if it is a lawyer or (b) town-planning matters if it is a planner, and I am using those professional examples.

Ms Waugh: Yes. I think the New South Wales ICAC formed that view in their paper on lobbying—that in-house lobbyists should be lobbyists who are required to be registered.

Mr STEVENS: You support that?

Ms Waugh: At its heart, I probably do support an in-house lobbyist being included in the scheme, but I think this act is about Professor Coaldrake's report. He is saying that if you can get parity between the two schemes of transparency'—one is diaries that are posted on the internet; one is the lobbying register—that achieves that objective of making transparent who was meeting with whom, just through different vehicles.

Mr STEVENS: I am having a little bit of difficulty with the difference between a meeting and lobbying.

Ms Symons: I just want to clarify what you mean when you talk about in-house versus the other type of lobbyists that we are talking about.

Mr STEVENS: I can clarify that for you, because I know of certain people who have partnerships in major companies and they have that job because they are lobbyists—or government relations, whatever you like to call them.

Ms Symons: When you talk about in-house, you mean people who are head of corporate affairs, government—

Mr STEVENS: Yes. 'I work for ABC company and I am a partner in ABC company, but my job is lobbying.'

Ms Symons: Yes, but you are not a partner in a consulting advisory sense—

Mr STEVENS: No. You work for that firm, and you may only work one day a week.

Ms Symons: Yes. That is what I wanted to clarify.

CHAIR: I assume, Ms Waugh, that when someone works in government relations or corporate affairs and represents a singular entity the intent of their work is for that singular entity and that adds greater clarity to the nature of the meeting they were at, and that is why in general these do not capture those that are considered 'in-house'?

Ms Waugh: Yes. That is what Professor Coaldrake was saying. Professor Coaldrake also recommended that 'purpose of meeting' be included in ministerial diaries but, when you see that in that public space—PDFs or whatever, a register of ministerial meetings—you can see who they represent. On the lobbying register you see the same thing, except you get all of that other information such as who their client is and the policy matter they are discussing with that representative. I think the point of what Coaldrake was saying is: one is registered and one is not, but through those two mechanisms there is transparency and exposure as to who is meeting with whom.

Mr TANTARI: Ms Waugh, I note that in your submission you make the comment that the amendments in general, in combination, will significantly enhance the regulatory system, but in your submission you call for ambiguity to be resolved between what is and is not a lobbying activity in relation to the making of a decision or approval under the Planning Act. Do you have any thoughts on how to resolve that ambiguity in relation to planning?

Ms Waugh: Yes, I do. The first thing about sections 42 and 43—what is lobbying activity and what is not lobbying activity—is that under the current act no section is subject to another. That is something new that has been introduced into this bill. The first list is an inclusive or non-exhaustive list. The second list is a more definitive list. Under this proposal, the way to resolve this—because new section 42 is subject to 43, where you have a conflict you have to go to what is not lobbying and

resolve the issue there. If you can resolve the issue there, there is no need to look at what is lobbying. That is why my submission says that new section 42(2) should be removed. One section should not be subject to the other.

In terms of your question as to the current drafting, in new section 43 I would not use the language 'ordinary course'. If we talk about a development application, for example: in the ordinary course, part of that process is lobbying—if you are a professional lobbyist for your client—to get their DA through. In the ordinary course, you are lobbying. It is confusing because of the term that is used. I would favour in 43 that you define it as providing technical advice—not talk about 'in the ordinary course' but when you are providing technical advice, as opposed to going back to 42 and trying to 'influence decision-making'.

Mr TANTARI: It is a bit of a grey area, isn't it? You are not really talking about a cut-and-dried situation, because obviously any communication regarding that development application, as you put it, could be interpreted—perception wise—as lobbying.

Ms Waugh: Perception aside, in the scheme it is either that or it is not. In my opening address I talked about the importance of having a principles-based system of regulation. One of the reasons I talked about that is: if you have a rules-based approach, you have to put everything in legislation. There is really no role for the regulator in terms of providing guidance. If you have 42 and 43 as inclusive, non-exhaustive lists then as new things come up I can issue guidance on what would and would not be. I can provide guidance to my stakeholders on that.

CHAIR: If someone has technical knowledge that they are applying to a particular circumstance, they are often emphasising their technical knowledge that may be to the advantage of the case they are putting forward. Even on a principles base, it is reasonable that they say, 'I was sharing technical knowledge,' but it was emphasising their technical knowledge of a history of cases that would indicate towards a particular course of action of the person they were dealing with, weren't they?

Ms Waugh: Yes, but in that case I would say that is not a lobbying activity. If you are giving your client advice on how to make an application or if you are attending a meeting about requirements for that application, none of that is lobbying activity.

Mr PURDIE: You talk about guidance and about training. With the new definitions, are you anticipating training opposition members, government and lobbyists about the new requirements and definitions?

Ms Waugh: Yes, absolutely. I am very keen for this aspect of the work, and that will be introduced in this legislation. One of the things we will do fairly quickly, in the next couple of months, is start to look at developing a training strategy, because the stakeholder group is actually quite big and each stakeholder has different communication needs. The answer to your question is: yes, we will be looking at training. The act talks about the mandatory training. We will obviously be giving priority to that. In terms of all of the affected stakeholders—people who have to apply it, people who may be subject of lobbying, staff who may have to assist their minister or their director-general in managing lobbying contacts—they will all be covered in the training program. It will not just be limited to training. We will look to develop resources as well.

Mr STEVENS: Including training members?

Ms Waugh: If you would like me to do that, Mr Stevens, I will.

Mr STEVENS: Extra tuition.

CHAIR: Do you have something to add, Ms Symons?

Ms Symons: I do. I want to go back to the town-planning issue and the clarity we are seeking in relation to new subsection 43(j) in the legislation. I think the bigger point there is that 'ordinary course' makes the application of that exemption very broad. There would be a huge amount of activity that could potentially be covered in 'the ordinary course of making an application … under an act', which is the wording as it currently stands. Our position—and as the commissioner has outlined—is that it would be better if that were restricted to technical and procedural matters, to provide further clarity. The broader point is that as it currently stands it needs refining.

Mr STEVENS: Thank you. That helps.

Mr CRANDON: I was having a look at the long title of the bill and something that the secretariat brought to our attention. You may have commented on this before; I am not sure. Can you tell the committee what you see as the potential impacts, if any, of the omission of your responsibilities regarding the code of conduct from the long title of the Integrity Act and the section regarding the functions of the Integrity Commissioner?

Ms Waugh: Lawyers will go to the long title to understand what that act is about, so the long title should cover those major aspects and responsibilities. That is more for lawyers, but I am sure Jayne is going to speak about that in a second. In terms of the statutory functions, throughout my career when I have been looking at legislation, as a non-lawyer I will generally start with objectives and statutory functions. That is how I understand what an entity does. I think I probably reflect the practice of many non-lawyers in terms of where they start to understand what an entity may do. It is a very important responsibility and function that I have. I think it needs to be reflected in the long title and in the functions.

Ms Hartley: As the commissioner has outlined, the long title does have a purpose for the application of the act. It does set up the strategic purpose. As lawyers, we go to it. It does assist non-lawyers—lay people—in relation to what the act is about. That function is important in the long title as well as the functions under section 7. That is why we have asserted that it should be included.

Mr STEVENS: I suppose it is currently covered under other legislation in terms of the long title of the bill but you want it specifically, obviously. Ms Waugh, I understand that you form that code of conduct under the legislation—the directives and their required outcomes—and then consult with the committee on the matter. We have had some different interpretations of 'consulting' towards the committee in terms of 'Here it is'—tick. Can you expand on your intention, if you like, in relation to the consultation with the committee when you finalise your code of conduct?

Ms Waugh: Yes. It will not be 'Here it is'—tick. The code has not been reviewed for a decade. It has been a long while. There are a lot of changes that will be contemplated in this review. The process I have in mind is that we will start with a discussion paper about what we think are the key issues and potential key changes, allow stakeholders to make submissions and perhaps do some roundtable meetings. I expect that I would do that with the committee as well as part of that process. I think when I submit the code it would be as a draft version of the code, attached with a paper that explains the reasoning behind the changes or why something is in there that was not or why something has been removed that was in there before.

Mr TANTARI: Ms Waugh, in your submission you suggest that the exercise of discretionary power be included as a lobbying activity in the definition of 'lobbying'. Can you please provide the committee with some specific examples of what this might cover?

Ms Waugh: In the submission I talked about, for example, an appointment. I think in government there would be a wide range of discretionary decision-making that occurs outside of what is listed already in that section. The reason it is really important it is in there is: if there was ever a time that you wanted to lobby a decision-maker, it is when they have a decision where they have a discretion to do a certain thing or not do a certain thing. You are not convinced?

Mr TANTARI: No. I understand what you are saying, though.

Ms Waugh: If you do not have the ability to make a discretionary decision, there is probably no reason to lobby—in terms of decisions where you do not have a discretion is what I mean, not in terms of making policy for example. Across all of the portfolios, there would be quite a significant amount of discretionary decision-making.

Mr TANTARI: Do you have any specific examples that you might cover?

Ms Waugh: I did not bring an exhaustive list—just what I had in the submission, which was an example about making an appointment or recommending a person for appointment.

Mr TANTARI: Yes, I read that.

CHAIR: As there are no further questions, I thank you for your appearance here today. I appreciate the feedback you have given us on this bill.

COX, Mr Andrew, President, Australian Professional Government Relations Association

CHAIR: Welcome. Would you like to make an opening statement before we ask questions?

Mr Cox: On behalf of the Australian Professional Government Relations Association, I thank you for the opportunity to address the committee today. I hope I am able to offer some additional insight to assist the committee in its deliberations. I am the elected president of the management committee of the APGRA. My job is a partner at GRACosway, a specialist consulting firm that provides an integrated suite of public affairs and corporate finance communication services. For context, I appeared before this committee in November last year when you were considering similar matters that are being heard today.

The APGRA is a professional association for consulting and in-house government relations practitioners around Australia. For example, a consulting firm like mine is engaged by different companies and organisations to assist them with government relations activities. We also have in-house government relations professionals who work for a range of businesses, not-for-profits, charities, industry bodies et cetera to represent the interests of their individual employer or organisation.

The APGRA continues to support the regulatory framework in place in Queensland which aims to ensure that contact between lobbyists and government and opposition representatives is conducted in an ethical and transparent way. As the national peak body for the professional government relations sector, the APGRA supports the Queensland government's intention to ensure that those undertaking lobbying activities are appropriately registered and captured by the regulatory framework.

In relation to the consideration of the Integrity and Other Legislation Amendment Bill 2023, we have read with interest the department's response to the submissions that have been received by this committee. These responses have helped to clarify some of the concerns we raised in our initial submission. Overall, the APGRA is broadly supportive of the changes and believe they will assist in supporting transparency, but we have recommended some changes that we believe will better support the overall intention of the bill.

An example from just one part of our submission is the requirement that all staff, including those conducting non-lobbying activities within a firm, will need to be included on the register but not as a listed person as was outlined in the department's response. As outlined in our submission, we believe this would misrepresent the roles of those people who are not lobbyists, particularly those who work in a multidisciplinary firm, and also place an unreasonable administrative burden on Integrity Commission officials. We have also paid close attention to the submission from the Office of the Queensland Integrity Commissioner, and I paid close attention to what was said earlier. The APGRA recently met with the commissioner and we will continue to engage constructively with Commissioner Waugh and her office, particularly around the code of conduct and how we can assist.

For reference, the APGRA's binding code of conduct, included in our submission to the inquiry, promotes the highest standard of government relations practice in Australia. Failure of members to satisfy and commit to the code of conduct and membership rules are grounds for declining or cancelling their membership. The code operates alongside the regulatory framework and legislation and codes in Queensland and other jurisdictions, thereby creating a strong co-regulatory framework to ensure the profession continues to operate in an ethical and transparent matter. I am now happy to answer questions.

Mr STEVENS: Thank you for attending today. Does APGRA have a position on the fact that in the Coaldrake report in-house lobbyists are not required to be mentioned as lobbying and would be picked up, as the Integrity Commissioner has advised, through meetings, if you like, through the ministerial records? Does APGRA have a position on the fact that these lobbyists—in terms of their backgrounds, their capacities and their knowledge—are being hired maybe for one day a week by big companies to do the lobbying for them? So you are registered lobbyists out there and quite plain in the public eye—and it is all about perception we are talking about here—whereas the person who is actually employed for one day a week by a big company is not notified as a lobbyist; he is just having a meeting. Does APGRA have a position on that?

Mr Cox: What you have asked is probably the No. 1 issue I get asked about in my role as president of APGRA. I think it is consistent with what the commissioner said earlier and it is an issue I think about a lot. The big difference is that with what I do in my line of work—we are a big company that has a lot of clients—it is important that we are listed on all of the things that we need to do and

follow all of the laws and regulations so that people know who we are and what we are representing. The difference between someone like me and someone working for an individual company is that there is an understanding of who they are and what they are representing. I think that is a differentiation. To answer your question, I think the way it stands at the moment is okay because there is an understanding from decision-makers like yourselves of who those people are and what they are representing.

Mr STEVENS: I would have thought that there is an understanding that when I meet with one of your members—not that they come and see me very often—it is written there that you understand, 'I am meeting on behalf of Fred Nerk or whatever to lobby Ray Stevens' type of thing. I am just a little bit confused about why you are quite accepting of that differencing role.

Mr Cox: For companies like mine and consulting firms, if I come to you representing someone, I have to be incredibly clear of who I am representing and the reasons I am coming to you—what piece of legislation it is or what reason it is. That has to be very clear. That is all listed and it is publicly available who our clients are, what we are doing and what that involves. That is absolutely appropriate. That is the way it should be and we are very supportive of that. I think the difference is with someone who is from an individual company—that you would have an understanding of who they are, what their issues are and what they are representing just by the nature of who they are representing in terms of their email signature block or what their title is from their company. I think there is a differentiation between the two.

Mr STEVENS: Except in public perception—and we are talking about public perception here. Mr and Mrs Public would not know what that particular person was meeting about, even though it was a company that was listed.

Mr Cox: I think that is a valid point, but our position is that we think there is enough clarity in what is being put out there by what we do, as my firm as a consulting firm, compared to someone who is an in-house practitioner. We think there is enough clarity in information being put out there to satisfy, as you say, public perception. There is enough clarity about what is being done and what the intention is of approaching you and your colleagues about the particular issue.

Mr STEVENS: APGRA's submission raises concerns about individuals who may hold senior roles within a political party executive, which is an important role in itself—

Mr Cox: It is.

Mr STEVENS:—as well as a lobbying role. Could you expand on what you see is the particular issue? Obviously, some lobbyists may be involved even in election campaigning, which is a bad look.

Mr Cox: What we are saying there is consistent with our code of conduct, by the way—that people who have those roles on executives of political parties should not be able to have those roles.

Mr STEVENS: Lobbying roles?

Mr Cox: Yes, lobbying roles. Then there are exclusion periods, which is what we have talked about in our submission. We think if someone has worked on a political campaign or might be a part of the national executive or the executive of a political party, that is too much undue influence that they may be able to have because of the role they have played on the campaign or in whatever political party it is. That is our position and that has been our code of conduct since we started. In terms of practical consequences, I know that this has impacted on some people who have tried to join my firm and other firms and they have had to give up some things.

Mr STEVENS: Are they APGRA members—not just people in your firm? Are they APGRA members?

Mr Cox: To become an APGRA member you have to abide by our code of conduct, so you would not be able to do what you have just described. You would not be accepted, and if you did it we would cancel your membership based on that.

Mr TANTARI: With regard to recommendation 2 of your submission about the disqualification period for practitioners, you are definitely in contrast to the Integrity Commissioner's position regarding this. They stated it should be about four years and you are saying it should be less than two years. In your opinion, what do you feel is the appropriate period for exclusion or disqualification?

Mr Cox: We think it should be consistent with what is in place for members of parliament, which is two years. We think that is a fair and reasonable exclusion period. We agree that there should be an exclusion period, but we think four years is a lot and limits the ability of someone to rightfully have a job in an area that they have expertise. Consistency with two years is what we support.

Mr CRANDON: In your submission you call for additional examples of what is not lobbying activity because of concern that some activities undertaken by professional services firms may cause confusion among public sector workers. I would have thought that, out of an abundance of caution—this is just my reflection on it—it would be better to disclose rather than not disclose. The other comment I make is that there could be a danger that if there are quite a number of examples that could end up becoming the definitive answer—that is, 'If it's not in the examples, it's going to be okay.' Can you tell the committee whether there have been any issues up until now in relation to the examples you gave in your submission, such as engaging with communication professionals? Can you comment on those other aspects of what I said in relation to the definitive answer?

Mr Cox: It is a good question. I think the changes that have been put in place in Queensland have had a bit of a chilling effect on the way professionals at my end contact ministers' offices in the fear of the unknown of getting in trouble for doing the wrong thing, which we desperately try to avoid. With what we are talking about here, the examples are—I think we have referenced someone contacting an office to ask for an email address to send an invite to a minister to attend an event. Does that mean that is lobbying activity? We want as much clarity as possible so we are fully adhering with all the laws and the regulations that are in place. I guess that is what we are asking for. If a very junior staff member in my company was to contact to say something like that, does that constitute lobbying activity? That is the sort of clarity we are seeking, but I take your point.

Mr CRANDON: On that, you are sort of slating it back and suggesting it may cause confusion among some public sector workers. You are suggesting that the individual on the other end of the phone—in your example of the email question—might think, 'I'm not sure I can give them this email address because it might be lobbying.' Do you see my point there? This has been an issue in the past in my memory—that when you start to give examples then suddenly they become the framework within which people start to work and they think, 'If it's not in there, let's go with it.' In fact, no-one has considered the potential for the flow-on of that type of framework.

Mr Cox: I think what you are saying has merit and I totally accept it. I think that is a valid point that you are making.

Mr CRANDON: We need to keep it as open as we can.

Mr Cox: Yes. From my point of view, we are just, at all costs, trying to avoid doing the wrong thing. We want to make sure that any incidental action that we might do is not going to breach any of the laws or regulations and get us into trouble. That is what we are trying to avoid.

CHAIR: We obviously have your submission as well, Mr Cox. There are no further questions so I thank you very much for your appearance here today and your added contribution, including making reference to what the department has said about your submission.

WILLIAMS, Ms Jen, Queensland Executive Director, Property Council of Australia

CHAIR: Good morning, Ms Williams. Would you like to make an opening statement? Then the committee will have some questions for you.

Ms Williams: Thank you for the invitation to address the hearing today. As you would be aware, the Property Council is a leading advocate for Australia's property industry and in Queensland we have around 400 member companies. They range from community housing providers, not-for-profits, town planners, builders—you name it. Legal professionals, if they touch on the property industry, are our members. They are spread across all asset classes. Here in Queensland we have around 330 individuals who volunteer on our committees as well—that is, Brisbane, Gold Coast, Sunshine Coast and Townsville. Our members are proud to invest in, design, build and manage places that matter. They have a long-term interest in the future of Queensland and they are committed to creating great cities, strong economies and sustainable communities. As the industry body representing this wonderful industry, we welcome the bill's recognition of the unique role industry associations play and excluding them from being classified as lobbyists. It reinforces the important relationship between organisations like ours and government.

Today there are two matters that I am seeking clarification on and I request engagement from the committee on them. I also make a plea for the delivery of clear and comprehensive guidelines along with the legislation and an education campaign for those who are likely to be impacted by it. Firstly, central to our members delivering projects that meet the needs of the community and address community expectations is the ability for the property industry to engage regularly with government and to work with them. From our point of view, there remains a little bit of ambiguity about what is and is not a lobbying activity with respect to a town-planning matter. I know that the department has provided a response to our submission regarding section 43. It states—

> The provision aims to capture activity that is intended to influence the decision making of a government official. The ordinary course of providing information on (not advocating for) a planning submission would not be captured.

It is this notion of advocating for a planning submission that we are seeking certainty and clarity on. Queensland operates under a performance-based planning system. That naturally requires that people need to explain the positive benefits of a development or a project. In doing so, at times, technical professionals such as town planners will need to attend meetings with government officials, either with or on behalf of the development project. In that role they will need to highlight the positives of the project. It is their role to talk through the positive community benefits. For the benefit of our members who undertake these activities, we are keen to ensure they are aware of any legislative requirements that would or would not apply to them regarding lobbying activity.

The second point of clarification I am seeking is with respect to internal government relations roles, so people who are direct employees of large organisations and who spend a proportion of their time meeting with government representatives across the country. As I already mentioned, understanding the needs of the community and government is critical for major development projects and these in-house people are vital in ensuring expectation, management and alignment of expected outcomes between community, government and industry. In our submission, again we sought clarity on those roles and around what is not lobbying. In response, on the committee's website, it states, 'The Coaldrake Report did not recommend any particular profession be wholly exempt' but did note '"those carrying out lobbying functions as part of their suite of professional services".' Even again factoring in the response the department has provided, there are some differing views among stakeholders on how the proposed legislation would apply to those with an in-house government relations role. Any further clarity that can be provided back to our members on that would be great.

Finally, the ongoing housing crisis impacting Queensland does require a collaborative response from industry, government and community to ensure that every Queenslander has access to safe and affordable housing. Delivering this response will require open and timely communication. Unfortunately, since the Belcarra legislation was introduced in Queensland the notion of open and timely communication between the property industry and government has been questionable. Time and again our members report not being able to talk to elected officials or government officials because they are fearful of being seen to do the wrong thing. That is particularly prevalent at the local government level. As it has been put to me by a few people in local government, the penalties for engaging in the wrong manner are severe; however, there are no penalties for not engaging with industry at all. From not being able to attend functions to having phone conversations recorded or councillors who only meet with development opponents rather than proponents, it is increasingly difficult for our members to have an opportunity to be heard by governments.

A lot of these hurdles have come about through misinformation and a lack of educational materials provided when that legislation was introduced. People went off and sought their own legal advice, sometimes contradicting with the intent of the legislation. That has led to a situation that is difficult for our members, where they are finding it hard to engage with politicians or government officials throughout Queensland. For that reason, we want to make sure that when this bill is adopted, if it goes through, there are education materials and guidance materials that go with it to help support those local state government officials to make sure that they know what their roles and responsibilities are and that they can feel confident to meet with people as and when they need to.

I finish by saying that we acknowledge and support the bill's focus on integrity and transparency. I thank you again for inviting me today.

CHAIR: Thank you very much, Ms Williams. We really appreciate your submission and the feedback you have given us today.

Mr STEVENS: As a long-term supporter of the Property Council, I know that it is important that as an industry representative you involve yourself in this bill and this discussion thereof. I hear loudly what you are saying in terms of clarity on these issues. I hark back to the developer contributions to parliamentarians, and the ECQ has further clarified what a developer is in relation to these sorts of matters. Clarity is important; I get the point there. However, as the Property Council is an industry representative, can you clarify this for me? Say you made submissions to a decision-making body such as a council, government or whatever on behalf of an individual or singular development—not a type of development or whatever but a single development such as an oceanfront development. That would certainly qualify the Property Council to be a lobbyist, would it not?

Ms Williams: The Property Council is an industry advocate and we would never speak on behalf of an individual project or proponent.

Mr STEVENS: I missed that in what you were saying.

Ms Williams: These are matters that affect our members in their day-to-day businesses as property development companies. We as the Property Council, thankfully, through our interpretation of the legislation, have been carved out because we are industry advocates and we speak on behalf of the industry. However, we then have our members who may be in-house government relations people who are seeking clarity or members who are town planners who are seeking clarity on how it applies to them. It is more about its impact on our members as opposed to us as an organisation.

Mr STEVENS: You mentioned that the opponents to a project are lobbying, if you like, but do not have to register as lobbyists, even though they are anti a particular project. Is there any problem with solicitors, town planners or architects being registered as lobbyists if they are supporting that particular project? All they have to do is say, 'I have lobbied for the project,' and there is no detrimental fine for that; you just have to note that you are a lobbyist on the matter.

Ms Williams: I think it is that clarity that I am seeking about which roles and at what point it intersects with the process, because it does add an additional layer of responsibility on the individual or company to register as a lobbyist as well. There are different terms that have different connotations and perceptions in the community as well. People may or may not choose to want to go down the path of being on a public register as a lobbyist, per se. In the example that I gave before, it was really around the Belcarra legislation as opposed to the lobbyist—the bill that is before us. I use that as an example of the need for clarity where we have situations where the rules of the game are still unclear and they are very different in each local government area. It is about having clarity around who it applies to and when and making sure that everybody is clear of their obligations and is meeting them at all times.

CHAIR: Where someone is giving technical advice and they have obviously educational expertise in an area, as you said, it is about advocating for a public benefit of a particular project. In that way, there are some subjectivity and advocacy skills about the nature of the public benefit that is beyond the technical knowledge; would that be fair to say? Is there some ambiguity about some of those roles?

Ms Williams: Yes, and that is where we are seeking the clarification, because there may be some black-and-white statements of fact, but the performance-based nature of our planning system means that there is discretion or subjectivity involved in making decisions about the weighing up of public benefit in one way or another. Absolutely to the point of our submissions, we need clarity around which roles, if any, are deemed to be ones that are going to be perceived on one side of the ledger or the other.

CHAIR: It would be a strange thing, we agree, that trying to find public benefit and measuring that is a valuable part of the planning process, but as soon as you stray into that valuable area, people wish to shut down conversations because it is no longer defined as purely technical in calculus or in an advice?

Ms Williams: We would expect that people like architects, town planners and those who have provided their technical expertise to a project are there on the basis of their technical expertise, not per se having a vested interest in the outcome of a project. It is a difficult situation as to where you draw the line of what is your technical expertise as opposed to going above or beyond that.

CHAIR: That being said, the building that they are advocating for—if it does not proceed, they obviously do not proceed with the full design of the building in question.

Ms Williams: I guess it would depend on each contract as well. Some people may already be involved in the early stages.

Mrs McMAHON: I wanted to go a little into your submission in relation to what you identified as potential impact on government and industry, including mum-and-dad investors. In your submission, you raise that it may be problematic for an individual, a mum-and-dad investor, who is going to do a simple subdivision and that they might find it problematic in just making an application. We also understand that section 43 clarifies that what is not a lobbying activity is an ordinary course of making an application. I am trying to get my head around why, say, if I were to subdivide a bit of land—to clarify, I do not own any land. If I was to go to my local council with an application to subdivide my land—

CHAIR: For a granny flat in the backyard.

Mrs McMAHON: No, an actual subdivision. You are implying that council would not want to talk to me about it because that might be lobbying and I am not a registered lobbyist. Can you just step through why someone going to subdivide their own land is under some kind of threat or considered a lobbyist, given section 43 specifically says 'making an application'?

Ms Williams: We were talking before about the perceptions around the difference between advocating and the performance-based planning systems that we have here in Queensland as well. If it was not a cut-and-dried matter of it aligning with the planning scheme, there may be a need for them to go to talk to their local councillor about the benefit that will create to a community by taking on a performance-based outcome. Say, for example, your block needed to be 600 square metres to subdivide it and their block was 540, they would need to talk to the councillor about why they think their block should be allowed to be split. That potentially could be captured as outside the ordinary course of a planning matter, if it was not aligned with the planning scheme, and going in to say to your councillor, 'I am lodging this application. It is in line with the acceptable outcomes.' If you are seeking for a change in the planning system or a performance-based outcome, there might be some form of advocacy required to talk through why that is needed.

The current situation as well with Belcarra, as I mentioned, is that developers are in a different situation to many others in the public realm. In many local government areas there is a starting position of, 'We would prefer not to engage directly with developers in the first instance,' because they are worried about doing the wrong thing. This goes back to education in the early stages. For many people who are seeking out a meeting with government, it is from that starting position of, 'We would prefer you not meet with us,' because there is a predisposition, a perceived position, and then secondly they would need to talk through what are the benefits of that if it is performance based.

Mrs McMAHON: I understand the concern, obviously, that local councils have around developers and that kind of thing. Going back to your submission of a mum-and-dad investor, they are not a developer, I guess, in the sense of developer. Without understating the role of the local councillor in the Logan City Council planning matter, why is a mum-and-dad investor going to their local councillor in the first place when the application is made to a bureaucrat in council? Obviously, a material-change-of-use application is also an application. I am just trying to see how the average landowner who wants to subdivide, or the council dealing with someone who wants to subdivide the land or something like that, should feel any fear that they need to be registered as a lobbyist?

Ms Williams: Hopefully when the guidance materials come out they clarify that for us—that we are not seeking to capture those people and they can go about their day-to-day business.

Mr PURDIE: To close the loop on that for me, essentially what I interpret you are saying is that a lot of councillors locally, because of Belcarra, are a bit concerned as to what they can and cannot do. However, if I, as a mum-and-dad investor, wanted to subdivide my block but it was not in accordance with the code—it was not just a general application; it required an impact assessment—then if I wanted to go and see my local councillor about that he would potentially say, 'Hang on, I

can't.' He might think he could not talk to me because I am lobbying to do a development. Section 43 talks about a general application, which would be code-assessable application, but you are concerned that councillors and others might be concerned that it could be classified as lobbying and therefore restrict their job even further?

Ms Williams: Exactly. All we are seeking is clarification around planning matters and that clause and how it applies, to make sure that the councillors and government representatives, as well as the industry and community, are clear about in which situations they need to register or not.

Mr CRANDON: It appears to me that the line of your comments clearly relates to Belcarra and how that impacted. We have had the scenario of mum and dad dividing their block. They do tend to take on a professional to assist them in the division of their block. Are you saying that there have been experiences, through your members or around Queensland, where councillors have said, 'No, I cannot talk to you,' and they have been more like the smaller developer, the mum and dad, or has it been more likely that it has been in regard to a big development application? Where I am going with this is: is there some line between those two?

Ms Williams: I understand your question. From my end, my members are not typically mum-and-dad developers who are doing small-scale development.

Mr CRANDON: Their advisers could be?

Ms Williams: Their advisers could be. From what we are hearing and the feedback we have received, it is an issue across several local governments in Queensland, across development projects of all scales.

Mr TANTARI: Ms Williams, in your submission—obviously you are advocating on behalf of your members—you have referred to the lobby registration process as an administrative burden. Are you able to provide some detail about the registration process your members face and an estimated time for them to be required to register online?

Ms Williams: I would prefer not to answer that question because I feel it does not relate to the topic at hand.

Mr TANTARI: It is in your submission. It refers to—

CHAIR: To the administrative burden?

Mr TANTARI: Yes.

Ms Williams: The 'additional administration burden of this process'?

Mr TANTARI: Yes.

Ms Williams: Our members are subject to administration across local, state and federal. They have a huge range of administration that they deal with every single day of the week, and this is—

CHAIR: I think the question was about this particular piece of administrative burden.

Mr TANTARI: Yes, on lobby registration.

CHAIR: Not in general administrative burden.

Ms Williams: So sorry, forgive me. I am seeking clarification. The additional time and cost that this would add to them; is that what you are asking?

Mr TANTARI: In your submission you referred to the lobby registration process.

Ms Williams: Yes.

Mr TANTARI: I am asking if you are able to provide the details about the registration process for your members.

Ms Williams: For lobbyists?

Mr TANTARI: For lobbying, yes.

Ms Williams: Forgive me. I thought you were speaking about something different. At the moment, some of our—

Mr TANTARI: Sorry, I want to clarify: because you have made that statement within your submission, I am trying to flesh out why that is in your submission and what is the burden you talk about.

Ms Williams: Yes, for sure. Forgive me. In terms of the lobbyist register, people have to clearly go through the process of being on the register—recording on the register. They have to do all of the same things that anyone else who is on that lobbyist register has to do as well. I would say for many of our members—we do not typically have many third-party lobbyists within our membership—they would be in-house people we are talking about.

Mr STEVENS: Mine is a general, philosophical question about the outcomes of this bill in terms of the rule of law for democracies. Can you give Property Council advice, if you like, in relation to the fact that, through matters involved in this bill, a 'no' voice is quite welcomed to be heard without any requirements or whatever yet a 'yes' voice for a project for your members, whether large or small, is prohibited from hearing the other side of the argument, which is seen as lobbying? To make the point, I am a decision-maker—yes or no—on a project. I am allowed to hear the 'no' voice, but I am not allowed to hear the 'yes' voice. Is that a fair outcome for this integrity bill to provide?

CHAIR: I think I get what you are saying. Do you need any clarification, Ms Williams?

Ms Williams: I will attempt to answer that. In our submission, and from my opening remarks today as well, we seek clarity on who it is applying to and fairness across all. If people are talking about a project—for or against—the same rule should apply to people, regardless of which side of the debate they are on.

CHAIR: I guess there is a distinction in that sometimes those lobbying against a project are talking about a broader interest, but in some cases they are advocating that they feel their property values would be decreased by the approval of a particular project. In some ways, then, are they similar to the advocates for a project somewhat?

Ms Williams: That would be our argument as well—that they have a financial or a social interest in an outcome in the same way that a proponent for a project would have an interest in a project, and as such they should be treated in the same way.

Mr STEVENS: There are a lot of registered lobbyists going around.

CHAIR: There being no further questions, we really appreciate your appearance here before us and thank you for the time you have taken both to put in your submission and to appear before us and then to put up with us as well. Thank you very much.

Ms Williams: Forgive me, Chair. Can I please formally note an apology to the member for Hervey Bay for my misinterpretation earlier?

Mr TANTARI: My questioning was not clear enough.

Mr PURDIE: We should apologise for confusing our witnesses.

CHAIR: That is no problem. Thank you very much.

McVEIGH, Ms Aimee, Chief Executive Officer, Queensland Council of Social Service

CHAIR: Ms McVeigh, would you like to make an opening statement, after which committee members will have some questions for you?

Ms McVeigh: Thank you to the committee for the invitation to speak to you today. I would like to acknowledge the Turrbal and Yagara people and pay my respects to the traditional owners of the land that we are meeting on this morning. I am the chief executive officer of the Queensland Council of Social Service, QCOSS. We are the peak body for community organisations in Queensland. We have around 500 members ranging all across the state, delivering essential frontline services to the most vulnerable people in our communities. QCOSS and our members have paid particular attention to this bill because we are really supportive of these important public sector integrity reforms and also because we are keen to understand the impact they will have on the charitable sector or not-for-profit organisations.

There are two key areas in this bill that we do have some concerns in relation to. Those are the definition of 'non-profit entity' within the bill and also the widening of the jurisdiction of the Ombudsman to apply to non-government organisations. I will speak about the definition of 'non-profit entity' first. We think it is really good to see that in the bill non-profit organisations are excluded from the requirement to register as a lobbyist. Because non-government organisations do perform lobbying activities and those activities have a really important public benefit outcome, it is good to see that charities will not be required to register as lobbyists. Our concern is that the definition of 'non-profit entity' in the bill does not really reflect the diversity of the structures of charitable organisations in Queensland.

Specifically, the definition refers to, among other things, an entity that has a constitution with a provision that prohibits distribution to members. That is a really specific requirement that comes out of the Corporations Act and relates specifically to organisations that are companies limited by guarantee. Many charities, like QCOSS, are companies limited by guarantee but there are also many other legal structures that charitable organisations can choose. Non-profit entities can be companies limited by guarantee, as I have said, but also can be incorporated associations, cooperatives, proprietary limited companies, Indigenous corporations and unincorporated organisations including, for example, trusts. Many of those organisations would not even have a constitution, and if they do have a constitution it may not include that specific provision if they are not a company limited by guarantee.

We are not sure why 'non-profit entity' has been redefined in the bill and there is no explanation we can see for that. We have seen the government's response to our submission, which says that the definition is taken from the Electronic Transactions (Queensland) Act 2001. We do not know why that definition was included in that act, but we maintain the position that for the purposes of this act it should be a wide definition really including all non-government organisations that are operating in Queensland. It does not make sense to us that only organisations that have a particular legal structure would be included in the exemption from having to register as a lobbyist.

The second issue that we wanted to raise is related to the broadening scope of the Ombudsman. I think the important thing for me to emphasise at this point is that we are really supportive of oversight of public functions, regardless of whether they are delivered by government or by someone contracted by government to perform that public function. Our view, though, is that, as drafted, the bill has a potential net-widening effect, capturing activities that non-government organisations might be engaging in that are not traditionally public functions. While community organisations are already heavily regulated and have multiple quality frameworks and laws that we have to comply with that would apply broadly, we think the oversight of public functions delivered by not-for-profit organisations should be the only functions that are covered by the Ombudsman's jurisdiction.

Those are the two issues that we wanted to raise in relation to the bill. I am happy to take any questions.

Mr STEVENS: On the matter you raised about the Ombudsman, could you give an example of other functions that an NFP might be doing that you do not believe should be captured by the requirements to be under the watchful eye, if you like, of an ombudsman?

Ms McVeigh: If you look at the history of our industry, a lot of the work that we do in the community really comes from the community. It is services and supports that the community needs including not just services but also community development activities and advocacy activities. Over time, government has chosen to procure non-government organisations to perform public functions. An example would be—and I am not saying this is on the table—if the Department of Housing were

to say, 'We want to contract out our service centres to not-for-profit organisations.' We would say that that function should still come under the remit of any regulation of public functions because government should not be able to contract out regulation by giving its functions to non-government entities. However, where the activities are really not public functions—there are already services and supports delivered in the community; for example, neighbourhood centres, grassroots women's shelters providing domestic and family violence crisis services, advocacy activities, community development activities—they should not be included in the jurisdiction of the Ombudsman, given the Ombudsman's function.

Mr STEVENS: In the example that you have just given in terms of government giving an NFP a job to do, if you like, wouldn't it be irresponsible if the Ombudsman, who is subject to a complaints register in terms of looking at different matters, was not able to look at a legitimate complaint about that particular service that was delivered by the NFP on behalf of the government?

Ms McVeigh: Yes, Deputy Chair, that is exactly what I am saying. Our view is that if it is squarely a public function contracted out to a non-government organisation then the Ombudsman should have jurisdiction. We are saying that, as drafted, the bill potentially could be interpreted wider than that and the drafting is potentially confusing. It speaks about an entity, which is not defined in the legislation, carrying on an administrative function for or on behalf of—and these are not the exact words—an agency. It is not clear what would necessarily be an administrative action performed by a non-government organisation, particularly when our staff can perform multiple roles at one time. What would be that administrative function and then in what circumstances has that been conferred on them by government? Our submission just makes some suggestions about how you could redraft that provision so it is closely tied to the policy intent, which is to say that the Ombudsman's jurisdiction should be over public functions and not all of the activities of charitable organisations.

Mr STEVENS: Which functions of the charitable organisations should he not have oversight of?

Ms McVeigh: We would say to amend the bill so that contracted service providers delivering services on behalf of a government agency, pursuant to explicit contractual arrangements, should be subject to the Ombudsman's jurisdiction and any other activities performed by non-government organisations should not be subject to the Ombudsman's jurisdiction.

Mr STEVENS: Further, we talked about your members in terms of their different financial and legal set-ups and you wanted clarity, I believe, on what was an NFP. There will be individual matters raised but QCOSS is a group representative, as I understand it. Why do you see some of these legal systems as not being subject to this particular bill in their set-up?

Ms McVeigh: When you go to the definition in the bill, there is a part of that definition that speaks specifically to a clause that is required in your constitution. That clause is usually found in the constitutions of companies limited by guarantee. What the new provision does is basically exclude charitable organisations that are companies listed by guarantee from needing to be registered but does not exclude other types of charitable organisations. Those organisations are likely to be more grassroots organisations, smaller organisations, and they are not captured in the definition of 'non-profit entity'.

Mr STEVENS: So is it easier for them to change their constitution or is it easier to change the legislation?

Ms McVeigh: Our view is that it would be much easier to provide a definition within the bill that clearly reflects the types of legal entities that deliver charitable services in our communities rather than require widespread reform of the community sector in order for them to not have to register as a lobbyist.

CHAIR: Your argument about Aboriginal corporations is that it would not be fit for purpose to be reincorporated as a different entity that had a different purpose that was possibly not reflected under other acts? Is that fair to say?

Ms McVeigh: That is fair to say, Chair, and I would say that different organisations choose different legal structures for different purposes, depending on the nature of their organisation. It would be unlikely that organisations would want to restructure just so that they do not have to register as a lobbyist.

Mr TANTARI: Ms McVeigh, in your submission, one of your recommendations talks about capacity-building support and resourcing to be provided to non-government entities. What sort of capacity building would you see as appropriate to prepare for the key reforms in the bill for non-government organisations?

Ms McVeigh: It is a really important thing to flag, so thank you. If the bill is passed as it stands, there are significant implications for community organisations. I would draw your attention to the quote that we have included about the pressure that community services are currently under. One of our members has said that changing their compliance frameworks to make sure they understand the Ombudsman's jurisdiction would significantly interfere with service delivery to Queensland's most vulnerable populations.

If the bill is passed, we would suggest with some amendment. However, if this legislation is to apply to charitable organisations, we would ask (1) that there is a transitional period so that organisations have time to make sure they are compliant and (2) that you have an education campaign to help organisations understand this additional regulation of our sector and also understand where they are required to register as a lobbyist, because this would be a very new requirement for community organisations to have to comply with. It is not something that we have had to comply with before. I think it is clear that the contribution of charitable organisations to public policy development is usually in the public interest and, therefore, it does not make sense to us that charitable organisations would be required to register as lobbyists and comply with regulation that relates to lobbyists.

Mr CRANDON: This is an observation perhaps more than anything else, but you may like to make some comment. From my experience with the smaller organisations and their obligations around their documentation, if you like, it has been pretty obvious to me that that aspect of their activities is not addressed anywhere near often enough. Are you aware of a time line that these organisations are required to review their statutory obligations and purpose et cetera? If that was the case, could a period of time for them to comply be taken up in that process?

Ms McVeigh: First of all, I would point to the fact that we are already a highly regulated industry. We have industry-specific regulation that obviously does not apply to the public sector. The Human Services Quality Framework and the Human Rights Act both apply to community organisations, in addition to subsector-specific regulation, including complaints mechanisms attached to, for example, the provision of residential care. I would say that our organisations take great pains to be organised and compliant, but one thing we do hear from our members all the time is that the additional regulatory burden, the additional paperwork, is taking resources away from essential frontline service delivery. Right now, with the cost-of-living pressures and the housing crisis, our services are under pressure the likes of which they have not seen before.

CHAIR: There being no further questions, we wish to extend our appreciation and thanks for, firstly, putting in your submission and then coming forward to speak to us and putting up with the questions we have put to you. Thank you for the detailed answers that you have provided.

Proceedings suspended from 12.05 pm to 12.18 pm.

COOK, Ms Bridget, Senior Policy Solicitor, Queensland Law Society

GNECH, Mr Calvin, Chair, Occupational Discipline Law Committee, Queensland Law Society

CHAIR: Good afternoon to you both. I invite you to make an opening statement before we start our questions.

Mr Gnech: Thank you for inviting the Queensland Law Society to appear this afternoon. Firstly, I put in apologies for the president and vice-president of the Queensland Law Society. In opening, I would like to respectfully acknowledge the traditional owners and custodians of the land on which the meeting is being undertaken today in Meanjin, Brisbane. I recognise the country north and south of the Brisbane River and the home of both the Turrbal and Yagara nations and pay deep respects to all elders past, present and future.

The Queensland Law Society, as you are aware, is the peak professional body for solicitors in Queensland. We are an independent, apolitical representative body upon which the government and parliament can rely to provide advice which promotes good, evidence-based law and policy. The QLS supports a strong integrity regime. We welcome the legislative progress made towards implementing the Coaldrake and Yearbury reports' recommendations and note that the current bill represents the second tranche of legislation to implement the government's response to those recommendations. QLS supports the reframing and restructuring of chapter 4 regarding lobbying activities. QLS welcomes the new provisions which seek to enhance parliamentary committees' involvement in the approval process for key integrity body appointments.

The QLS has noted a few suggestions in response to the proposed dual-hatting provision, and I will address that shortly. As the parliamentary committee progresses towards key appointments as well, we encourage the government to work towards developing further reforms that give effect to those important recommendations.

I will firstly deal with the dual-hatting provision, section 58. This is perhaps the most significant concern that the QLS has. It is to do with the structure of the drafting of that provision in that it includes the term 'substantial role' when referring to a lobbyist. Then when you move to the definition, it includes the term 'significant involvement'. It is the QLS's position that when there are broad terms such as those it leaves the door open for unnecessary litigation once the legislation is implemented. The last thing anyone would want is for this very important legislation to be implemented but for it to be held up through significant litigation in terms of broad drafting. What is 'substantial role'? What is 'significant involvement'? We need a more precise line with regard to what those activities are. It is a QLS position that that would simply be a replacement to those terms with 'lobbying activities'. Alternatively, if those broad terms are to be included, there will need to be a development of legislative guidance as to what constitutes 'substantial role' and what constitutes 'significant involvement'; otherwise, it is only going to be difficult not only for judicial officers to interpret but also for participants to interpret when they are applying the legislation. That is perhaps the most significant concern the QLS has.

I then move to section 43(k). This is a provision that discusses what the exceptions are. We note that under the former legislation there is specifically included within the example 'legal services' as per the Legal Profession Act. That is not included in the current example, so we would encourage an amendment in that regard so it can be very specific as to what is meant by 'legal services'. We are happy to take questions.

Mr STEVENS: Mr Gnech, thank you for your presentation. In your submission you comment about the benefits of bipartisan support through the committee situation in the appointment of senior roles et cetera that you believe are not, I suppose, unbiased, if you like, in terms of the current portfolio committee set-up as a reference to the bodies that would be making those particular appointments. To clarify this particular point, does that mean that the Law Society is saying that the current portfolio system, with a casting vote by the government chair of that committee, presents a biased opportunity—I am not saying that it happens—for appointments to be made that are not independent as the Law Society would suggest should be made?

Mr Gnech: Certainly the Law Society is not suggesting that they are made in that way—

Mr STEVENS: No, I did not say that.

Mr Gnech:—but any enhanced transparency in integral process with regard to appointments is certainly supported by the Law Society. Bipartisan support and transparency with regard to the process adopted for any such appointments would be supported.

Mr STEVENS: The second part is in relation to the concerns about the dual-hatting roles. In terms of the legal profession being considered as potential lobbyists in terms of protecting clients et cetera and putting matters forward, could you expand on how the bill should capture those dual-hatting roles and also further define how the Law Society would see those roles being clarified?

Mr Gnech: The legislation overall goes a long way to ensuring there is no overlap between what lobbying activity is and the provision of legal services are. I referred to section 43(k). That is an example where the QLS is very committed to all legislation being very clear on exactly what legal services are, and they can only ever be services provided under the Legal Profession Act—nothing different. It is really important that lobbying activity and political legal advice are treated separately. The QLS is satisfied with the definition of 'lobbying activity', but when we move to provisions such as 'significant involvement', that is where interpretation is required as to where the line in the sand actually is. That is why we say it is really important to get that provision right.

Mr TANTARI: Are you saying that you would like more prescriptive legislation with regard to what you have just said?

Mr Gnech: What we are saying is, particularly with regard to section 50(a): 'prescriptive' may be the right word, but the term 'significant role' and using a definition of 'significant involvement' leaves too much room—it is too broad—so that anyone who is asked to interpret it, if they are a participant in the regime, knows what that exactly means, or someone who is asked to adjudicate on what that exactly means. It needs to be more narrow.

Ms Cook: I think the issue in terms of 'substantial role', as Mr Gnech has identified, is that also the role aspect of that drafting is ambiguous. Although it is prefaced with 'registered lobbyist' at the beginning of that sentence, it does not say as to the role that is relating to—as to whether that is a lobbying activity, which is now defined within the bill, and the role of providing professional political advice. This is the distinction that is made in the Coaldrake report. I think, as an extension of Calvin's point, our position is that if the role constitutes lobbying activity then that individual—that is, the registered lobbyist—should be precluded from performing lobbying activities for the duration of the term for which that government is elected. That is an additional point to the substantial term.

Mr Gnech: If I can add onto what my friend has said, the reasoning for that is: whether there is an actual conflict of interest that exists is irrelevant. There certainly is a perception of a conflict of interest in those circumstances for that preceding term.

Ms Cook: Our position ultimately stems from Coaldrake's very express recommendation that lobbyists should be expressly excluded from performing lobbying activities if they have acted in that capacity during an election campaign.

CHAIR: We know that people hold certain rights about political activity. In terms of having a broader definition, that is why there is that language of 'substantial role' in a political party's election campaign—why they have used that language in terms of the rights to political participation. Is that one of the concerns?

Mr Gnech: That is correct. If there are participants in a campaign, they would want to know, in our submission, what role they can play in that political campaign if their intention is to be a lobbyist immediately into the future, rather than overstepping during the campaign and then being excluded at a later time or, alternatively, a participant in a campaign believing they have not stepped over that line and then engaging in lobbying activities thereafter. It needs to be very clear, in our submission, right from the outset, as to what exactly the role is and what the substance of that role is that is caught by this provision because of the ramifications moving forward.

Mr CRANDON: Coming back to the discussion around bipartisan support, I am on the PCCC, and under the Crime and Corruption Act bipartisan support is quite true bipartisan support in that, although there is a government majority, we have a chair who is an opposition member. I am reflecting on that because that is what we have in the CC Act. Coming back to your comments, if I am gleaning them properly you are suggesting that it is not true bipartisanship if the chair of the committee has the deciding vote, as is the case in this committee. Bipartisanship would mean that there would have to be support from the non-government members, even though the chair has a deciding vote. It is not bipartisan unless at least one of those other members were to vote for the individual to be appointed. I also note some other comments from the legal affairs committee that I saw about there being a 20-working-day period. If it was a bipartisan requirement of the committee and the committee were not able to get to a bipartisan position within 20 days then it would be deemed to have been approved. Can you make some comments around that? The CCC legislation clearly is that there is no time limit on it. It could go on ad infinitum until you have got to a bipartisan position, whereas this one has this cut-off point of 20 days. Can you make some comments around that?

Ms Cook: I think the short answer to your question is that, when we refer to 'bipartisan', we are alternatively looking for a majority view of that committee in relation to whether or not they will approve the appointment of that particular person. That preferably would be a majority of the committee coming to that view. In terms of the 20-day issue and the deeming provision which sits with that, I think the QLS's view is that, in the context of this particular legislation, we do not necessarily have an issue with the 20-day turnaround time, but the fact that—in the absence of any communication from the committee to the minister about whether or not they approve that person within that period of time—they are therefore then deemed to be approved does not necessarily sit within the objective and the purpose of this bill, which is to ensure transparency around decision-making.

Mr CRANDON: It would be better, from your perspective, to go along the same lines as the Crime and Corruption Act where there is no deemed time frame?

Ms Cook: I am not necessarily sure whether there is any tinkering to be done with the 20 days but rather a redrafting of the deeming provision that sits beneath it so that they are required to take active steps to advise the minister as to whether they approve or do not approve.

Mr CRANDON: The Law Society would be comfortable with that?

Ms Cook: Yes.

CHAIR: The time frame is some time period after active steps have been taken to engage with the committee on the appointment process?

Ms Cook: Yes, so it is flipping the deeming provision into a proactive step to be taken by the committee.

Mr CRANDON: Where the committee would have had to have corresponded.

Ms Cook: Yes, before it can be deemed to be approved.

Mr CRANDON: I think I have got what you mean.

CHAIR: We heard the expression 'bipartisan' used. We see in America that there is a process where committees go through appointments and take that role quite seriously. For instance, if one of you were to present before us we would have a series of researchers going through all of the comments that you made on social media, past policies, presentations for the Law Society and cases where you had represented clients and then there would also be the possibility that the minority group would effectively have a veto over any candidate put forward before the committee. In real terms, using the expression 'bipartisanship', we would also be saying that the minority, not elected to the majority, has a veto over any appointments. Is that a good situation for these appointments?

Ms Cook: I am not familiar with the particular US model, but I understand how you have described it.

CHAIR: In their case they do not have a veto, but we would be handing the minority group within the parliament—those that do not have the confidence of the House—a veto over any appointments because they would not need to have more than the government members to approve a candidate.

Ms Cook: I think the preferred position for the QLS is that a majority—

CHAIR: I am just explaining that that is, in effect, a veto for the minority in the parliament.

Mr CRANDON: Just on that—I have had some experience with bipartisanship provisions—it is really an opportunity, more so than a veto, to properly consider the appointment rather than a 'tick and flick' type approach.

CHAIR: As you know, I do not know the workings of the CCC.

Mr CRANDON: No, of course not.

CHAIR: But there may be on future committees not as high-minded people as yourself, member for Coomera, and I am just envisaging, if we put forward laws, that we do not have members for Coomera in all positions, but that is a different way of expressing it—that those who do not have the confidence of the House have an effective veto over any appointment. Is it not better that the executive minister, who has accountability to the House, whilst having some oversight from the committee, be accountable to the House for the nature of the person they put forward and defend that in parliament, as we have seen reasonably often? Is that not the best accountability measure, rather than suggesting a veto?

Ms Cook: I do not disagree with that. I would add that the actual mechanics of the parliamentary committee process—in reporting to a minister for the purpose of putting a candidate forward that they approve of for the purpose of assuming a key integrity body role—needs to be transparent and needs to allow for a process that facilitates that transparency. Currently the deeming provision which is in the draft bill does not fulfil that objective and the QLS would propose that consideration be given to an alternative mechanism within that provision which we suggest involves some form of majority or bipartisanship amongst the parliamentary committee members who are considering and debating the individual for approval and preferably, in terms of the bipartisan aspect of that, that that may present itself in the way of the deputy and the deputy chair agreeing as to whether or not a particular candidate will be approved or not approved.

CHAIR: Just to give a real-life example, we had an acting integrity commissioner who, in the early eighties, was seconded for six weeks to Senator Bolkus while working as a federal public servant and there were public attacks on that. In that case, that person's activities in the early eighties would provide cause for a veto on that person ever serving in that role, even though they had the support of the majority of the parliament to serve in that role. Are you supporting a veto in that sort of circumstance?

Ms Cook: I may not have completely understood that, but is that alluding to the fact that there were potentially suitability matters?

CHAIR: That was the suggestion that was put up. In this case I think it was a reasonable way to do it, that the opposition put to the minister that the temporary acting person was inappropriate and there was an accountability before, in this case, the estimates committee was my memory. I think they were wrong on this, but there was an accountability that the minister had to be accountable for the temporary appointment before a parliamentary committee or before the House and the minister's decision was therefore transparent and accountable and criticisable, but nonetheless it was not that there was a veto over that person from a group that did not have the support of the House.

Ms Cook: I cannot speak to the factual circumstances of that particular case. The QLS's position is that there will be various permutations which arise in the putting forward of candidates, the nomination of candidates and the facts and matters that a committee would consider in deciding whether to approve a person or not. The QLS's position is that that process be as transparent and fulsome as possible, and currently the deeming provisions do not necessarily fulfil that objective.

Mr TANTARI: I have a question generally around dual hatting and in particular the QLS position regarding a period of disqualification or exclusion for someone who performs those duties, particularly with regard to what you have put in your submission. Do you have an opinion on the length of period of exclusion or disqualification? I know that Professor Coaldrake talks about the following term of government—four years—and there are others who have submitted to this committee that it should be a lesser amount of time. What is your position with regard to that?

Mr Gnech: The QLS's position with regard to that specific question is that it should exclude the individual for the entire next term.

CHAIR: Four years?

Mr Gnech: Yes.

Mr STEVENS: To Ms Cook, if I may, because I understood things differently to what the chair was suggesting. I understand in terms of your position on bipartisanship that, given the current portfolio system of three government members and three non-government members, you suggested it be a decision by a majority of the committee—in other words, four-two rather than a casting vote by the chair. Am I correct that that is the position you were advocating? There would be no opportunity for a veto by a lesser amount of non-government members. Is that what you were suggesting?

Ms Cook: Yes.

CHAIR: You do that with the knowledge of the real politics of committees and opposition members often voting together on motions to support a veto over appointments?

Ms Cook: The QLS's position is that that particular process, as to how that occurs in practice, should be as transparent as possible to ensure that the candidates that are sought approval of by the minister from the committee are actively considered by the committee and the reasons for that are proactively provided in support of that or not in support of that so the minister can make an informed decision.

Mr CRANDON: I note that Ms Cook at no time used the word 'veto' but you, Chair, used the word quite often. I do not believe that that was the intent of the Law Society and I do not believe that that is something that would become the situation if the recommendations of the Law Society were taken on board. I say that for the record.

CHAIR: I guess I possibly reflected my own malice rather than the good nature of the member for Coomera.

Mr CRANDON: There is absolutely no doubt, Chair.

CHAIR: We thank you for your contribution here today. They are complex issues to canvass. The nature of the ideal versus the reality of partisan politics is, of course, something to encounter. We thank you for everything you have put forward. I note there is nothing for you to get back to us on, but we do not discourage you if there is anything you wish to follow up on. We will adjourn for a short break and resume the public hearing at 1.15.

Proceedings suspended from 12.45 pm to 1.15 pm.

CHRISTENSEN, Mr Paul, Senior Director, Queensland Audit Office

FLEMMING, Mr Patrick, Assistant Auditor-General, Queensland Audit Office

WORRALL, Mr Brendan, Auditor-General, Queensland Audit Office

CHAIR: Good afternoon. Mr Worrall, would you like to make an opening statement, after which there will be some questions for you?

Mr Worrall: Thank you for the opportunity to address the committee this afternoon about the Integrity and Other Legislation Amendment Bill. Integrity officers like the Auditor-General play an important role by assisting parliament in holding the executive government to account. To achieve this, they must be independent from the executive government. Any limitation on their independence, real or perceived, diminishes the level of assurance that parliament obtains and can reduce public confidence in the system of government.

In 1991 the Electoral and Administrative Review Commission tabled a report on its review of public sector auditing in Queensland. This report made numerous recommendations on strengthening the independence of the Auditor-General. Many of these were implemented when the modern QAO commenced on 1 May 1993, more than 30 years ago. However, some key recommendations were not actioned. Over the 32 years since then, there have been four strategic reviews of QAO and a 2013 parliamentary committee inquiry. All identified opportunities to strengthen the independence of the Auditor-General and protect their ability to fully hold the executive government to account. This appropriate level of protection ultimately prioritises the fundamental expectations of Queensland citizens and safeguards public interest. However, support by successive governments in actioning these has been limited. This history of inaction was recognised by Professor Coaldrake in his final report and forms the basis for the recommendations he made regarding the Auditor-General.

The Integrity and Other Legislation Amendment Act 2022 was an important first step in addressing Professor Coaldrake's recommendations. The amendments proposed in this bill are a further advancement to enhancing the independence of the Auditor-General and other integrity officers. I fully support the proposals in the bill that entail increasing the role of the committee in providing oversight of the Auditor-General and QAO. However, as identified in my submission to the committee, I believe more can be done to make the role of integrity officers more directly accountable to parliament. This is necessary to reduce the potential for the executive government to influence the way we discharge our legislative responsibilities. Similar views have been expressed by the Information Commissioner and the Integrity Commissioner in their submissions.

The recognition of integrity officers as officers of parliament clearly establishes the special relationship they hold with parliament. However, this relationship needs to be accompanied by appropriate legislative provisions which provide for oversight by parliament and protection from potential influence by the executive government. Aligning the current role of ministers with the Speaker, as recommended by Professor Coaldrake, would be a significant improvement to the amendments proposed in this bill. This would provide greater separation from the executive government. It would both enhance the independence of my office and better reflect the separation of responsibilities integral to our Westminster style of government.

Integrity officers are required to assess and comment on matters that directly relate to the performance of the executive government. This is particularly the case of the Auditor-General, where each year my office tables at least 20 reports on the results of the audits we perform. Accordingly, it is important that the government cannot directly or indirectly influence how we discharge our legislative responsibilities. Shifting accountability and influence from the executive government to parliament ensures that the level of assurance delivered by integrity officers reflects the level parliament requires, not the level the government may want. I believe this separation is even more important when there is only one parliamentary chamber.

The Department of the Premier and Cabinet's response to the submissions received by the committee suggests that the involvement of the parliamentary committee in the funding proposal provides the necessary independence for integrity bodies' funding decisions, removing any perception of bias. It is not clear to me what is meant by 'necessary independence'. The increased role for the parliamentary committee does provide an additional safeguard in the funding process. There is also additional transparency through reporting mechanisms. However, transparency should not be confused with independence. As the department's response acknowledges, the ultimate decision on the funding proposals is retained by the government.

Its response also notes that the bill does not address the reductions of an integrity body's budget. While the government retains key responsibility for integrity bodies, including being ultimately responsible for deciding their budgets, it has the capacity to influence how integrity bodies discharge their mandate even if it elects not to. For example, in developing my three-year forward work plan I may seek to increase the number of performance audits I wish to conduct based on feedback from the parliamentary committee or members of parliament. To achieve this, I would require additional appropriation funding. Even if the parliamentary committee supports the proposal for additional funding, the government may decide to reject it. This could be due to concerns about how the audits may reflect on government performance. While the minister may be required to provide a report on the decision, the decision by the government has still impacted my ability to discharge my mandate to the extent requested by parliament.

I fully acknowledge that addressing Professor Coaldrake's recommendations may take additional time, effort and further legislative amendment, and I seek the committee's support in this regard. However, I believe there are some changes that could be considered now as part of this bill. Those are reflected in my submission and the submissions made by other integrity officers. I note that the government has expressed some concerns with the level of independence being sought by my office in addressing Professor Coaldrake's recommendations. However, I believe that independence of integrity officers is important in ensuring the public sector culture that supports and maintains public trust in the decision-making process and the decisions of government.

I will comment that Professor Coaldrake's recommendations go beyond strengthening the independence of integrity officers; they include the rejuvenation of the public sector, with an emphasis on culture of performance and integrity. In this regard I note the Public Sector Commissioner's comments at the recent estimates hearing when committing to a meaningful and sincere approach to refreshing the public sector. To achieve this, however, it must be supported by a strong integrity system that the public has confidence in. As Professor Coaldrake said in his final report, investing in good people and supporting them with an integrity system that enables a fair workplace committed to quality outcomes will help rebuild the nobility of the Public Service.

I believe the committee and the Queensland parliament have the opportunity to address a long period of inaction and make changes for the benefit of Queenslanders, whose interests should be central to all decisions by government and the broader parliament. I welcome any questions the committee has.

Mr STEVENS: Welcome, Mr Worrall. May I say from the outset, as a former auditor many years ago myself: I support every step that you would take keeping the independence of your department, because it is absolutely imperative that you give an unbiased report. The question I would ask you, Mr Worrall, is: do you understand that, in terms of the recommendation you are making for a funding proposal to be determined by this particular committee—whether it is this committee or another committee; the recommendation is that the economics and governance portfolio committee would look at your funding scenario—this is not an unbiased committee and that the chairman of the committee, who has a casting vote, is allowed to chat to the Treasurer, for instance, about matters of funding of the Audit Office and the numbers are there on the portfolio committee for the government members to implement the executive's financial direction for the independent Audit Office?

Mr Worrall: Yes, I do understand that. In our submission to the committee we called out a number of other jurisdictions, two of which have a unicameral system like we have in Queensland: the ACT and New Zealand. As opposed to the decision being made by the government, the government would actually make a submission to the committee in relation to any request for funding by an auditor-general, for example, and then the committee would take that submission from government into account in reaching its decision. They have actually flipped the decision-making process.

Mr STEVENS: It does not abrogate the fact that it is still the government, through their members on this particular portfolio committee, that has the numbers to make a financial direction. Where is the difference between the executive government, through the Treasurer, and this particular portfolio committee making a recommendation about the Audit Office's request for funding which you are saying—not today but at some stage in the future—may impinge on the independence of the Audit Office?

CHAIR: I guess the deputy chair might be inferring how he would behave if he was in the majority. Nonetheless, it does represent that danger. Auditor-General?

Mr Worrall: It is hard to disagree with the numbers in relation to the way the committee is structured and where the deciding vote sits. I agree with what you are saying.

Mr Flemming: I might just add, Chair, that is the system as it is designed at the moment. We do not know what future committee constructs would be like in different parliaments in the future and we are not trying to pre-empt that. Equally, that is why we also suggest a role for the Speaker in this as opposed to just the minister. Obviously, we have had examples in the past where the Speaker has been an independent person. There is a whole combination of things working there around the design of the system.

CHAIR: You spoke about the Westminster system. The Westminster system has ministerial accountability at its heart, so the expenditure of government is accountable to the minister and the appointment of officers, and statutory officers in particular governed by statute, is accountable to the minister as part of the principles of the Westminster government. In that way the minister gets to answer for the actions and directions of statutory officers. Does this perhaps undermine that?

Mr Worrall: Sorry, what undermines it?

CHAIR: For instance, if a future committee was to take away half of the budget of a particular statutory officer, the minister would no longer be accountable for that decision.

Mr Worrall: It probably comes back to what Patrick was saying. There are a variety of mechanisms that are in place now or could change in the future. I guess part of our submission and part of my opening statement is that—it really goes to the heart, I think, of Coaldrake's report, which calls out that integrity officers currently are aligned to a minister within the executive government—given their role is really a parliamentary role and not an executive government role, that actually should shift to the Speaker. That does not mean that there are still checks and balances within that process. I acknowledge that, ultimately, the executive government of the day needs to deliver on a budget, but I guess what we are saying in the submission and what we are saying today is that there are other ways to achieve greater independence than what is being proposed in this bill.

CHAIR: I note that you spoke about the Speaker. Mr Flemming noted that once in living memory we have had—not an independent, of course; no-one is independent—a member who was not a member of one of the major parties and we possibly could see that again, but it is not something we should rely on going forward in government. One of the roles of the Speaker to get the respect of the parliamentarians is to have them, as much as possible, separate from the executive government and from funding of bodies or, indeed, perhaps reducing the funding significantly of a body. If they had taken that action, how would members of parliament, who are proscribed from criticising the role of the Speaker—there is a particular way we can do it; without attempting to remove them from office, we are not allowed to speak critically of the Speaker—go about holding them to account in a way we can hold a minister to account?

Mr Worrall: It would still have parliamentary committee oversight.

CHAIR: So our standing rules would have to be changed to allow us to criticise the Speaker's decision?

Mr Worrall: I am not 100 per cent familiar with your standing rules, but what we are saying is that the Speaker, in essence, for integrity bodies, could be the responsible minister, but those other checks and balances which are—

CHAIR: There is the confusion, because we are trying to remove the Speaker from executive government but you seem to suggest that they act in the role of the Westminster tradition as a secondary minister.

Mr CRANDON: Point of order, Chair: Mr Worrall was partway through answering your question when you overrode him and asked a further question.

CHAIR: I apologise. Mr Worrall?

Mr Worrall: All we are saying—and this is how it does work in some other jurisdictions—is that the Speaker is, in essence, the responsible minister for integrity bodies, but supporting the Speaker would be committee oversight processes of those integrity bodies.

CHAIR: We would then drag in the Speaker and criticise the process which they used. Under the current standing orders, because Westminster separates the Speaker to be a position above the parliament and respected by all, we would have to make changes to allow us to then—

Mr Crandon interjected.

CHAIR: Sorry, but is there a point of order?

Mr CRANDON: Yes. I was thinking about making a point of order, but I wanted you to finish what you were saying.

CHAIR: Would that put the position of the Speaker in an untenable position to be acting as minister?

Mr CRANDON: Point of order, Chair: you seem to be going down a particular line to try and get some sort of response from someone who is perhaps not in the right position to give a response, but I do note that this parliament does oversee the Speaker of the Parliament in the estimates process, so it is not unheard of for the Speaker of the Parliament to be criticised in appropriate language through the estimates process. So it is not much of a step to suggest that there are some possibilities for—

CHAIR: There is not a point of order there, but we have a submission put forward. That is not an illegitimate point. Please do not do it again; you are not a witness. However, we had someone who put forward a point about the role of the Speaker. Was there an understanding of the complexities of that nature given the primacy of the Westminster system? Mr Flemming, you wanted to say something?

Mr Flemming: We certainly understand the complexity of the system. We have given examples where that has been achieved in a Westminster style system, so it is not that it cannot be achieved. Obviously, given the way legislation and things are constructed here and different orders and rules, that needs to be worked through as to how you could design something that would be similar to how it works in the ACT and New Zealand and the UK.

In terms of the role of the Speaker, we are talking about the budget for integrity bodies, in particular for the Audit Office. At the moment, our budget would go through the Premier and we sit at estimates with the Premier. In this world, if it were to change—the Speaker still does go to estimates and appears before this committee with the Legislative Assembly. We would sit there in that same scenario, so you still would go through the same process.

At the moment, one of your responsibilities in this committee is to oversee the Auditor-General. That would continue. That would be still an appropriate direct mechanism. Without going through whether it is the Speaker or the Premier, you would directly hold us to account as officers of the parliament. I guess the initial starting point is that the parliament creates the legislation that says, 'We want the Auditor-General to be our auditor,' and all the things that happen underneath that. Then our direct relationship is with the parliament, and the role of the parliament is then to hold the executive government of the day to account, as opposed to anything else. We are there to assist you to do that; therefore, it should be you as the parliamentary representatives that directly hold us to account.

CHAIR: I am just wondering whether there was an awareness of the complexities and the issues and the change in Westminster principles. With the act, the word 'independence' is used in terms of an independent audit of entities. When BHP is independently audited, is that the same meaning as in the act or does it have a different meaning?

Mr Worrall: Do you mean in the Auditor-General Act?

CHAIR: Yes.

Mr Worrall: In relation to the financial attest audit, it is pretty much the same. I guess the Auditor-General Act has other responsibilities, for the Auditor-General to report those results to parliament and any other matters of significance. That is probably a departure, and then of course the Auditor-General Act has other mandates around performance auditing and things like that.

CHAIR: I was going to get to performance auditing. Earlier you said that any attack on the independence of the Auditor-General was something, and I forget the exact words you used. When it comes to performance audits in 37A, there are extreme limitations to the independence of the auditor to make comments about policy. When you say 'independence', you do independent audits in the same way that BHP is independently audited and then performance audits where your independence is extremely constrained.

Mr Worrall: I am not saying that. I am not saying that at all. I think what you are referring to in relation to that part of the act is: we can do performance audits, but we cannot comment on the merits of government policy as part of that, and nor do we. The example I was giving in my opening statement was really about if we sought more funding to do a broader number of performance audits. That would be one way for the executive government to constrain scrutiny by us.

CHAIR: I understand the point about the overall budget, but in terms of independence you said any threat to any independence, when 5(a) says that the Auditor-General must not question the merits of a policy, including a decision of cabinet, a direction of a minister, a policy statement in the budget papers, a document of a policy statement and a document evidencing a policy statement of a local government. There are extreme constraints and I assume that you are supportive of those limitations on your independence?

Mr Worrall: Those ones that you have just read out?

CHAIR: Yes.

Mr Worrall: Yes, absolutely. Our performance audits are really on how government policy is actually executed and it is saying, 'Well, in doing those audits, you can't comment on the merits of the policy but you can certainly comment on the efficiency, the effectiveness and with what economy was carried out in the execution of policy.'

CHAIR: Right, so we are only talking about the universal budget then?

Mr Worrall: No, we are talking about the independence of the office as a parliamentary officer who is parliament's auditor and preserving that independence from interference from executive government.

CHAIR: With the universal budget as the only things that seem to be in question?

Mr Flemming: If I might add, Chair, we are certainly not talking about the mandate of the Auditor-General. We do not want to do any more audits. We do not want to change whether we can comment on policy or not—certainly not. That is good. That is working. We believe it is working. The issue is then the indirect or direct opportunity for the executive government to either constrain our financial resources or constrain our human resources so that all the things that the parliament would like us to do and has put in legislation to make us do for accountability—with inappropriate actors in some of those other roles it could constrain our ability to deliver on what the parliament wants. One of those was addressed in the first act that came through—that was the human resources—so that we now have some control over our human resources when that comes through. This is the other aspect of that—that is, the potential financial resources. If the executive government decided—and I am not saying they would or have—that they did not like the volume of work that the Audit Office was doing or the audits that we had proposed to do, they could constrain our resources so that we just did not have the capacity to deliver on the mandate.

Mr Worrall: There is another way I can address that question. There have been a couple of things in the public domain since I have been Auditor-General which I would say have been threats to the independence of the Auditor-General. One occurred, I think, back in maybe 2018 or 2019, when there were some proposed legislative changes which we were consulted on in principle and supported—this was about the ability to share information with the Treasurer—but the next thing we heard about it was that the bill was tabled in parliament, so we never even got to see the proposed changes to the Auditor-General Act. That was the first one. The second one was back in 2020, when there had been that response to COVID and lockdowns and economic stimulus. The government then had a fiscal constraint period. As part of that, for me to advertise vacancies I needed to get approval from the Public Service Commissioner. That regime operated for at least 18 months or maybe almost two years. They are two examples of, I would say, a direct threat to my independence by the current government.

Mr STEVENS: And that is my question. Mr Worrall, one of the matters you raised was in relation to staffing matters impacting on your independence and the wages offered—the salaries offered—for that. You recommended the remuneration tribunal look at those sorts of wage levels et cetera which would maintain your independence and give you the opportunity to employ staff in the current difficult economic circumstances. Could you expand on that recommendation, if you like, in terms of keeping your independence through what you can pay your staff and how many staff you have? The tail of the question may well be: have you ever considered a formula tying your Audit Office budget, if you like, to some other factor such as CPI, a government increase in budget or whatever to alleviate the need to go to an independent body such as the Speaker or the EGC to determine your financing? There are two parts.

Mr Worrall: Yes, and there are a few things in there for me to unpack—the first one in relation to the remuneration tribunal. That was just specifically in relation to the Auditor-General's remuneration.

Mr STEVENS: Sorry. That was only you?

Mr Worrall: Yes, so the Auditor-General is ultimately appointed by the Governor in Council and under the Auditor-General Act, so that is sort of unique compared to the other staff of QAO.

Mr STEVENS: As someone on the receiving end of them, I would not recommend it, but keep going.

Mr Worrall: So that was specifically to the Auditor-General and that would align with other independent officers. The second part, I think, of your question was in relation to the employment of QAO staff and their entitlements. That goes back to the first tranche of legislation that was passed in

2022. At the moment all QAO staff, except myself, are employed under the Public Service Act. Under that legislation they will transition out of the Public Service Act to the Auditor-General Act. That will occur by 13 December this year, so there is a process we are running internally around all of that. That will happen. The last—

Mr STEVENS: The formula?

Mr Worrall: The formula. Again, this probably comes back to things like charge-out rates. At the moment, our work is billed according to hours by our rate. Those rates historically have been approved by the Treasurer. Under the changes they will be approved by the parliamentary committee, but the parliamentary committee will need to have regard to the government rate index, or the GRI, which, again, we have said is another way to influence our ultimate funding because the GRI may not be reflective of our real costs. I can tell you now—and it is probably no news—that wages are going up. There is great demand for professionals, including people in QAO, which is putting lots of pressure on our ability to retain them, so you can see a situation where the government wants to have a period of constraint. There is the GRI, which I think is currently zero, yet my wages might be going up four per cent, in which case that is going to have a direct financial impact on my ability to pay our way and deliver on a mandate.

CHAIR: That is not something the government does specifically to the Audit Office. There are remedies in the fact that, in reporting to the committee, you can explain the difficulty.

Mr Worrall: But the GRI index is really designed in terms of the government charging external parties like the community for different services that it might deliver such as motor vehicle registration. I can see now that ultimately that will potentially be applied to us, whereas most of our costs are in wages, then technology and then premises.

Mr CRANDON: I would like you to comment on the concerns you have around the absence of a committee response within 20 business days—those comments that are in your submission. I would also like you to give consideration to what the member for Mermaid Beach talked about, which was the fact that a committee has a chair who has a casting vote, has conversations with the Treasurer et cetera. Once we have dispensed with this concern around 20 days, if we got rid of that and it was a true bipartisan decision for the appointment of people, would something like that be workable for the financial side of things? In other words, would the committee need to have bipartisan agreement in relation to the Auditor-General's funding?

Mr Worrall: I think that 20-day period that you are taking about relates to the appointment of an Auditor-General.

Mr CRANDON: That is right.

Mr Worrall: At the moment, the way the bill is written is: if the responsible minister, which under this bill would still be the Premier, does not hear back from the committee in 20 days, they will go ahead with the appointment. We are saying: in a way, that is then an appointment by the government. It would be better if there was some positive response that the committee had to make such as that the appointment was supported by the committee within a period or the appointment was supported by the chair and the deputy chair, which would then cover government and non-government members, within a period. There could be a time when the committee is in disagreement and that disagreement might be in a period when there are weather events, periods of leave or things like that which may not resolve.

Mr CRANDON: I understand that. I would like you to follow on with that thought process in response to the member for Mermaid Beach's comments about it being a one-sided affair at the end of the day. Do you see that working for the financial aspects of things by genuine bipartisan agreement?

CHAIR: Are we talking about appointment here?

Mr CRANDON: No.

CHAIR: I just wanted to clarify, that is all.

Mr CRANDON: I am talking now about taking that aspect in relation to the appointment of the Auditor-General and using that same type of framework in relation to the agreement by the committee on the funding of the Audit Office.

Mr Worrall: I think I said earlier that some other jurisdictions, such as New Zealand and the UK, would make the decision to support the budget for the Auditor-General but, in doing that, they would actually get a submission from government in relation to what they thought about the submission. They would actually be informed by the executive because, ultimately, they are the ones

who have to do a budget for the entire sector. We are saying that would be a better model, as opposed to the committee coming up with recommendations that would still be subject to the executive. You would flip that decision back around to the committee: the committee gets the permission from the executive government in relation to whether that funding request or that budget for the Auditor-General is appropriate or not. The committee is also being informed.

Mr CRANDON: Then there would be bipartisan agreement of the committee. That is the point I am getting to.

CHAIR: I do not know if you really—do you want to continue, member for Coomera?

Mr CRANDON: Yes, I do have something else. Did you understand the point I was making that what you have just outlined in terms of New Zealand perhaps—and I think they have a slightly different circumstance in relation to their committee structure. The committee chair might be flipped to a non-government member, so there are some differences there. In order for the agreement to occur, yes, there is feedback from the executive government et cetera regarding it, but for the committee to agree on the funding it is on a bipartisan basis; that is where I am going.

Mr Worrall: I think getting committee agreement ultimately is going to be a matter for the committee. In terms of the committee structure and the committee governance, that is ultimately going to be a matter for the parliament and standing orders, to come back to your point.

Mr CRANDON: My final question is in relation to—and this might be the wrong question to be asking an auditor or the Audit Office—what would happen if you overspent your budget. We see all the time additional sums of money being requested by departments because they have overspent over here by a few hundred million dollars or over there by half a billion dollars or whatever it might be. What would happen if the Audit Office overspent their budget and needed to come back to us? Has it already happened?

Mr Worrall: It has not happened since I have been Auditor-General.

Mr CRANDON: What would happen if you did?

Mr Worrall: There are probably a couple of things there. Of our budget, 85 per cent is through fee for service. We have these financial audit engagements, we issue a plan of how we are going to do the audit and we issue a fee estimate. We would seek to stick to that fee estimate, unless there has been a change in scope or there is something else that has gone wrong from the client where they have not been able to deliver or we have had to do more work and things like that. Eighty-five per cent of our funding is fee for service.

The remainder of the funding, which is around $7½ million, is appropriated by parliament. That funding covers the remuneration of the Auditor-General; it covers all reports to parliament; it covers the performance audit mandate; and it would cover any other investigations that we might do. For instance, anybody can request us to go and have a look at something. That bit is part of appropriation. As an audit office, we would seek not to exceed our budget. I do not think that is necessarily a good look. There could be some circumstances that are quite legitimate and that could happen. On the performance audit side, we could get requests from parliament to do some audits. If we agree to that, there is going to be some cost implication and we might need to come back and seek some funding to do that. If we did not get that funding we would then have to think about what we would chop out of that program.

Mr CRANDON: You would not necessarily overspend and then come and ask for the shortfall?

Mr Worrall: That would not be a desired way to operate. I think in anything where you could see the potential for that it would be prudent to flag that before you actually got there.

Mr STEVENS: Just a refresher for me: it is a $50 million audit budget?

Mr Worrall: It is about $45 million and about $38 million is fee for service.

CHAIR: If there are no further questions, I want to thank all of the team from the Auditor-General's office and specifically Mr Worrall, the Auditor-General, very much for attending. I do not think there were any questions taken on notice. I thank you for your attendance today.

RANGIHAEATA, Ms Rachael, Information Commissioner, Office of the Information Commissioner

WINSON, Ms Stephanie, Right to Information Commissioner, Office of the Information Commissioner

CHAIR: Good afternoon. Would you like to make an opening statement?

Ms Rangihaeata: Good afternoon. I would like to thank you for the opportunity to make an opening statement today. Firstly, I would like to acknowledge the traditional custodians of the lands on which we meet, the Turrbal and Yagara people, and pay my respects to elders past, present and emerging.

Today I am joined by Ms Stephanie Winson, who joined us from the New Zealand ombudsman's office as Right to Information Commissioner in January 2023. I will assume that committee members have had the opportunity to read my letter of 24 July 2023 detailing my submission on the bill. I will, therefore, only make brief introductory comments.

The key thrust of my submission is that the provisions proposed in this bill relating to increased parliamentary committee involvement and appointment of officers of parliament and certain funding arrangements for such officers are a welcome step in advancing transparency; however, they do not materially advance the level of independence expected of such officers in a modern, democratic state.

Professor Coaldrake specifically recommended that the integrity bodies' independence be enhanced by aligning responsibility for financial arrangements and management practices with the Speaker of the Parliament and in an appropriate parliamentary committee rather than the executive government. The bill does not achieve this because it retains the direct role and control of such matters with the minister of cabinet. This involvement of the parliamentary committee as set out in the bill therefore only advances increased transparency, not independence.

I submit that the arrangements in comparable jurisdictions, such as the ACT or New Zealand, provide the blueprint for what was intended by Professor Coaldrake and can be achieved in Queensland without the need for constitutional change and without placing significant additional burdens on the Speaker. My view is based on the following.

The creation of a dedicated parliamentary committee similar to that in New Zealand to deal with and oversee officers of parliament has the benefit of ensuring a common parliamentary approach to such officers in the performance of the oversight of the executive branch. The adoption of statutory arrangements that separate the executive branch from direct involvement and the appointment and funding of such officers is key to gaining independence. This is why I proposed the replacement of the direct role of portfolio ministers in respect of appointments and funding of officers of parliament.

In respect of funding, the Financial Accountability Act already provides a mechanism for ensuring all public funds are transparently appropriated and reported on. These provisions, consistent with the Constitution of Queensland, require the separate appropriation of funds for the Legislative Assembly. I do not suggest that funding for the integrity agencies should be included in the Appropriation Act with the Legislative Assembly. Rather, amendments to the Financial Accountability Act could be made to require that appropriations to integrity agencies are separated in both the process and reporting from other government departments and agencies. This would ensure the government of the day retains its budget decision-making authority but also gives independence to the budget process for integrity agencies. This model envisages that the Speaker and committee can receive advice from the Treasury in respect of funding proposals to reduce unnecessary additional burden, similar to the jurisdictions we have referred to.

I also note my concerns that, unfortunately, it appears from the government response to submissions that the proposed legislative framework will not address the key areas that affect the Office of the Information Commissioner. In fact, it will rarely apply to requests for additional funding or key impacts on our budget. Under the Right to Information Act 2009, the Attorney-General and Minister for Justice must currently approve the budget for the Office of the Information Commissioner, including any variations to the budget.

I am in the final weeks of my 10-year term as Information Commissioner and can advise the committee that most additional funding in this period has occurred as approved deficits, allowing OIC to draw on our cash reserves from previous underspends for specific purposes such as temporary staff to meet significant increased demand for external review services and to recently purchase a

new IT fleet in another financial year due to delays in securing supply. These requests do not occur as part of the Appropriation Bill as envisaged in the government response. They occur during the financial year in accordance with advice from Queensland Treasury and the department, and the budget is adjusted.

The government response also confirms our concern that the executive government decisions to reduce our budget will not be considered by a parliamentary committee and subject to the transparency of this process. Successive reductions to OIC's budget have a critical impact, given the size and composition of our budget and other non-discretionary increases in costs to perform our statutory functions. For example, while funding has been provided from 2023-24 to provide ongoing positions recommended in the 2017 independent strategic review of the OIC, this funding is quickly undermined by directives and requirements to absorb salary increases and reprioritisation dividends in a small organisation.

The key finding of the 2022 strategic review of the OIC tabled in January this year was the need for appropriate and sufficient resourcing to perform statutory functions, with several recommendations relating to funding. At this time there has been no government response or parliamentary committee consideration of that review report. I thank you for your time and consideration of my submission on this important matter. I also note that Ms Winson is very familiar with the New Zealand model and therefore may be able to answer some of your queries that I know have been arising during your questioning of the Auditor-General.

CHAIR: Thank you, Information Commissioner. I note the deputy chair, the member for Mermaid Beach, Mr Stevens, has a question.

Mr STEVENS: Firstly, Ms Rangihaeata, thank you for your 10 years of service. We appreciate all the work you have done and we wish you all the best with whatever direction you take in the future.

CHAIR: Yes, congratulations.

Ms Rangihaeata: Thank you very much.

Mr STEVENS: I am a big fan of the New Zealand system. I have seen it working firsthand. I will go past some of the funding matters that we raised with the Audit Office which would be duplicated in the OIC, I should imagine. However, you propose regularising parliamentary reporting by integrity agencies under the auspices of a single portfolio committee, perhaps chaired by the Speaker—similar to the PCCC model perhaps—that can make bipartisan recommendations to an integrity agency. What benefits would you see that model providing? How is that not addressed by the recommendations in this bill?

Ms Rangihaeata: That model is what is occurring in New Zealand. There is a specific committee for the oversight of officers of parliament. Currently what would occur under the bill is that the oversight of officers of parliament would be across different committees, as we know. It is not aligned with what Professor Coaldrake recommended. We think it would be preferable that one committee specifically had the purpose to focus on officers of parliament and the issues and become familiar with those issues and have consistency across the board in how they are dealing with them.

This introduces new requirements in relation to becoming familiar with dealing with the funding proposals, advice from Treasury and so on. It would be easier, I suppose, to have a specific purpose for the one committee. I note that Ms Winson is very familiar with the New Zealand model and we are basing this on the New Zealand model. I defer to Ms Winson to speak to this as well.

Ms Winson: If I may, I think the most important answer to your question is that, no matter what model you adopt under the Westminster regime, there is no such thing as absolute independence. I think we have to be realistic about that. The New Zealand model is a model that envisages the portfolio committees for oversight as quite distinct from those committees that do the work in relation to what they call specialised committee work. The Officers of Parliament Committee is a specialised committee. There are about eight or nine of those: the Regulations Review Committee, the Privileges Committee and the like.

The appointments and the funding arrangements that are done through that committee are quite distinct from the oversight that gets done at the estimates and the annual review. That is still done by the Finance and Expenditure Committee, which is a different committee. As Ms Rangihaeata said, a key distinction is that you are aligning appointments and funding with the Speaker, and that is a model that is applied, as we know, in the ACT and certainly in New Zealand. The Speaker has the ability to ensure that that is administered in the same way as the Speaker does for the parliament and its budget. That is the fundamental distinction between what is proposed in the bill and what we are suggesting.

Mr STEVENS: The Speaker in the New Zealand parliament would still be getting his appropriation through executive government, I take it.

Ms Winson: Yes, absolutely. I think that is the point I was making by saying there is no such thing as absolute independence. We have to be realistic that under the Westminster model responsible government includes that the government of the day has ultimate accountability for the Consolidated Fund. The Consolidated Fund has to be considered and fiscal management and oversight has to be considered as a whole. The important thing about the distinction being made is that you are getting a separation between the executive branch in its direct control over the funding of officers of parliament and parliament as it is, but there is still a connection to the executive branch for money coming out of the Consolidated Fund, absolutely.

Mr TANTARI: Integrity Commissioner, within your submission you have suggested that the bill include a five-year statutory review clause to enable a review of processes after five years. The department's response has pointed to the five-yearly strategic reviews of integrity bodies required under legislation as already providing an opportunity for review. Are you satisfied with that response?

Ms Rangihaeata: I understand the merit in that. My concern with that approach is that you would have five different reviewers at different times considering that. My preference would be that there would be a single review with a consistent approach. Otherwise, the risk is that you could have five lots of amendments or different types of recommendations coming out at different times. The integrity bodies are being treated in the same way right now, and that is the approach that we are looking for in implementing the recommendation. I could see this coming out as very disjointed in future in terms of how this recommendation is implemented if you take that approach with the five different strategic reviews. I think it is preferable to have a single review in five years.

CHAIR: We have oversight over the Integrity Commissioner and the Auditor-General. We have knowledge of how they work and their specific needs. As Ms Winson emphasised, there is no such thing as absolute independence within the Westminster system. There are particular types of independence and particular types of HR, budgetary needs, processes, sharing of information. We spoke about how information was shared with the Treasurer's office to enable better governance through accounting systems. Much of that is not applicable across statutory officers who have particular needs and different levels.

I think we do have expertise of our incorporated officers, but I would not necessarily envisage a one-size-fits-all committee that could deal with the specifics of relationships, for instance, between the Auditor-General and the Treasurer's department. I am not certain. Are there difficulties in doing it that way?

Ms Rangihaeata: Difficulties in?

CHAIR: Difficulties in that we deal with both the Treasurer's department and the Auditor-General and there is a relatively close relationship in having interaction between the two of them which gives us specific understanding in having oversight of the Auditor-General. Would that be lost if we did not have oversight?

Ms Rangihaeata: If you did not have specific oversight and there was a separate officers of parliament committee?

CHAIR: Yes.

Ms Rangihaeata: I think if they had sufficient support from Treasury—which would still be envisaged—

CHAIR: I am talking about the interaction between the specifics of the audits. We just talked about feeding information back to Treasury—accounting systems and that level of detail which is specific to the nature of the Auditor-General's office. Is that something that perhaps a single oversight committee would not have full oversight of or a single review would not have oversight of?

Ms Rangihaeata: If you have an officers of parliament committee with oversight of those committees, they would become very familiar with the statutory functions of the committee. I imagine in New Zealand there are no concerns with that aspect.

Ms Winson: I confess that I am not quite sure I understand the question. If you are asking whether or not there is a risk that having a single review of the legislation would undermine the oversight of distinct specific portfolios—

CHAIR: I think you have put it better than I have.

Ms Winson:—in relation to the functions, the answer is, as I tried to explain at the beginning: the Officers of Parliament Committee in the New Zealand context has the role of approving the budgets and the appointments of officers of parliament. Oversight of the performance of the officers

of parliament goes to portfolio committees. For example, financial oversight for all financial reviews is done by the Finance and Expenditure Committee. Those are the distinctions. They are distinct functions and activities.

CHAIR: We are currently undergoing a statutory review. We have just finished one of them. Would we scrap them and wait—

Ms Rangihaeata: No. I am not suggesting that. I am just suggesting that if you are reviewing the effectiveness of a legislative framework for the appointments and the funding model in terms of parliamentary oversight and you have five different reviewers looking at the same thing when you are trying to have a single model—

CHAIR: I am not sure that we necessarily are. It may be that they have specific needs. That is my point.

Mr CRANDON: You are familiar with the term 'efficiency dividend'? Has it ever been put upon you to try to extract, if you like, an efficiency dividend from your budget?

Ms Rangihaeata: Yes.

Mr CRANDON: Is that an automatic thing every time you have a look at the budget—that you have this efficiency dividend?

Ms Rangihaeata: Efficiency dividends, sometimes also called reprioritisation dividends, come by a letter from the Under Treasurer or the Treasurer or via the Attorney-General. They come during the year and they need to be absorbed into the current year's budget. They come to us without notice. We have a very small budget—mostly salaries of permanent, ongoing staff. Usually we need to absorb them into the supplies and services component of our budget, which is essentially paying the rent and the ICT, which is ever increasing. We have very little discretionary funds in our supplies and services.

Mr CRANDON: You mentioned that the underspend is used in future years to cover off—can you unpack that a little bit for me?

Ms Rangihaeata: If we have difficulty, like we did last year, in recruiting and retaining staff and we have short-term vacancies, we may have an underspend in employee expenses, for example. That goes to cash in our bank account, so cash reserves. We may access that with approval from the Attorney-General, often endorsed by the Under Treasurer. For short-term issues we are often encouraged to go there first rather than to seek funds from the appropriation. We have often had delays—one example I can give you is when the significant reforms in 2009 for when the right to information and information privacy legislation came in. Those policy changes resulted in an increase in demand. We relied on some temporary resources during that period funded by cash reserves. Some years we received it and some years we did not, which made it very unreliable in terms of getting human resources. It took nine years to get the ongoing resources after a strategic review recommendation. Cash reserves have been used.

Mr CRANDON: In your submission you addressed the imposition of time limits on requests for funding proposals and suggested it may be prudent to incorporate some flexibility where a committee is in the process of obtaining advice to inform their decision, and you used the Commonwealth and New South Wales legislation as examples. I note the Auditor-General also spoke about similar things. Reflecting now on the questions I was asking the Auditor-General about the policy committee—and I know you were talking about a separate committee entirely—and having a bipartisan approach to funding or a requirement for a bipartisan agreement to the funding, would you care to comment on those aspects of your submission and also that overarching matter?

Ms Rangihaeata: We were consulted prior to the bill being introduced. We did have the opportunity to provide some feedback around time limits and I note that that was taken on board. We do note that it would be quite important that a deliberate decision is made by the committee. In relation to bipartisan support, I do support the Auditor-General's submission in that regard for bipartisan support of the deputy chair and the chair. Was it the submission you were referring to?

Mr CRANDON: That is right. I asked a further question of the Auditor-General around the same type of bipartisanship on the funding aspect, which is something that you touch on in your submission.

Ms Rangihaeata: Yes, we have considered that and we would also support that across—we note the issues that were discussed with the Auditor-General earlier and I think that was discussed in quite some detail. We definitely considered those as well.

CHAIR: The New Zealand parliament has a rather unique system, being mixed member—what is it called?

Ms Winson: The proportional system.

CHAIR: It has both electorates and a proportional system, which changes the nature of the management and the characteristics of the parliament. That makes it quite fundamentally different to the nature of the Queensland parliament. Does that have any effect on the composition of committees and the role of committees within the New Zealand parliament?

Ms Winson: It certainly does have some impact on the committees. I think fundamentally if you took it to the macro perspective of parliamentary purpose under the Westminster system it is about making sure that you have representation of the people, the electorate, in your parliament. Generally, the committee rules and the standing orders ensure that you do not have any disproportionate representation of committees. It certainly does mean that you get greater representation of smaller parties as a result, and that is certainly a big influence. I would not say that it would fundamentally change the way—if you were to compare the New Zealand parliament and this Legislative Assembly and how it operates and its committee structure, I think the only other difference is that they do have that specialist committee versus standing or select committees. That is certainly a difference, but I do not think it is a fundamental difference in how they operate.

CHAIR: Thank you very much. There being no further questions, we thank you very much for your participation here today. We appreciate the feedback you have given us and the insight into the New Zealand model. I do not believe there are any questions taken on notice.

LANG, Ms Jenny, Deputy Commissioner, Public Sector Commission

WELCH, Ms Rachel, Executive Director, Integrity Reform Taskforce, Department of the Premier and Cabinet

CHAIR: Welcome and good afternoon. Thank you for joining us. Would you like to address any of the issues raised by witnesses before we start with some members' questions that address some of the feedback you have given us?

Ms Lang: We would like to thank the committee for the opportunity to come before you to answer any questions. Nothing that Rachel or I have heard raises any additional issues to those that we addressed in our submission to the committee which would be matters on which we could comment. I think we are in the committee's hands as to what issues you might wish us to clarify that relate to the provisions of the bill.

CHAIR: Thank you very much. I believe the deputy chair has some questions.

Mr STEVENS: In relation to the appointments of people to independent bodies, the Coaldrake report cited the former Committee System Review Committee, which in 2010 recommended bipartisan approval for appointments to integrity bodies, and a number of submitters have mentioned that is the way to go. Is there a reason the proposed amendments require only the approval of the committee and not bipartisan approval, noting Professor Coaldrake stated—

... public faith is lost when there is not a serious attempt by governments to work with Opposition to make appointments which have bipartisan concurrence if not outright support.

CHAIR: While I attempt to work with our deputy chair in a bipartisan way, there may be limitations on the information the witness can give us, which he well knows. In a bipartisan fashion, I put the question to you, Ms Lang.

Ms Lang: The chair is correct: the decision in relation to the provisions in the bill is a matter for government. What I can say is that the provisions in the bill relating to appointments are a significant change to what is currently there, with the appointment provisions requiring the approval of a committee before submission to Governor in Council.

Mr TANTARI: The Coaldrake report did not include any commentary or recommendations around time frames for committee decision-making. Can you please advise any policy drivers behind the proposed 20 business days time frame for committee approvals? That is similar to what was being said earlier. Were the time frames for committee approval processes in other jurisdictions considered in the development of the bill?

Ms Lang: We did look at a range of other jurisdictions. Again, it is a matter for government as to the time frames that are within the bill. What I can say is that the bill attempts to balance the need of the committee to have sufficient time to consider these important matters—I would note that it is 20 business days, not 20 days. It is a minimum of four weeks and public holidays are also accommodated in that period. It is an attempt to provide the committee with adequate time to consider these important matters while also ensuring these important matters are able to be advanced and progressed in a timely and appropriate way.

CHAIR: I understand that you cannot leave an office holder's position open for an inappropriate period. That in itself would be a concern in terms of integrity issues; we do wish to make appointments. Has any thought been given to periods such as the summer break in terms of the 20 business days, noting that any public holidays would not be included in that, and whether that gave time for the committee to properly meet and whether committee members were available during those specific times of the year?

Ms Lang: The bill provides 20 business days and excludes public holidays.

Mr STEVENS: On that matter—and I do not believe you were present when the Queensland Law Society were here, but you may have got the gist of my line of questioning around the 20 business days. I think we all knew it was 20 business days. You said that you looked at other options and clearly there have been—and they have been referred to by other witnesses—other options which were significantly different, in my understanding from what we have been told, from the 20-business-day model. How did you settle on that, or was it a government policy decision?

Ms Lang: It is a government policy decision.

Mr CRANDON: Can you comment as best you can on what you have heard from other witnesses in terms of their arguments and what you have perhaps read in their submissions? Can you make some comment on this as opposed to that type of—

Ms Lang: I am not sure I can add anything further to what I have already said in relation to that, other than I appreciate the committees understand the importance of these matters and would operate in a way to ensure they were dealt with as quickly and efficiently as possible.

CHAIR: On that, in some cases in the past there have been delays in selection processes or candidates in the end determining not to be available, and there have been critiques in the parliament of the process taking too long. Is it possible that a longer period would extend in those cases the process to take even longer and leaving perhaps the statutory office unfulfilled for a longer period?

Ms Lang: That is correct. That is the balance that these provisions are trying to achieve—between the committee being able to consider and make a decision and these statutory officer positions not being left vacant for extended periods of time with potentially acting people within those roles.

Mr STEVENS: In terms of being very experienced executive officers who are reporting to government on matters, for instance, on this bill, you would have run past, I assume, a scenario where the opposition members of a committee just did not turn up and, in turn, did not make a quorum and therefore there was no decision made by the committee in relation to an appointment. You would have considered those matters, I am sure, as being part of the process of getting approval for the integrity officers or whatever. I am not saying that that has happened or will happen or whatever. As executive officers making recommendations, would you have made a recommendation that, should that scenario occur, this should be fixed, if you like, in a certain period, and what certain period would you have thought was appropriate to fix that scenario, if you considered that situation?

CHAIR: I might summarise it, if I can. Was it a consideration that an inquorate committee could not meet during that period as part of—

Mr STEVENS: Make a decision, correct, on an appointment. We understand that committees make decisions on appointments that are recommended by the government or the Premier's department. You would have considered the situation, I am sure, that there was no committee decision through lack of quorum in attendance and then you would have said that, in that case—and I will just use a for-instance—you would give them 20 working days and then knock them off, or give them a week or whatever.

Ms Welch: I am happy to answer that. The provision to deem approval is probably the outcome of that consideration. There are two options: deemed that the appointment is not approved or deemed that the appointment is approved. Government's decision has been to deem that it is approved. There are pros and cons with both; they are a matter for government, obviously. Deeming approved means that a highly suitable candidate who may otherwise have been approved if the committee had been able to make a quorum does not miss out, but ultimately the end effect of the committee not being able to form a quorum is a deeming of an approval, which was government—

Mr STEVENS: So you are saying that you made no recommendation into either deemed approval or deemed not approved? You made no timing recommendation?

Ms Lang: I am not sure that that is actually a matter on which we can comment. I think the bill's provisions are what we can comment upon. I am not sure we can make a comment on what advice we provided to government in relation to particular matters.

Mr STEVENS: I would have thought that would have been part and parcel of the reason—

Ms Lang: I am not suggesting that we did not provide advice; I just do not know that it is appropriate for us to disclose that advice.

Mr STEVENS: So you may have provided advice to the government. The government makes a decision—I understand the policy decision—and you may or may not have provided advice as to that timing as part of your consideration and your recommendation to government on the policies?

CHAIR: Can I phrase that differently? Ms Lang, my assumption is that you provide a range of options to government on which to make a policy decision on the best outcomes. Is that fair enough to say?

Ms Lang: That is correct.

CHAIR: Is that the answer to your question?

Mr STEVENS: Yes, that is where I was going. You are not prepared to advise those?

Ms Lang: I think, as Rachel has indicated, there are pros and cons and the bill reflects the decision that government has made in relation to that.

CHAIR: They acknowledge that.

Mr STEVENS: You acknowledge that there was either deeming or not deeming in your recommendation, so you do acknowledge that you made two decisions for government to make policy on.

CHAIR: The way I read Ms Welch's answer is that there was a logical conclusion of what would happen after a time period, but Ms Welch may clarify.

Mr STEVENS: Chair, that is not how I read it.

CHAIR: We will put it to Ms Welch.

Mr STEVENS: I read Ms Welch saying—

CHAIR: Did you put deeming or not deeming as completely equal proposals to the government as proposal options with no record of moving between them?

Ms Lang: We provide advice on a range of things.

Ms Welch: I will also say that drafting a bill like this is an iterative process, so there are lots of conversations that go along the way. Those were two options that were discussed.

Mr STEVENS: Thank you. That is what you mentioned earlier.

Mr PURDIE: The bill disqualifies lobbyists who play a substantial role in an election from lobbying in the next term of government, essentially—four years. What happens in a situation where someone is not a registered lobbyist and plays a substantial role but then applies to become a lobbyist? Are they automatically disqualified from becoming a lobbyist?

Ms Welch: No, it only relates to registered lobbyists who are registered lobbyists immediately prior to the election period and their ability to re-register after the election period if they play a substantial role. An individual who was in a completely unrelated profession or role before the election period and plays a substantial role is not captured by the disqualifications. They might have other restrictions based on what their profession was before. If they were a ministerial officer or another government representative, there is a two-year restriction on the matters for which they may engage in professional lobbying, but, no, the disqualification for four years does not apply.

Mr PURDIE: Someone could play a substantial role in an election campaign, the side they were working for wins government, and they could then apply to become a lobbyist and then be a lobbyist in that term of government?

Ms Welch: If they were not a registered lobbyist immediately before the election was called.

Mr STEVENS: As an example, I am a registered lobbyist, there are fixed-term elections coming up in October 2028 or whatever, and I resign as a registered lobbyist six months before that election. I then help out on that political campaign and then I register myself again after hopefully my side wins. Is that allowable?

CHAIR: I think when he says 'resign', he means withdraw from the lobbyist register for no longer being active; is that correct?

Mr STEVENS: Yes.

Ms Welch: It is not precluded by the provisions in the bill, so that is correct.

Mr STEVENS: Okay. I can. That is a good trick for everybody.

Mr CRANDON: That was going to be my question in relation to whether or not there was going to be a time frame prior to an election that one would have to not be a lobbyist. I have not read it. Is there a fixed time frame?

Ms Welch: There is. It is the period from when the writ is issued until the end of the day of the election. To offer up more information than is asked, I suppose, the reason for that is that, whilst we have fixed terms, there are also opportunities for by-elections and for special general elections for which there may not be the six months notice; it may only be from the issuing of the writ. It would significantly disadvantage or—

Mr CRANDON: So it is immediately prior to the writs being issued?

Ms Welch: Yes.

CHAIR: There being no further questions, thank you very much for your assistance today. Thank you for the information you have provided us in response to other submissions. We will take that into account. There was nothing taken on notice. I wish to say to all those who have appeared before the hearing: thank you very much for appearing before us. Thank you to our Hansard reporters, the committee staff and also those who do all of the IT, microphones and web broadcast. A transcript of these proceedings will be available on the committee's webpage in due course. With that, I declare this public hearing closed.

The committee adjourned at 2.40 pm.