

INTEGRITY AND OTHER LEGISLATION AMENDMENT BILL 2023

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21st July 2023

Committee Secretary
Economics and Governance Committee
Parliament House
George Street
Brisbane Qld 4000

By email to: egc@parliament.qld.gov.au

Dear Chair and Committee Members

Submission on the proposed Integrity and Other Legislation Amendment Bill 2023.

This submission is made on behalf of Brisbane Residents United (BRU), Brisbane's peak body for community resident actions groups. Whose purpose is to:

- Represent Brisbane and surrounding district residents and provide them with a united voice Governments on matters pertaining to urban planning and development.
- Act as a resource centre, facilitating information sharing across established and start-up local resident associations.

We welcome the opportunity to make a submission on the proposed Integrity and Other Legislation Amendment Bill 2023. It is a timely response to the important issues raised by the following reports:

- Let the sunshine in: Review of culture and accountability in the Queensland public sector (Coaldrake Report); and
- Strategic Review of the Integrity Commissioner's Functions (Yearbury Report).

We acknowledge that other recommendations from these reports have already been implemented in the Integrity and Other Legislation Amendment Act 2022, passed by Parliament in November 2022.

It is stated in the Explanatory Notes that:

The Integrity and Other Legislation Amendment Bill 2023 (the Bill) will:

- **increase regulation of lobbying activity to address the public perception of undue influence on governments, including clarifying what lobbying activity is and enhancing the regulatory role of the Queensland Integrity Commissioner**
- **amend the conditions for registration as a lobbyist to reflect expectations around completing training and managing conflicts of interest**
- **introduce a prohibition on a registered lobbyist playing a ‘substantial’ role for a political party in an election campaign**

We are pleased to see that most of the following recommendations from the Coaldrake Review relating to Lobbying regulation have been included in this Bill:

- *requiring that all professionals offering paid lobbying services to third parties to register as lobbyists;*
- *abandoning the ‘drop down’ menu on the lobbying contact log in favour of a requirement that lobbyists provide a short description of the purpose and intended outcome of contact with government (implemented in May 2023);*
- *requiring the publication of diaries of ministers and their staff. Diaries should record all external contacts designed to influence government decisions, should readily link to the lobbying register and should be easily accessible and searchable;*
- *an explicit prohibition on the “dual hatting” of professional lobbyists during election campaigns. They can either lobby or provide professional political advice but cannot do both;*
- *encouraging the Auditor-General to carry out performance audits of the lobbying register, ministerial diaries and public records to ensure recordkeeping obligations are being complied with. Coaldrake Final Report page 58.*

We note however that the final recommendation of the Coaldrake Review “*encouraging the Auditor-General to carry out performance audits of the lobbying register, ministerial diaries and public records to ensure recordkeeping obligations are being complied with*” has not been included in the Bill. Monitoring of such a change must occur in order to identify the efficacy of the changes overall.

We appreciate and support the Compliance and Penalties components of the Bill. However, a funded annual audit by the Auditor General would certainly keep this initiative in sharp focus.

There is little in the legislation that addresses the revolving door between industry and government, which can lead to inside relationships being used to the benefit of the private sector without due regard being given to the public interest. While Queensland has comparatively strong restrictions around when a senior public servant/Minister can work as a lobbyist, our framework could be further strengthened by:

- improving the definition of 'lobbyist', for example to include acting for even non-profit entities that represent private industry, such as the Queensland Resource Council; and
 - better enforcing existing limitations on lobbyists moving between government and the private sector.
- **enhance core integrity bodies' independence by increasing the involvement of parliamentary committees in additional funding proposals and contributing to key appointments**

BRU support this reform as long as it does not allow the politicisation of these core integrity bodies or that they become political footballs.

- **enhance the jurisdiction of the Queensland Ombudsman to consider complaints about, and initiate investigations of government services provided by non-government entities**

BRU supports this reform as very timely due to the identified issues with consulting firms extensively used by all levels of government.

- **establish the Office of the Queensland Integrity Commissioner as a statutory body**

BRU supports this reform

- **clarify the trusts that the Auditor-General is required to audit.**

BRU supports this reform. Governments should not be permitted to set up investment corporations or industry advisory panels which are exempt from public scrutiny and not subject to the normal checks and balances that should be applied as governance to government operations at all levels. We would encourage this measure to be extended to all organisations where government has a financial interest.

In general BRU supports these Policy Objectives .

There is still much to be done to increase the transparency of the operation of state and local government in Queensland.

The Coaldrake Report discussed Queensland's Right to Information (RTI) laws and the role of the Information Commissioner and noted that:

"Decisions ultimately determined by the Information Commissioner influence the information available to citizens who themselves are a valuable check on accountability of government".

However, the Coaldrake Report also noted that the *“level of apprehension, even fear, within departments about the consequences of being ‘caught’ by an RTI request”* fosters a *“culture predisposed to nondisclosure”*.

The Coaldrake Report recommended that:

“Cabinet submissions (and their attachments), agendas, and decisions papers be proactively released and published online within 30 business days of such decisions”.

The Coaldrake Report also says that: *“agencies should not be quick to agree to confidentiality clauses which are proposed by sophisticated commercial parties to protect their own interests”*.

The Report says:

An agency can exercise its discretion to disclose information even where that information qualifies for an exemption, but the RTI process cannot overcome a lack of transparency if expectations are not clear in the procurement process about the openness and accountability to the community that is required when dealing with government. Government procurement policies provide that confidentiality and commercial-in-confidence clauses should not ‘be used as a matter of course and only included where there is strong justification for confidentiality’. As was noted in a 2018 report of the Queensland Audit Office, ‘the public has a right to know how much public money government is spending, on what, and with which vendors’.

“It is to be hoped that acceptance of this Review’s recommendations, particularly the more ready release of Cabinet documents, and its comments on the need for greater scrutiny over what is deemed commercial-in-confidence, will provide the impetus for a cultural shift toward much more openness in government.”

Response to Coaldrake Report

We note that in responding to receipt of the Coaldrake Report on 28 June 2022, the Premier said:

“We will accept all of his recommendations and we will implement them lock, stock and barrel.”

The Premier also said that once these reforms were implemented, *“Queensland will have the most transparent and accountable government in Australia”*.

But a year later there seems to be no progress in ensuring that cabinet decisions will be made public within 30 business days. Nor has the Government explained what measures it is taking to ensure that commercial in confidence clause will only be used *“where there is strong justification for confidentiality”*.

The Government said recently that more than \$180 billion in procurement opportunities are estimated to be available in the lead-up to the Brisbane 2032 Olympic Games.

Before the spending spree gets underway, the community should be given confidence that it will be happening with exemplary transparency.

We suggest that greater transparency (and integrity) would best be achieved through Parliament amending Queensland's RTI laws to ensure that they better meet community expectations.

In particular, current RTI exemptions such as 'commercial in confidence' should be reviewed and amended to ensure that the community can find out what is going on in State and local government.

Despite many worthwhile reforms legislated in recent years there is still too much scope for local governments to act secretly by declaring matters to be confidential, thereby restricting access to reports and discussions at Council meetings.

So, reforms to Queensland's RTI laws should be accompanied by amendments to local government laws which significantly curtail the ability and proclivity of some local councils to keep matters secret from their residents and ratepayers.

BRU is pleased to see that the Government is progressively implementing the recommendations of the Coaldrake and Yearbury Reviews. In our response to the Coaldrake Interim Report (16 May 2022) the review stated that (P3) *"that the community nowadays demands heightened performance and accountability and requires safeguards on the behaviours of government and the use of taxpayer dollars"*.

Conclusion

Overall BRU supports the specific provisions relating to:

- Integrity Act 2009 - Lobbying reforms
- Strengthening independence of integrity bodies
- Funding proposal decisions
- Parliamentary committee involvement in appointments, annual reports and strategic reviews
- Independence of the Office of the Queensland Integrity Commissioner
- Queensland Ombudsman's jurisdiction over non-government contracted service providers

BRU recommends that a review of the Legislation including its Policy Directions and Outcomes is undertaken within a given timeframe, for example 4 years and with Bipartisan support.

BRU certainly hopes that the following description and analysis of how an integrity system applies to all levels of government made by Professor Coaldrake in his Interim Report (p6)

is at the Centre of government commitment – *integrity is not an adornment to the system but essential to it and should be seen as such by the public, even if sometimes discounted in its value by the actions of some players.*

We would urge the members of the Economics and Governance Committee to consider favourably our request for the changes we have proposed. We believe this would ensure that improved transparency and accountability in state and local government is achieved. This would result in legislation that truly reflects the desire of the broader community for more open and transparent government, the crux of the proposed legislative reform.

All legislation is only as good as its compliance procedures and the funding provided to ensure that these procedures are followed. We are heartened by the progress towards good governance that this legislation indicates. We call on the Queensland government to give serious consideration to our concerns to ensure that Queensland is moving towards the best government governance system in Australia; one that truly inspires confidence and certainty from all stakeholders and empowers our communities to meaningfully participate in all levels of government.

Should you require any further information I can be contacted on [REDACTED]. We request the opportunity to appear before the Committee in their hearing into this inquiry.

Yours sincerely
Elizabeth Handley
President
The Brisbane Residents United Inc Steering Group