

9 January 2020

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

Via email: [egc@parliament.qld.gov.au](mailto:egc@parliament.qld.gov.au)

Dear Committee Secretary,

I refer to the Economic and Governance Committee's (the Committee) invitation for submissions on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill).

Please find attached a submission by the Office of the Independent Assessor (OIA) in relation to the Bill.

The OIA thanks the Committee for the opportunity to comment on the Bill.

If required, I am available to address further any matters contained in this submission at any inquiry held in relation to the Bill.

Should you require any further information please contact Ms Nicole Butler, OIA Director of Media and Engagement, by telephone [REDACTED] or via email [REDACTED]

Sincerely,

Kathleen Florian  
Independent Assessor

The Office of the Independent Assessor (OIA) welcomes the opportunity to provide this submission to the Economics and Governance Committee (the Committee) on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill).

In making this submission the OIA's comments are limited to those aspects of the Bill that are relevant to the performance of the functions of the OIA and the OIA's experience in enforcing the current Councillor Conduct framework.

### **The Office of the Independent Assessor**

The Office of the Independent Assessor (OIA) commenced on 3 December 2018 to deal with councillor conduct complaints, with the exception of Brisbane City Council.

The OIA:

1. receives and assesses complaints about inappropriate conduct and misconduct;
2. refers inappropriate conduct to local government to deal with;
3. where appropriate, investigates allegations of misconduct; or corrupt conduct, if referred by the Crime and Corruption Commission (CCC) and where appropriate;
4. refers misconduct to the Councillor Conduct Tribunal to be dealt with on a disciplinary basis, and appears on contested matters;
5. prosecutes criminal conduct offences against the *Local Government Act 2009* in the Magistrates Court.;
6. engages in prevention activities to inform and educate councillors around key misconduct risks.

The Independent Assessor's functions/roles are set out in more detail in sections 150CU, 150AN, 150AY, 150AZ of the *Local Government Act 2009* and in a written direction provided to the Independent Assessor (IA) by the Minister for Local Government Racing and Multicultural Affairs on 21 November 2018. The Minister directed the IA to "provide advice, training and information to councillors, local government employees, local governments and other persons about alleged suspected inappropriate conduct, misconduct and corrupt conduct. This would allow the OIA to provide advice to councillors on matters relevant to the direction including:

- *recurring or high-risk areas of councillor conduct*
- *strategies to manage more complex conduct issues*
- *guiding principles on in what circumstances the OIA will prosecute categories of councillor misconduct*".

### **The Bill**

*The Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill) was introduced to Parliament on 28 November 2019 and the Committee is required to table its report by 7 February 2020.



## Policy Objectives

While the Bill has a number of policy objectives, only the following objective is relevant to the OIA's consideration of this Bill:

The policy objective of Chapter 5 (Amendments relating to dishonest conduct for councillors and other local government matters) is to continue the Government's reform agenda for local government to improve transparency, integrity and consistency by amending the *Local Government Act 2009* and the equivalent provisions of the *City of Brisbane Act 2010*.<sup>1</sup>

### Relevant to the OIA, the proposed reforms to the local government legislative framework include:

- Changes to conflict of interest provisions applying to local government councillors;
- Changes to existing Councillor Conduct offences under the Local Government Act 2009 to align with proposed amendments to the *Integrity Act 2009* regarding the introduction of a criminal offences for contravening statements of interest notifications requirements by State Members of Parliament.

The Bill amends both the *City of Brisbane Act 2010* and the *Local Government Act 2009* by inserting the same conflict of interest and offence scheme in both pieces of legislation. For simplicity, reference in this submission to particular sections is reference to the proposed sections in *City of Brisbane Act 2010*.

### Conflicts of interest in the local government context: background

The CCC's Operation Belcarra report relevantly identified:

- failures in councillors properly managing their conflicts of interest,<sup>2</sup>
- that the self-identification and self-management of conflicts of interest by councillors led to allegations that councillors were not dealing with conflicts of interest in the most appropriate and transparent ways,<sup>3</sup>
- that a major reason for councillors failing to declare conflicts of interest was that they did not consider that they had a conflict,<sup>4</sup> and
- that councillors considered that the legislation, then in place, was unclear and ambiguous<sup>5</sup>.

Subsequent to the publication of the Operation Belcarra report and the recommendations made in that report, the *Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill* was passed and provisions implementing the CCC's conflict of interest recommendations commenced on 21 May 2018.

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<sup>1</sup> Hansard 28 November 2019 p. 3948; and the Bill's Explanatory Notes pp. 2-3.

<sup>2</sup> *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government*; Crime and Corruption Commission: p79

<sup>3</sup> *Ibid* Page 79

<sup>4</sup> *Ibid* Page 79

<sup>5</sup> *Ibid* Page 81

Since the OIA commenced operations on 3 December 2018 it has received 1414 complaints as at 31 December 2019, and 24% of these complaints (334 complaints) have related to conflicts of interest.

From the OIA’s experience in assessing and investigating conflict of the interest matters, the OIA supports the observations and recommendations made in the Operation Belcarra report in relation to conflicts of interest.

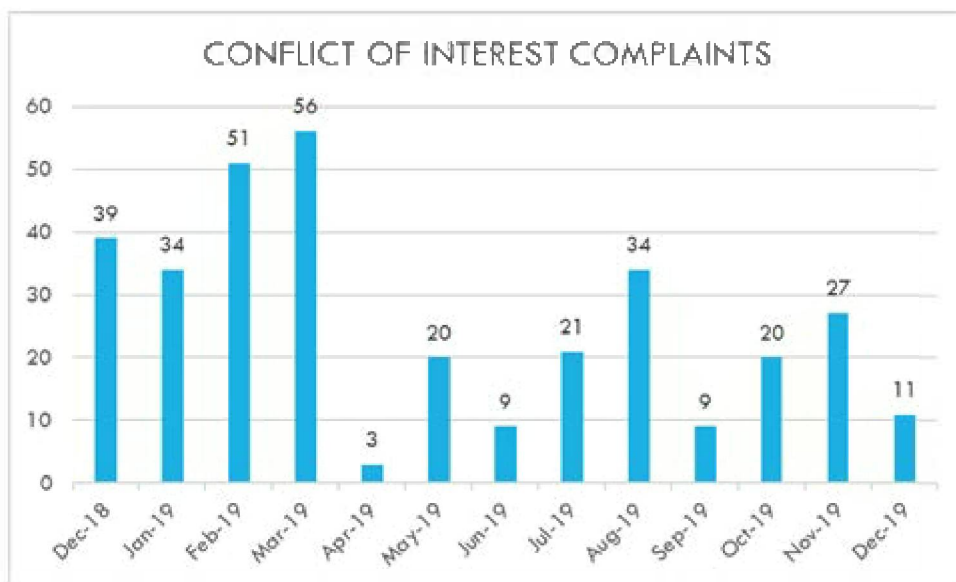
Statistically, conflicts of interest are the most complained about single issue and the most significant corruption/misconduct risk for local government councillors.

Predominantly these complaints have been about a failure to disclose a conflict of interest. In assessing these complaints, the OIA has observed that a significant driver of this issue has been the lack of general capacity of councillors to identify, and consequently appropriately disclose and manage conflicts of interest.

While the OIA’s statistics cover a 13-month period only, it is noted that after the OIA’s first four months of operation that conflict of interest complaints levelled off.

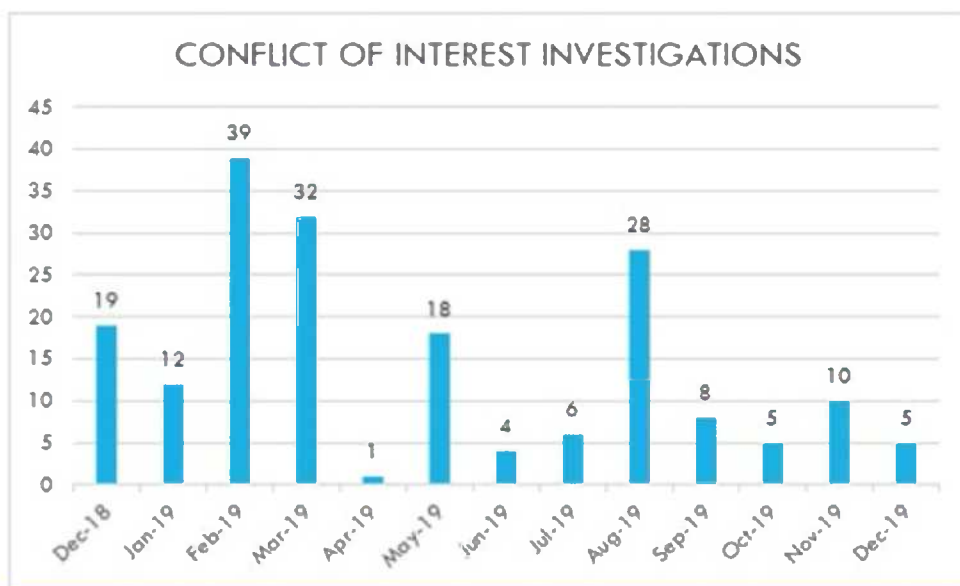
While the following table should be understood in the context of the establishment of the OIA on 3 December 2018 and an early spike in complaints, it is also considered that other factors are likely to have contributed to the levelling off of conflict of interest complaints. These factors include training and tools developed to assist councillors and councils to identify and manage conflicts of interests, increasing familiarity with the current provisions, and greater visibility of Councillor Conduct Tribunal decisions clarifying the application of the legislation.

**Figure 1 Conflict of interest complaints lodged with the OIA**



A characteristic of conflict of interest complaints received by the OIA is that, compared to other categories of corrupt conduct or misconduct, there is a high conversion rate of complaints into investigations.

Figure 2 identifies the number of conflict of interest investigations commenced by the OIA, on a month by month basis, over the same period as Figure 1..

**Figure 2 Conflict of interest investigations by the OIA****Previous consideration of the conflict of interest provisions by the Committee**

It is noted that many of the proposed changes to the conflict of interest provisions in the current Bill previously formed part of the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019*, which was introduced to parliament on 1 May 2019 and has been previously considered by the Committee.

The OIA made a submission to the Committee and had the opportunity to provide oral evidence to the Committee in relation to the proposed conflict of interest provisions, the OIA's experience in enforcing the existing conflict of interest provisions and the OIA's role; together with the Integrity Commissioner, in building the capacity of local government councillors to identify and deal with conflict of interest matters.

In so far as the proposed conflict of interest provisions were concerned the OIA's submissions/evidence made recommendations in relation to:

1. The inclusion in the Bill of the existing mechanism to allow councillors to disclose a personal interest and allow other councillors to discuss the matter and determine whether this personal interest amounts to a conflict of interest.
2. Clarification in relation to the drafting of section 150EI (a) of that Bill in relation to prescribed conflicts of interest.
3. The current and proposed scope of the Influence offence in section 150EZ of that Bill.

The OIA's previous submission can be accessed here:

<https://www.parliament.qld.gov.au/documents/committees/EGC/2019/LGElectoralStg2ofBel2019/submissions/019.pdf>

**Further submissions on the conflict of interest provisions**

Recent consideration of the proposed conflict of interest changes, in the context of matters currently under consideration by the OIA, have identified a possible limitation on the application of the provisions. The following scenario is provided to illustrate the issue.

**The Bill**

In the Bill, a gift or loan is only a prescribed conflict of interest if it exceeds \$2000. S177D(1)(c).

If the gift is made to a group of candidates or a political party, this amount is divided by the number of candidates in the group or party. Section 177D(3) .

Section 177L(e) provides that a gift or loan is not a declarable interest if it arises solely because the councillor, or a related party of the councillor –

(i) receives a gift, loan or sponsored travel or accommodation benefit from an entity in circumstances that would constitute a prescribed conflict of interest if the gift, loan or sponsored travel or accommodation benefits were to total \$2,000 or more during the councillor's relevant term; but

(ii) the gifts, loans or sponsored travel or accommodation benefits total \$500 or less during the councillor's term.

**Scenario for consideration**

If in the lead-up to a council election in March, X donated \$4,500.00 to a group of ten councillors, and in April, council was required to consider who should be awarded a multi-million dollar infrastructure project. X tendered for that contract. The group of councillors, – who could be expected to vote as block, – would not be required to declare either a prescribed or a declarable conflict of interest in respect of the donation received from X .

i.e. \$4,500 divided by 10 = \$450 per councillor, which would come under the designated monetary limits for both a prescribed and a declarable conflict of interest.

This scenario suggests that in some instances, defining prescribed and declarable conflicts of interest by reference to one factor only, i.e. monetary levels, may not take into account other key considerations which could reasonably be said to give rise to a conflict of interest or increase the perceived or actual seriousness of it.

**Changes to existing Councillor Conduct offences under the Local Government Act 2009 to align with the introduction of criminal offences applying to State Members of Parliament.**

**Section 198D**

The new offence provision in section 198D addresses:

- Failures to properly disclose or manage prescribed or declarable conflicts of interest
- Failures to report or update a councillor's register of interests within a prescribed timeframe
- Councillors who, having a prescribed or declarable conflict of interest; improperly influence council decision making.

The above are referred to in s198D as 'relevant integrity provisions'.

This new offence requires proof of an intent to dishonestly cause a benefit or a detriment and provides a standard maximum penalty of two years' imprisonment.

In the local government context, there are existing statutory offences that apply in these circumstances. The maximum penalties that apply to existing offences range from a fine to a maximum term of imprisonment of two years.

Most of these offences do not require a proof of an intent to dishonestly cause a benefit or a detriment. Additionally, the offences that do include an intent element also provide for a lower level offence, which does not require proof of intent .

Figure 3 sets out the existing relevant offence provisions, the penalties that apply and identifies which existing offences have intent elements.

Existing offence section	Maximum penalty if contravened	Intent Element?
Section 171B Particulars of Councillors Interests, and changes to their interests, to be recorded on their register of interests within 30 days.	85 penalty units Not an integrity offence	No intent element
	100 penalty units Integrity Offence	Intent element
Section 175C (2) Failure to inform of a material personal interest or to leave the place	85 penalty units Integrity Offence	No intent element

Existing offence section	Maximum penalty if contravened	Intent Element?
where the meeting is being held.	200 penalty units or 2 years imprisonment  Integrity Offence	Intent Element
Section 175E (2) Failure to inform a meeting of a conflict of interest.	100 penalty units or 1 year imprisonment  Integrity Offence	No intent element
Section 175E (5) Failure to comply with a decision of council that a conflicted councillor must leave the meeting.	100 penalty units or 1 year imprisonment  Integrity Offence	No intent element
Section 175I (2) Offence for councillor with material personal interest or conflict of interest to influence or attempt to influence another councillor to vote in a particular way.	200 penalty units or 2 years imprisonment  Integrity Offence	No intent element
Section 175I(3) Offence for councillor with a material personal interest to influence or attempt to influence a local government employee to decide a matter in a particular way.	200 penalty units or 2 years imprisonment.  Integrity Offence	No intent element

The new section 198D could reasonably be expected to have the following consequences:

- It will consistently increase the maximum penalty that applies to the contravention of relevant integrity provisions;
- Contravention of relevant integrity provisions will be more difficult to prosecute than they presently are, in the local government context;
- Non-compliance with relevant integrity provisions will predominantly be dealt with as misconduct.

Under the existing legislation the OIA can effectively elect to deal with a contravention of an offence provision either as misconduct or by commencing a criminal prosecution in the Magistrates Court.





In practice the OIA has, to date, elected to deal with all breaches of these provisions as misconduct. However the OIA has consistently communicated to councillors that a matter may be escalated to be dealt with as a criminal offence if:

1. the conduct results in the councillor or a close associate receiving a benefit or avoiding a loss;
2. the councillor has been found by the Councillor Conduct Tribunal to have engaged in misconduct in similar circumstances, or otherwise has a significant disciplinary history, and the councillor has not responded to the opportunity provided by the disciplinary approach to modify their conduct.<sup>6</sup>

The amendments in the proposed bill will in effect remove the OIA's ability to escalate matters that fall into the above categories, unless the intent element can be proven.

As such, the statutory offences are likely to be less effective in practise as a deterrent for councillor corrupt conduct or misconduct.

### **Section 198E**

The requirement in s198E to obtain the consent of the Director of Public Prosecutions to commence proceedings, and the introduction of an option for a councillor to elect to have their matter dealt with on indictment, would seem to have the effect in practice of limiting the Independent Assessor's prosecution function in section 150CU, in so far as it applies to the relevant integrity provisions referred to in section 198D.

This may mean that prosecutions under s198D are prosecuted by the Director of Prosecutions but that other existing offences, which are not relevant integrity provisions under section 198D, will continue to be the prosecuted by the OIA including frivolous and vexatious complainants and offences relating to the misuse of council information by councillors.

### **Conclusion**

In preparing this submission the OIA has focused on those aspects of the proposed Bill that relate to the local government context and the OIA's functions.

Observations have also been offered arising out of the OIA's experience in dealing with conflict of interest matters at a local government level over the past 13 months, and how the proposed Bill is likely to operate in practice.

I trust this submission is of assistance to the Committee in considering the Bill.

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<sup>6</sup> Refer also to the OIA prosecution policy <https://oia.qld.gov.au/resources/oia/policy/guidelines-for-commencing-a-prosecution-under-lga.pdf>

31 January 2020

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

Via email: [egc@parliament.qld.gov.au](mailto:egc@parliament.qld.gov.au)

Dear Committee Secretary

I refer to the Economics and Governance Committee's (the Committee) invitation for a further submission on the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill).

Please find attached a further submission by the Office of the Independent Assessor (OIA) in relation to the Bill.

The OIA thanks the Committee for the opportunity to further comment on the Bill.

If required, I am available to address further any matters contained in this further submission at any inquiry held in relation to the Bill.

Should you require any further information please contact Ms Nicole Butler, OIA Director of Media and Engagement, by telephone [REDACTED] or via email [REDACTED]

Sincerely



Kathleen Florian  
Independent Assessor

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Office of the **Independent Assessor**

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Thank you for your email dated 28 January 2020 calling for further submissions in relation to the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019* (the Bill).

I note the Economics and Governance Committee (the Committee) has invited further input regarding:

The Crime and Corruption Commission's (CCC) proposal to introduce strict liability offences for [contravention of conflict of interest and register of interest requirements], and to extend their application to all State Members of Parliament, in addition to Ministers and Councillors (and Councillor advisors). Accordingly, **the Committee is calling for submissions on the CCC's reform proposals.**

In making this submission the Office of the Independent Assessor's (OIA) comments are limited to:

- the CCC recommendations made in a media release dated 6 September 2019 in relation to state government ministers' conflict of interest and decision-making;
- the existing strict liability offences that apply to local government councillors under the *Local Government Act 2009*;
- the OIA's experience in enforcing the existing councillor conduct framework; and
- the submission and evidence of the CCC to the Committee in respect of the Bill.

The OIA has no comment on the question of whether proposed offences should be extended to all members of state parliament, as this issue is outside the scope of the OIA's functions.

### **CCC media release dated 6 September 2019**

On 6 September 2019 the CCC issued a media release regarding their assessment of allegations in relation to a State Government Minister, conflict of interest and decision-making relating to the Cross River Rail Project and the Inner City South State Secondary College. Relevant to this submission, the CCC made the following recommendations:

#### **Recommendation 3:**

*Parliament create a criminal offence for occasions when a member of Cabinet does not declare a conflict that does, or may conflict, with their ability to discharge their responsibilities.*

*Creating a criminal offence will strengthen the framework and obligations on Ministers to ensure disclosure and management of actual, potential or perceived conflicts of interest occurs. Failure to do so could, in certain circumstances, be considered corrupt conduct, as defined in the Crime and Corruption Act 2001.*

#### **Recommendation 4:**

*That Parliament create a criminal offence to apply when a member of Cabinet fails to comply with the requirements of the Register of Members' Interests, and the Register of Members' Related Persons Interests by not informing the Clerk of Parliament, in the approved form, of the particulars of an interest*

Office of the **Independent Assessor**

or the change to an interest within one month after the interest arises or the change happens. A suitable penalty should apply, including possible removal from office, if it is found that the Member’s lack of compliance was intentional.

The CCC further noted that **this would align the obligations of elected officials in state government with the obligations of elected officials in local government** [emphasis added]. This recommendation is consistent with the recommendations for local government made by the CCC arising out of Operation Belcarra.

**Obligations that apply to elected officials in local government**

The *Local Government Act 2009* was amended in 2018 to introduce strict liability criminal offences for local government councillors who failed to disclose or properly manage their interests at council meetings and for councillors who failed to update their register of interests within the required timeframe. These are hereafter referred to as “interest offences”.

The offences introduced included both strict liability offences and offences that included a dishonest intent. Existing offences relevant to this submission are set out as follows:

Existing offence section	Maximum penalty if contravened	Intent Element
Section 171B Particulars of Councillors Interests, and changes to their interests, to be recorded on their register of interests within 30 days.	85 penalty units Not an integrity offence	No intent element
	100 penalty units Integrity Offence	Intent element
Existing offence section	Maximum penalty if contravened	Intent Element
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Existing offence section	Maximum penalty if contravened	Intent Element
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Section 175I(3) Offence for councillor with a material personal interest to influence or attempt to influence a local government employee to decide a matter in a particular way.	200 penalty units or 2 years imprisonment. Integrity Offence	No intent element

Under the existing legislation the OIA can effectively elect to deal with a contravention of an offence provision either as misconduct or by commencing a criminal prosecution in the Magistrates Court.

**How the OIA has enforced these provisions**

In the OIA’s experience, councillor compliance with interest offences has not been strong historically. Lack of clarity or capacity to understand the standards applied to councillors and lack of consistent focus or enforcement of standards were contributing factors.

Due to these capacity and clarity issues the OIA has, to date, dealt with all breaches of the interest offences as misconduct, rather than criminal offences.

Dealing with matters as misconduct means that they are dealt with on a disciplinary basis. The objective of disciplinary schemes is to improve compliance with relevant provisions through counselling, education and, if appropriate, the individual and general deterrence that results from public admissions of misconduct, the imposition of fines or other penalties. At the higher end, recommendations can be made to the Local Government Minister that a councillor be suspended for a period or dismissed.

The OIA has observed improved compliance with these provisions over time as councillors have become more familiar with the legislative scheme, responded to the increased focus on integrity and

## Office of the **Independent Assessor**

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accountability, and received more information about how the Councillor Conduct Tribunal is applying standards.

There are significant differences in how councillors now disclose and manage conflicts of interest and update their registers of interests compared to two years ago.

While no statutory offences have been commenced to date, the OIA has consistently communicated to councillors that the OIA will elect to deal with a breach of the relevant provisions criminally if the circumstances of the breach are so serious that this is warranted (for example where the failure has resulted in a councillor accruing a significant benefit or avoiding a significant loss, as a result of a council decision they participated in), or if repeated disciplinary outcomes have not been effective in modifying the councillor's conduct.

It is submitted that this response is measured and balanced against the background of changing cultural standards and practice and importantly, retains an avenue to escalate matters to a lower-level criminal offence in appropriate circumstances.

### **New councillor conduct provisions**

The amendments contained in the Bill which are currently under consideration do not create interest offences for State Cabinet members that align with the obligations of elected officials in local government.

In effect, they create a new approach to offences that are then applied at both a state and local government level.

This new approach differs from the existing local government provisions in the following ways:

1. It increases all penalties to a maximum of two years' imprisonment, whereas present penalties range from 85 penalty units to two years' imprisonment.
2. It introduces an intent element in all offences, where currently there are strict liability options (no requirement to prove intent) for all current offences.
3. It requires the consent of the Director of Public Prosecutions (DPP) to charge.
4. It allows councillors/cabinet ministers to elect to have summary offences dealt with on indictment.

From a local government perspective this will make offences against interest provisions more difficult to prove and to prosecute. It will also mean that any prosecutions that do occur will mostly likely be undertaken by the DPP. As different agencies will be dealing with breaches of the same provisions at both a disciplinary and criminal level, the potential is created for some inconsistency in how the relevant provisions are applied.

As the OIA already primarily deals with breaches as misconduct the effect of these provisions in the local government space is:

## Office of the Independent Assessor

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1. to remove/reduce the avenue to escalate the response to a councillor whose conduct is more serious, or to a councillor who has not been responsive to the opportunity to change their conduct through the disciplinary process.
2. to reduce the existing level of deterrence for breaches of these provisions (in practical terms).
3. that serious and recidivist matters in the future are more likely to be dealt with as misconduct with submissions on sanctions that a recommendation be made to the relevant minister that a councillor be suspended or dismissed from Office. This may raise concerns or perceptions, about the independence of such decision-making, as compared to a dismissal that flows from a conviction in a criminal court.

### The CCC's submissions to the Committee in January 2020

The CCC's written and oral submissions concluded that the Bill in its current form did not implement the CCC's recommendations arising out of Operation Belcarra and the assessment of a complaint in relation to the Cross River Rail Project. They identified the main area of concern as *"the CCC considers that the Bill did not achieve the purpose of the CCC's recommendations 3 and 4 to create interest offences that would strengthen the framework and obligations on ministers to avoid conflicts of interest and update their registers of interests"*.

As the CCC would seem to be best placed to comment on whether the proposed Bill achieves the purpose of the CCC's recommendations the OIA does not see the need to comment on this.

In arriving at this conclusion however, the CCC made the following points:

1. That the new offences could be said to overlap with more serious offences already in existence namely section 92A of the Criminal Code, Misconduct in Public Office and section 408C of the Criminal Code, Fraud in Public Office, but apply a substantially lower penalty.

The OIA agrees with this observation.

2. That the requirement for proof of dishonest intent should be removed in the proposed lower level offence.

The OIA notes there are many examples of offences in criminal law, even very serious offences, that require no proof of intent, or which require proof of a lower threshold such as that a *person knew or ought reasonably to have known*. The proposed offences in the Bill are low-level misdemeanors.

Whether there is a sufficient evidence basis to support a strict liability misdemeanor to apply to state cabinet ministers is not a question for the OIA. However, the OIA submits its experience in enforcing the existing councillor conduct framework, which includes such offences and their deterrent effect, is relevant to the Committee's consideration of this issue.

### Conclusion

The Committee has invited submissions that directly address the proposal of the CCC to introduce strict liability offences for [contravention of conflict of interest and register of interest requirements], and to

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Office of the **Independent Assessor**

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extend their application to all State Members of Parliament, in addition to ministers and councillors (and councillor advisors).

Given the role and functions of the OIA it is not appropriate for the OIA to comment on the policy need for such offences at the state level or whether such offences should apply to parliamentarians more broadly.

Relevant to the local government environment however that OIA submits that:

Strict liability offences, as described by the CCC, have existed in the local government context since 2018.

The Bill does not align the obligations of elected officials in state government with the obligations of elected officials in local government as recommended by the CCC, but rather creates a new scheme of offences.

While contraventions of these provisions at a local government level have to date been dealt with as misconduct, the existing offences at the local government level are, in the OIA's view, effective as a deterrent and provide a means to escalate a response to a councillor in more serious matters, or in matters where the disciplinary approach has been unsuccessful in modifying a councillor's conduct.

There may be some unintended consequences from the application of the new scheme to local government including reduced deterrence, potential inconsistencies in approaches at a misconduct and criminal level and the likelihood that the scheme will result in a minister making more decisions about whether a councillor should be dismissed from office, rather than that outcome flowing from a criminal conviction.

The OIA supports the CCC's submission in relation to the offences in the proposed Bill being a potential duplication of existing, more serious, criminal offences that also apply in the local government context.

The OIA supports the CCC's recommendation that the proposed offences being strict liability offences given the OIA's own experience of the existing councillor conduct scheme which is graduated and measured but also provides opportunities to escalate to conduct offences in appropriate circumstances.

The OIA submits that the existing councillor conduct scheme is producing positive indications of improving capacity and compliance.