Queensland Government

Department of Local Government, Racing and Multicultural Affairs

Our ref: OUT18/1828

Your ref: A293891

6 April 2018

Mr Linus Power MP
Chair
Economics and Governance Committee
egc@parliament.qld.gov.au

Dear Mr Power

I refer to your letter of 12 March 2018 to Ms Tamara O'Shea, then Acting Director-General, Department of Local Government, Racing and Multicultural Affairs regarding the Economics and Governance Committee's inquiry into the Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018.

As requested, please find attached the written response prepared by the Department, in consultation with the Department of Justice and Attorney-General, on the issues raised in submissions published by the Committee.

I would also like to thank you for agreeing to extend the time for the Department's written response to be provided to the Committee.

If you require further information, I encourage you to contact Ms Josie Hawthorne, Acting Director, Legislation Services in the Department on [redacted] or by email at [redacted].

Yours sincerely

Greg Chemello
Acting Director-General

Enc

1 William Street Brisbane
PO Box 15009 City East
Queensland 4002 Australia
Telephone +617 3452 7009
ABN 251 66 523 889

Economics and Governance Committee

Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018

Department of Local Government, Racing and Multicultural Affairs response to submissions

Sub No.	Submitter	Sub No.	Submitter
1	Dereka Ogden	23	Redlands2030
2	Robyn Deane	24	Urban Development Institute of Australia
3	Patrick Corballis	25	Your Community First Inc
4	Confidential	26	Nicki Cassimatis
5	Housing Industry Association	27	Clara Clynick
R	John and Kathryn Edwards	28	The Main Beach Association Inc
7	Greg Smith	29	Queensland Audit Office
8	Noosa Council	30	Coolum Residents Association
9	Mark Stuart-Jones	31	Development Watch Inc
10	Judy Andrews	32	Gecko Environment Council Association Inc
11	Organisation Sunshine Coast Association of Residents	33	John Woodlock
12	Georgina Claridge	34	Sunshine Coast Environment Council
13	Livingstone Shire Council	35	Brisbane Residents United
14	Terry Winston	36	Park It (Park in Toowong)
15	Kenneth Park	37	Queensland Law Society
16	Property Council of Australia	38	Electoral Commission of Queensland
17	Denise Ravenscroft	39	Queensland Local Government Alliance Inc
18	Crime and Corruption Commission	40	Local Government Association of Queensland
19	Bill Sokolich	41	Moreton Bay Regional Council
20	Ngaire Stirling	42	Environmental Defenders Office
21	Save Our Broadwater	43	Redland City Council
22	Pat Coleman		

CONTENTS

Part A: General support for the Bill and implementation issues

Submitter/Submission Key Points	Departmental response
The submitter generally supports the Bill	
Greg Smith – 007 Submits that the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 reflected the intention of the CCC, and the desire of the community, for reform in the area of developer donations and handling of conflict of interest by councillors and believes the new iteration of the Bill meets the same criteria. Judy Andrews – 010 • supports the proposed changes to the Local government legislation in the Bill • submits that the amendments will help prevent corruption and negligence in complying to requirements as well as removing a temptation by prohibiting developer donations. Georgina Claridge – 012 Submits that the Bill should be passed to stop corruption within local councils to stop development corruption mostly so society can run properly. Livingstone Shire Council – 013 • commends the Queensland Government on identifying recommendations to strengthen the transparency and integrity in local governments throughout Queensland • acknowledges and generally supports the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017. Crime and Corruption Commission (CCC) – 018 Submits that the Bill generally represents sound policy regarding its proposed reforms to the *City of Brisbane Act 2010* and the *Local Government Act 2009*. These proposals are implemented in a manner consistent with the Belcarra Report recommendations 23 - 26. The reforms strengthen processes regarding the disclosure, management and enforcement of councillor obligations concerning conflicts of interests and material personal interests. The CCC considers that the Bill appropriately addresses recommendations 23 – 26. The CCC supports these reforms. Bill Sokolich – 019 • supports this Bill • supports transparency and better control of 'legal games' that councils engage in such as: opposing a DA and then conducting a false negotiation where sometimes MORE development rights are granted – often with numbers of blocks. Court must check community interests with any 'out of court settlement'. Redlands2030 – 023 • submits the proposed laws are a step in the right direction but there is scope for further reform and further clarification • submits many of the proposed law reforms dealing with conflicts of interest are sensible and are supported.	The submitters' support for the Bill is welcomed.

Submitter/Submission Key Points	Departmental response
The submitter generally supports the Bill	
The Main Beach Association of Queensland – 028 Strongly endorses the detailed submissions being made by organisations such as Gecko and Save Surfers Paradise, and hopes that the implementation of Stage 1 of the Belcarra recommendations leads to a much more representative and accountable Council on the Gold Coast. Queensland Audit Office – 029 Supports the recommendations made by the Crime and Corruption Commission in their Belcarra Report and this subsequent Bill to implement these recommendations. Gecko Environment Council – 032 • congratulates the Government for drafting this Bill early in its term and introducing legislative measures to restore public confidence in the integrity, transparency and accountability of elected officials • offers support for the Government's response to recommendations 20 and 23 to 26 of the Belcarra Report. John Woodlock – 033 Congratulates the Government for introducing the Bill. Sunshine Coast Environment Council – 034 • commends the Government for taking this step to introduce some of the recommendations from the compelling Belcarra Report findings • highlights the significance of the following recommendations and urge they pass into legislation o banning donations from property developers for candidates, third parties, political parties and councillors and proposed to be extended to Members of State Parliament o strengthening the process associated with the declaration of councillor conflicts of interest, the management of conflicts of interest and material personal interests within council meetings and penalties for non-compliance. Brisbane Residents United – 035 Submits the Bill goes some way to meeting the intention of the CCC, and the desire of the community, for reform in the area of developer donations and handling of Conflicts of Interest by councillors. Park It (Park in Toowong) – 036 Submits that the Bill goes some way to meeting the intention of the CCC, and the desire of the community, for reform in the area of developer donations and handling of Conflicts of Interest by councillors. Environment Defenders Office – 043 Overall, support for the Bill, but notes that more needs to be done in Queensland to increase integrity, accountability and transparency of decision making to ensure it is in the public interest.	

Submitter/Submission Key Points	Departmental response
The submitter generally does not support the Bill	
Local Government Association of Queensland (LGAQ) – 040 • recommends that the Bill NOT be passed and that a comprehensive Bill responding to all aspects of the CCC report be developed with proper consultation with the community • submits that such a consultation process would allow the issues identified by the LGAQ to be properly considered and addressed, including: o whether, in light of NSW's experience and ICAC reports, a developer donation ban is the best solution to address the continued public concern about the influence of property developer donations on council decision-making identified by the CCC, or whether alternative solutions, such as a new requirement that councillors remove themselves from the meeting if they have received a gift or donation from the developer who has a matter being debated at the meeting, might be preferable; and o why the provisions to empower councils to force councillors to leave a meeting over a conflict of interest that they may not even have and to require a councillor to report their suspicions about another councillor's material personal interest or conflict of interest should be reintroduced given their removal in 2011.	The LGAQ's submission that the Bill not be passed is noted. The Government's response supports or supports in principle all 31 recommendations of the Crime and Corruption Commission's (CCC) report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* (the Belcarra Report). In relation to the LGAQ's submission that the Bill not be passed and that a comprehensive Bill responding to all aspects of the CCC's report be developed, the explanatory notes provide that the Bill is the first stage of integrity reforms to implement the Government's response to recommendations 20 and 23 to 26 of the Belcarra Report, considered significant and urgent by the Government. In the introductory speech for the Bill, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs stated that as indicated by the short title of the Bill, the Bill represents the first stage of the Palaszczuk Government's reform agenda, not only in implementing the remaining recommendations of Operation Belcarra but also in further reforms aimed at reinforcing integrity, minimising the risk of corruption and providing for increased transparency and accountability at both state and local government levels. In relation to the LGAQ's submission about consultation, Operation Belcarra was initiated by the CCC following receipt of more than 30 complaints about the conduct of candidates for several councils in the 2016 local government elections. The CCC conducted nine days of public hearings, and took evidence from 40 witnesses, including candidates, donors, the Electoral Commissioner and the LGAQ. In addition, the CCC invited written submissions from a range of key stakeholders including registered political parties, the LGAQ and academic experts. Six written submissions were received. Further, the Government made an election commitment to re-introduce legislation to ensure the ban on political donations by property developers applies at both the state and local levels.

Submitter/Submission Key Points	Departmental response
Implementation issues	
Organisation Sunshine Coast Association of Residents – 011 • submits that mandatory training be undertaken by all councillors regardless of their period of incumbency in relation to the amended Act • submits mandatory training be undertaken by all Regional Disciplinary Regional Panel members both in relation to the changes to the Act and the Act in its entirety. Kenneth Park – 015 Submits that the proposed legislation does not strengthen the role of the Department of Local Government in monitoring and policing the elimination of corruption and declarations of interests. The present system relies upon self regulation and complaints from the public. That is hardly satisfactory given the response to the many complaints that have achieved nothing. Sunshine Coast Environment Council – 034 Following the passing of the Bill and subsequent changes to the LGEA, submitter requests that mandatory training be undertaken by ALL councillors regardless of their period of incumbency in relation to the amended Act and that mandatory training is undertaken by all Regional Disciplinary Panel Members both in relation to the changes to the Act and the Act in its entirety. Redland City Council – 043 Submits provision should be made for resourcing the Electoral Commission, Integrity Commissioner and the Department of Infrastructure, Local Government and Planning to fully implement the report findings.	The following responds to specific issues in submissions: • DLGRMA will be undertaking training and developing materials to provide additional guidance to councillors on what constitutes a material personal interest and a conflict of interest. Although the training will not be mandatory it will be offered to all councillors. • Recommendation 12 of the Belcarra Report was that the LGEA be amended to make attendance at a DILGP information session a mandatory requirement of nomination. The Belcarra Report stated that these information sessions '*can play an important role in helping to ensure that prospective candidates understand their obligations during the election campaign, and also upon election as a councillor, relevant to some of the issues discussed in Chapter 13 (Perceptions of compromised council processes and decision-making)*' (page 69). The Government's response supported this recommendation and noted that further consideration would be given to the content and timing of the sessions, whether it would be more appropriate for the ECQ to conduct these sessions and measures to ensure attendance and engagement by candidates is monitored. • The Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 will, if passed, reallocate the responsibilities of the current Local Government Remuneration and Discipline Tribunal and the Regional Conduct Review Panels by establishing the Councillor Conduct Tribunal which will hear and decide allegations of misconduct by councillors and the Local Government Remuneration Commission which will decide maximum remuneration payable to councillors. • Any resourcing costs of implementation will be met through normal budgetary processes.

Part B: Prohibition on political donations from property developers

Parts 3 and 5 of the Bill – amendments to the *Electoral Act 1992* (EA) and the *Local Government Electoral Act 2011* (LGEA)

CCC Recommendation 20 – *"That the Local Government Electoral Act, the Local Government Act and the City of Brisbane Act be amended to prohibit candidates, groups of candidates, third parties, political candidates, third parties, political parties associated entities and councillors from receiving gifts from property developers. This prohibition should reflect the New South Wales provisions as far as possible, including by defining a property developer (s. 96GB, Election Funding, Expenditure and Disclosures Act), making a range of donations unlawful, including a person making a donation on behalf of a prohibited donor and a prohibited donor soliciting another person to make a donation (s. 96GA) and making it an offence for a person to circumvent or attempt to circumvent the legislation (s. 96HB). Prosecutions for relevant offences should be able to be started at any time within four years after the offence was committed and suitable penalties should apply, including possible removal from office."*
Government response – The government supports this recommendation. The recommended prohibition on property developer donations will be modelled on section 96GA and 96GB of the *Election Funding, Expenditure and Disclosures Act 1981* (NSW).
Clauses of the Bill – Part 3 (clauses 9 – 20) and Part 5 (clauses 27 – 35)

Submitter/Submission Key Points	Departmental response
Recommendation 20 implementation supported **Part 3 (Amendment of *Electoral Act 1992*) and Part 5 (Amendment of *Local Government Electoral Act 2011*)**	
Greg Smith – 007 Strongly supports the changes proposed in relation to developer donations. Noosa Council – 008 Supports a ban on developer electoral donations for local government. Mark Stuart-Jones – 009 Strongly supports all recommendations, in particular the recommendations pertaining to political donations to implement fair and balanced local and state government elections and preventing corruption of the political process. Redlands2030 – 023 Agrees with targeted prohibitions on particular classes of political donor, including property developers. Development Watch Inc. – 031 Agrees with the banning of donations from property developers for candidates, groups of candidates, third parties, political parties, associated entities and councillors including the state government. Gecko Environment Council Association Inc – 032 Supports the ban of donations from property developers to candidates, third parties and councillors. Sunshine Coast Environment Council – 034 Supports the ban of donations from property developers to candidates, third parties and councillors and extended to the state government.	Noted.

Submitter/Submission Key Points	Departmental response
Recommendation 20 implementation supported **Part 3 (Amendment of *Electoral Act 1992*) and Part 5 (Amendment of *Local Government Electoral Act 2011*)**	
Brisbane Residents United – 035 Supports the ban on developer donations. Park It (Park in Toowong) – 036 Supports the ban on developer donations. Queensland Local Government Reform Alliance Inc – 039 Expresses supports in principle of the ban, but concerned this is a very small part of the problem.	

Submitter/Submission Key Points	Departmental response
Recommendation 20 implementation not supported **Part 3 (Amendment of *Electoral Act 1992*) and Part 5 (Amendment of *Local Government Electoral Act 2011*)**	
Livingstone Shire Council – 013 This Council does not support the prohibition on political donations from property developers. Opposed to banning donations from categories or classes of donors. Instead supports the recommendations of the Local Government Association of Queensland (LGAQ) including disclosures by groups of candidates, banning donations from a political party to non-endorsed candidates and a system of campaign spending caps. Property Council of Australia – 016 Expresses the view that the property industry is unfairly targeted and is unduly branded as a corruption risk. A broader investigation would have uncovered probity concerns more widespread than just the development sector which may have led to a prohibition affecting a broader cross-section of stakeholders. Alternative regulatory solutions such as donation caps, campaign expenditure caps and lower disclosure thresholds could be explored as more effective means of achieving the stated objectives of the Bill. Local Government Association of Queensland – 040 Opposed to banning donations from property developers. A 2016 ICAC investigation (Operation Spicer), for example, exposed fund channelling in the NSW Liberal Party's 2011 state election campaign with the intention of evading the ban on donations from property developers. The LGAQ submits that this proves their point.	Noted.

Submitter/Submission Key Points	Departmental response
Why does the ban only apply to property developers and not to other organisations? **Part 3 (Amendment of *Electoral Act 1992*) and Part 5 (Amendment of *Local Government Electoral Act 2011*)**	
Patrick Corballis – 003 Submits that all Federal and state political donations for council candidates should be banned. Housing Industry Association (HIA) – 005 HIA does not understand why the property development industry has been singled out. HIA submits there are other industries and organisations that have just as much potential to use political donations inappropriately. Terry Winston – 014 Suggested banning of donations from the following: unions; members (both sitting or ex) of / and political parties; professional entities associated with Council i.e. legal & accounting firms; companies associated with tendering and contracts with Council; businesses planning to / conducting environmentally relevant activities; and waste disposal companies. Kenneth Park – 015 • states that corrupting donations can also originate from tenderers, those seeking to buy council assets or to sell things to the council, those seeking a favourable deal or discount from the council • states that it is not only property developers that benefit, many businesses go to some effort to hide their identity through shelf companies or multiple business identities. Pat Coleman – 022 Indicates that the ban should be extended to others, such as those involved in the construction; ring roads/bridges or airport 2nd runway builders; fossil fuel; real estate; mining; arms; defence contracting; liquor or gambling industry business entities; pharmaceutical; waste/recycling; water infrastructure; pipe builders; layers or consulting engineers; tobacco industry business entity; or from any other industry that would normally have contractual dealings with government at any level. Redlands2030 – 023 States that the ban should be extended to large aged care facilities and companies who regularly seek to be awarded large contracts for supply of goods and services by councils and the state government (for example rubbish collection businesses). Urban Institute of Australia Queensland – 024 Concerned the Bill singles out one industry. Many entities including mining, medical and infrastructure make financial contributions to political candidates and parties. If it is necessary to ban industry donations, a ban on donations from all industries should be considered. Carla Clynick – 027 Recommends the ban should be extended to all corporate donations, including from mining companies, the tobacco industry etc to prevent loopholes.	This is a matter of policy for government. The CCC was very clear in its consideration of this issue indicating that until such time as other donors demonstrate the same risk of actual or perceived corruption in Queensland local government as property developers, a more encompassing ban is not appropriate. (pages 78-79 of the Belcarra Report).

Submitter/Submission Key Points	Departmental response
Gecko Environment Council Association Inc. – 032 Supports the ban but should be extended to all "for-profit" corporations, including mining and gambling. John Woodlock – 033 States that the ban should be extended to all corporate donations, including from mining companies, tobacco industry etc to prevent loopholes. Brisbane Residents United – 035 Indicates that the ban should be extended to retirement villages; aged care facilities; organisations which may benefit from regulatory and procurement decision making by local councils; mining companies; and the tobacco industry to prevent loopholes. Park It (Park in Toowong) – 036 States that the ban should be extended to retirement villages; aged care facilities; organisations which may benefit from regulatory and procurement decision making by local councils; mining companies; and the tobacco industry to prevent loopholes. Queensland Local Government Reform Alliance Inc. – 039 Supports extending the ban to third party trust funds and other entities who donate to re-election campaigns. Environmental Defenders Office – 042 Advocates extending the ban to all corporate donations to candidates, third parties, political parties and councillors to reduce loopholes. Redland City Council – 043 Advocates extending the prohibition of political donations from developers to include all corporate donations and potential lobby groups.	

Submitter/Submission Key Points	Departmental response
Definition of 'political donation' **Clause 13 (New section 274 Electoral Act) and clause 30 (New section 113A LGEA)**	
Electoral Commission of Queensland (ECQ) – 038 • submits that the Bill has the effect of creating a new class of gift that seems overly complicated in the Queensland context. In the ECQ's view, a simpler construction would be to link prohibited donors to gifts in general • refers to problems associated with identifying and reporting gifts which transition from being standard gifts to being political donations upon their use for an electoral purpose. In the ECQ's view, this goes to the practicality of instigating investigations and taking compliance and/or enforcement actions against parties who may commit related offences and providing advice to the public • states that NSW has a monetary cap on 'political donations' which makes the scheme's operation in Queensland different to NSW. Urban Institute of Australia Queensland – 024 Submits the definition of "gift" is broad and has unintended consequences for industry organisations. By way of example, if an industry organisation hosts an elected member at an event, which is sponsored and for which attendees pay an admission fee to the organisation; is it arguable that this amounts to the provision of a service by the industry organisation for the benefit of the elected member or political party that is within the definition of 'gift' and therefore a prohibited political donation?	The Government has committed to implementing recommendation 20 of the Belcarra Report at both the State and Local Government level. Recommendation 20 recommended that any prohibition on political donations from property developers should reflect the New South Wales provisions as far as possible. The Bill: • makes unlawful the making and acceptance of political donations made by or on behalf of prohibited donors; • makes it unlawful for prohibited donors (or others on their behalf) to solicit other persons to make political donations. A 'political donation' is defined to include not only a gift made to or for the benefit of: • a political party, elected member of state parliament or a candidate in a state election (Electoral Act) • a political party, councillor or candidate or group of candidates in a local government election (LGEA) but also includes gifts made to or for the benefit of another entity • to enable the entity (directly or indirectly) to make a gift mentioned above or to incur electoral expenditure; or • to reimburse the entity (directly or indirectly) for making a gift mentioned above or incurring electoral expenditure. Gifts are defined in section 201 of the Electoral Act. For the purpose of the prohibited donor provisions, 'gift' will be defined in new section 113A(4) of the LGEA. The Bill further provides that gifts made by a person in a private capacity to an individual (the recipient) for the recipient's personal use, which the recipient does not intend to use for an electoral purpose, is not a political donation. However, if any part of that gift is used for an electoral purpose, then, that part of the gift is a political donation and the recipient is taken to accept that part of the gift at the time it is used for an electoral purpose. The Bill's approach is consistent with section 261(5) of the Electoral Act and section 107(2) of the LGEA. As outlined above, the term 'political donation' used in the Bill incorporates the concept of 'gift'. Differing terminology should not affect the reporting requirements of the ECQ. As the proposed amendments make it unlawful for a prohibited donor to make a political donation, and for a person to accept a political donation by or on behalf of a prohibited donor, donations of this type should not be made and accordingly would not be reported on the Electronic Disclosure System.

Submitter/Submission Key Points	Departmental response
Definition of 'political donation' **Clause 13 (New section 274 Electoral Act) and clause 30 (New section 113A LGEA)**	
	In relation to ensuring compliance, there are a suite of powers under the Electoral Act that authorised officers will be able to use to investigate contraventions of the property developer donation prohibitions under both the Electoral Act and LGEA. These powers include powers to enter, search and seize as well as powers to require information in circumstances where an authorised officer suspects an offence has been committed under the election funding and financial disclosure provisions and the person may be able to give information about the offence.

Submitter/Submission Key Points	Departmental response
Definition of 'prohibited donor' **Clause 13 (New section 273 Electoral Act) and clause 30 (New section 113 LGEA)**	
Development Watch Inc. – 031 Indicates that the definition of "prohibited donor" is not clear. Gecko Environment Council Association Inc. – 032 Concerned that property developers instruct their consultants (town planners, surveyors, architects, engineers etc) to make political donations or to act as third parties in the transfer of donations to candidates.	For the purposes of the Bill, a prohibited donor means a property developer or an industry representative organisation a majority of the members of which are property developers. A prohibited donor does not include an entity for whom a determination by the Electoral Commissioner is in effect. The term industry representative organisation is not defined in the Act and is to be given its ordinary meaning. Each of the following is a property developer: • a corporation engaged in a business that regularly involves the making of relevant planning applications by or on behalf of a corporation in connection with the residential or commercial development of land and with the ultimate purposes of the sale or lease of land for profit; and • a close associate of a corporation mentioned above. Where a person or business is unsure about whether they are captured by the definition of prohibited donor, they should seek independent legal advice and it is open to them to make an application to the Electoral Commissioner for a determination under proposed sections 277 of the Electoral Act and 113D of the LGEA. Further, proposed new sections 275(4) of the Electoral Act and 113B(4) of the LGEA make it unlawful for a prohibited donor to solicit a person to make a political donation or for a person to solicit, on behalf of a prohibited donor, another person to make a political donation.

Submitter/Submission Key Points	Departmental response
Definition of 'property developer' **Clause 13 (New section 273(2) Electoral Act) and clause 30 (New section 113(2) LGEA)**	
Dereka Ogden – 001 Proposes that developer donations should be limited to $1,000. Robyn Deane – 002 States that the definition of a "developer" seems to be too narrow and does not include many individuals or entities which may have vested interests in decisions especially at local government level. Patrick Corballis – 003 Expresses the view that all and every type of property developer donation should be banned. Housing Industry Association (HIA) – 005 • HIA has concerns the definition of "property developer" is extraordinarily broad and vague • notes that under the current system, house construction routinely requires a planning as well as building approval before construction commences, accordingly, the HIA queries whether the Bill intends to capture builders who regularly make planning applications for boundary relaxations, driveway constructions, a carport or shade sail; or certifiers or planners who often make planning applications of behalf of the builder and their client; or the HIA, many of whose members are builders who regularly make planning applications. Noosa Council – 008 Submits that the definition of "developer" should be broader in two respects: (1) the definition only refers to the development of "land" – this should include "development" to include subdivision and development of buildings as well; and (2) the definition only refers to "corporations" – this should be broadened to include other types of developers (trusts, major individual developers who do not operate under a corporate structure", but not "mum and dad" applicants). Organisation Sunshine Coast Association of Residents (OSCAR) – 011 • Seeks clarification of the definition of "developer" - 1. Does the definition include individuals or companies undertaking development of retirement villages, nursing homes and other specialist housing types? 2. Does the definition include individuals or companies undertaking establishment of quarries, sand mines and similar commercial ventures? 3. Does the definition include councillors who have a business relationship with a developer but that does not necessarily include donations or gifts, but may include financial transactions? 4. What does the term "regularly" mean? How many applications over what period of time would constitute "regularly" (sub section (2) (a) (a))?	This is a matter of policy for government. The Government committed to implementing recommendation 20 of the Belcarra Report at both the state and local Government level. Recommendation 20 recommended that any prohibition on political donations from property developers should reflect the New South Wales provisions as far as possible. Accordingly, the Bill follows the New South Wales legislation (Part 6, Division 4A of New South Wales' *Election Funding, Expenditure and Disclosures Act 1981*) which restricts donations from a property developer that is a corporation and their close associates such as related corporations, directors and their spouses, as well as any industry representative organisation whose members are mainly property developers. The NSW provisions have been operational over a number of years and have been held to be constitutionally valid by the High Court. Property development activities are commonly structured using corporations having regard to limitation of liability and taxation considerations. A prohibited donor does not include an entity for whom a determination by the Electoral Commissioner is in effect. As the Bill, the Electoral Act or LGEA does not include a definition of 'regularly', it is to be given its ordinary meaning. It is difficult to speculate as to what types of businesses fall within the definition of a property developer as any assessment would be based on type, and frequency, of their activities, their corporate structures and governance and shareholding arrangements. Where a person or business is unsure about whether they are captured by the definition of prohibited donor, they should seek independent legal advice and it is open to them to make an application to the Electoral Commissioner for a determination under proposed sections 277 of the Electoral Act and 113D of the LGEA. Where, for example, a business considers that it is not a property developer because of the low frequency of relevant planning

Submitter/Submission Key Points	Departmental response
Definition of 'property developer' **Clause 13 (New section 273(2) Electoral Act) and clause 30 (New section 113(2) LGEA)**	
Terry Winston – 014 Expresses the view that "property developer" is a very broad and generalized term. The proposal is good in theory but is a complex issue. It should cover all entities associated with developments. Property Council of Australia – 016 • received legal advice raising concerns with the adequacy of the definition of "property developer" • states that the Bill's definition of a property developer will also capture professional planning entities which provide services to property developers • it states that the definition of 'property developer' is both too broad and too narrow, it captures many individuals who stand to receive no benefit from a political donation, yet excludes many that the community would consider to be engaged in property development. The definition of "property developer" is ambiguous and will leave many entities uncertain as to whether they are captured by the prohibition. Seeks clarity on what constitutes 'regularly' as this is not defined in the Bill. Urban Institute of Australia Queensland – 024 In their view, the definition "property developer" is misleading and potentially captures a wide range of participants in the industry. Queensland Local Government Reform Alliance Inc. – 039 • definition of "property developer" being one who 'regularly' makes development applications is loose • questions, what constitutes 'regularly'.	applications made by or on its behalf, the business can apply for a determination of the Electoral Commissioner.

Submitter/Submission Key Points	Departmental response
Definition of 'close associate' **Clause 13 (New section 273(5) Electoral Act) and clause 30 (New section 113(4) LGEA)**	
Housing Industry Association (HIA) – 005 HIA has concerns with the definition of "close associate". Property Council of Australia – 016 The definition of "close associate" is broad. Terry Winston – 014 There need to be methods of identifying related entities (for example donors splitting donations using different company entities and names, spouses/relatives of donors). Ngaire Stirling – 020 Should extend to spouses, trusts held by families, donations made upon retirement.	As indicated above, the amendments contained in the Bill are modelled on Part 6, Division 4A of New South *Wales' Election Funding, Expenditure and Disclosures Act 1981* which restricts donations from a property developer that is a corporation and their close associates. The definition of "close associate" includes related corporations, directors and their spouses, officers of a corporation and their spouses; and a person with more than 20% of the voting power in the corporation or related body corporate. In terms of professionals who act for property developers, an officer of a corporation is defined with reference to section 9 of the *Corporations Act 2001* (Cth) (Corporations Act). Section 9 of the Corporations Act defines an officer of a corporation as including a person in accordance with whose instructions or wishes the directors of the corporation are accustomed to act but excludes advice given by the person in the proper performance of functions attaching to the person's professional capacity or their business relationship with the directors or the corporation.

Submitter/Submission Key Points	Departmental response
Retrospectivity **Clause 20 (New pt 13, div 9 EA) and clause 34 (New pt 11, div 3 LGEA)**	
Property Council of Australia – 016 • concerned about the retrospective provisions. In its view, it is contrary to best practice legislative principles • also states that as the Bill is not yet passed, individuals who wish to seek a section 113 determination from the electoral commissioner that they are not excluded from making donations would be unable to. Crime and Corruption Commission – 018 • states that the Bill's further proposal that the ban on developer donations will, upon commencement, operate from and including the day the lapsed Bill was introduced to parliament on 12 October 2017, involves a substantial departure from the CCC's recommendations • the Bill's clauses 20 and 34 are drafted in similar terms with the aim of ensuring the return of developer donations for political purposes associated with state and local government elections respectively made on or after 12 October 2017. While the clauses have similar legal effects they may have had different practical operation and effect for the conduct of general state and local government elections • the conversion of historical developer donations into loans or debts upon commencement does not necessarily meet the Explanatory Note's statement about the policy objective of minimising corruption risk that political donations from developers have potential to cause at both state and local government level • in their view, considerations around retrospectivity raise questions whether the clauses advance their anti-corruption purposes in a manner compatible with the maintenance of the constitutionally prescribed systems of representative and responsible government. Urban Institute of Australia Queensland – 024 States that the Bill departs from the recommendations of Belcarra particularly regarding the retrospective effect of the Bill from 12 October 2017. Queensland Law Society – 037 • states that the rule of law requires that laws are certain and capable of being known in advance. Laws that create offences or change legal rights and obligations with retrospective application undermine the rule of law and significantly disadvantage those affected by the legislation. Retrospective legislation makes laws less certain and	This is a matter of policy for government. The transitional provisions for the property developer donations prohibition apply from the date of introduction of the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 - that is the 12 October 2017. Accordingly, any payments that would be unlawful under the property developer donation prohibition which are made on or after 12 October 2017 will, on commencement, need to be repaid to the donor within 30 days of the commencement. No offence is committed in respect of donations made or received between 12 October 2017 and commencement, however a failure to repay the amount of the donation will constitute an offence.

Submitter/Submission Key Points	Departmental response
Retrospectivity **Clause 20 (New pt 13, div 9 EA) and clause 34 (New pt 11, div 3 LGEA)**	
reliable and can cause damaging practical difficulties to the individuals and organisations involved • the ability of persons to practically determine whether past donors are now prohibited donors may be difficult or impossible. At the time of receipt of these donations, people were not required to have systems in place to identify characteristics which would render a donor to be a prohibited donor. Further the person will not have had the benefit of making an application to the electoral commissioner for a determination to be made as to whether a past donor is a prohibited donor. If the Bill is passed, and adequate notice is given, then such systems are capable of being developed • considering the severity of the penalties, the QLS strongly recommends the retrospectivity of the proposed amendments by reconsidered. <u>Local Government Association of Queensland</u> – 040 Expresses the view that the retrospective application of the developer donation ban is problematic.	

Submitter/Submission Key Points	Departmental response
Application to state as well as local government **Part 3 (Amendment of *Electoral Act 1992*)**	
Livingstone Shire Council – 013 Supports that any legislative changes to improve transparency of local government elections should also be applied to state elections. Property Council of Australia – 016 Observes that the Operation Belcarra Report has made no recommendations in relation to banning donations at a state government level. Crime and Corruption Commission – 018 Indicates that the proposal to ban donations from property developers for purposes associated not only with local government elections but also state elections, involves a degree of departure from the Belcarra Report recommendations. Urban Institute of Australia Queensland – 024 States that the Bill departs from the recommendations of Belcarra particularly regarding extending Recommendation 20 banning donations from property developers to state government level. Development Watch Inc. – 031 Agrees that similar laws should apply to state government. Environmental Defenders Office – 042 States that it is commendable to extend the prohibition to state government.	Following the release of the Belcarra Report, the Premier stated "*I will not make rules for local Councils that I am not prepared to follow myself, so any changes we make will apply to state, as well as local Government*". The Bill gives effect to this commitment. As stated in the Explanatory Notes (at page 3), in Queensland the state has a significant role in state's planning framework including: ▪ administering the framework; ▪ mandating the powers that can be exercised by the Planning Minister, including approving planning schemes and other local planning instruments, sometimes deciding on a development application when council is the assessment manager; ▪ mandating the role and responsibilities of local governments; and ▪ assessing and advising on applications that trigger a state planning matter. Further, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, the Honourable Stirling Hinchliffe stated in his explanatory speech "*corruption in relation to donations from property developers, at both local government and state government levels, has been investigated and reported on by the New South Wales Independent Commission Against Corruption (ICAC)…consistent with the approach adopted in New South Wales following a number of ICAC investigations and to address the risk of corruption and undue influence that political donations from property developers has the potential to cause at a local government and state government level, the Bill applies at both a local and state government level*".

Submitter/Submission Key Points	Departmental response
Making and registering determinations **Clause 13 (New sections 277 – 279 *Electoral Act 1992*) and clause 30 (New sections 113D – 113G LGEA)**	
Housing Industry Association (HIA) – 005 HIA submits the Bill provides no guidance to applicants about the circumstances that would lead to them obtaining a determination they are not a prohibited donor nor what constitutes 'enough information' for the electoral commissioner to decide the application. HIA submits the application and determination process are unclear and as it needs to be repeated every 12 months has substantial costs for applicants and the commissioner. Development Watch Inc. – 031 • The definition of "prohibited donor" is not clear to the community. They question whether a community group or member of the community can also apply to the electoral commissioner for a determination and if the determination from the electoral commissioner will be provided in a timely manner? • In their view it is advantageous to have an independent committee made up or two or more persons to obtain a ruling. Electoral Commission of Queensland (ECQ) – 038 The ECQ anticipates a large number of applications for determinations. Questions (a) if a person or entity is not a prohibited donor, how long is it before they can make a new application? And (b) if there is not enough information in the application, does the commission make inquiries or determine the application based on the information received?	Where a person or business is unsure about whether they are captured by the definition of prohibited donor, they should seek independent legal advice and it is open to them to make an application to the Electoral Commissioner for a determination under proposed sections 277 of the Electoral Act and 113D of the LGEA. Proposed sections 277(2) of the Electoral Act and 113D(2) of the LGEA provide that the application must be supported by enough information to enable the Electoral Commissioner to decide the application. The Bill does not prevent the ECQ from asking the applicant for additional details to support the information provided. Proposed new section 277(5) in the Electoral Act and section 113D(5) of the LGEA state that the Electoral Commissioner's determination has effect for 1 year unless it is earlier revoked. However, proposed section 278 of the Electoral Act and section 113E of the LGEA provide that if, at any time, the Commissioner ceases to be satisfied the entity to whom a determination relates is not property developer or an industry representative organisation, a majority of whose members are property developers, the Electoral Commissioner may revoke the determination by giving a written notice of revocation to the entity and, if the entity was not the applicant for the determination, the applicant.

Submitter/Submission Key Points	Departmental response
Deficiencies with New South Wales legislation	
Urban Institute of Australia Queensland – 024 Indicates that the Bill is copied substantially from the NSW legislation without adequately accounting for Queensland's situation and legislative history and NSW is reviewing their legislation. Carla Clynick – 027 States that the Bill emulates the NSW regulatory framework which has proven to not be sufficient to prevent the risks associated with allowing election donations to candidates. Operation Spicer uncovered significant corruption in NSW even with the prohibition on property developer donations. Recommend a ban on all corporate donations.	This is a matter of policy for government. Immediately following the release of the Belcarra Report on 4 October 2017, the Premier announced a ban on political donations by property developers at local government and state government level. The adoption of the NSW model is consistent with the Crime and Corruption Commission's recommendation in the Belcarra Report. The NSW provisions have been operational over a number of years and have been tested as constitutionally valid in the High Court. It is understood that the NSW Government is currently reviewing its electoral funding and disclosures. If, and when, the outcome of any NSW review is known, it will be a matter of a policy for Government whether to consider and adopt any proposed NSW measures.

Submitter/Submission Key Points	Departmental response
Political communication – High Court decision of *McCloy v New South Wales*	
Property Council of Australia – 016 The High Court decision in *McCloy & Others v State of New South Wales* upheld the *Electoral Funding, Expenditure and Disclosures Act 1981* provisions due to a body of evidence from eight adverse reports in relation to development decisions and this was sufficient to legitimise burdening the implied constitutional freedom of political communication. No similar body of evidence exists in Queensland and the Belcarra Report did not present any findings in relation to property developer donations influencing Government decisions.	As outlined in the Explanatory Notes (at page 3), in Queensland the state has a significant role in state's planning framework including: ▪ administering the framework; ▪ mandating the powers that can be exercised by the Planning Minister, including approving planning schemes and other local planning instruments, sometimes deciding on a development application when council is the assessment manager; ▪ mandating the role and responsibilities of local governments; and ▪ assessing and advising on applications that trigger a state planning matter. Further, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs, the Honourable Stirling Hinchliffe stated in his explanatory speech "*corruption in relation to donations from property developers, at both local government and state government levels, has been investigated and reported on by the New South Wales Independent Commission Against Corruption (ICAC)…consistent with the approach adopted in New South Wales following a number of ICAC investigations and to address the risk of corruption and undue influence that political donations from property developers has the potential to cause at a local government and state government level, the Bill applies at both a local and state government level*".

Submitter/Submission Key Points	Departmental response
Scope of Belcarra investigation	
Urban Institute of Australia Queensland – 024 States that evidence has not been provided as to why banning donations has been singled out for immediate action versus other Belcarra recommendations.	The Government considered recommendations 20 and 23-26 as significant to require urgent legislative change. In the introductory speech, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs stated that as indicated by the short title of the Bill, the Bill represents the first stage of the Palaszczuk government's reform agenda, not only in implementing the remaining recommendations of Operation Belcarra but also in further reforms aimed at reinforcing integrity, minimising the risk of corruption and providing for increased transparency and accountability at both state and local government levels. The timing of the stage 2 reform agenda is a matter for the Government.

Submitter/Submission Key Points	Departmental response
New offence provisions and enforcement of the prohibition **Clause 15 (new sections 307A – 307C *Electoral Act*) and clause 32 (new sections 194A – 194C LGEA)**	
Dereka Ogden – 001 Notes that the legislation should provide a clear system that shows citizens that rules have not been bent and donations given by the back door. Robyn Deane – 002 States that the legislation should be given the teeth to follow through on any misdemeanors and those who have broken the law should be made to account for their actions and penalised accordingly. Save Our Broadwater – 021 Queries how are the penalties in the Bill going to be enforced? Pat Coleman – 022 Submits the fines under section 307 of the Electoral Act for donor corruption should be changed to mandatory minimum gaol sentences and a fine that may lead to imprisonment like any other citizen by way of arrest warrant for non-payment and court costs should have gaol in lieu as well. Urban Institute of Australia Queensland – 024 States that funding is not designated for policing of the legislation. John Woodlock – 033 Observed that Operation Spicer demonstrated the strong need for enforcement of the ban (in NSW) to ensure it is effective. Sunshine Coast Environment Council – 034 Supports the penalties outlined in the proposed Bill. Brisbane Residents United – 035 States that the Bill emulates the NSW regulatory framework which has proven not to be sufficient. Operation Spicer uncovered corruption in NSW even with the prohibition on property developer donations. Legislation needs compliance procedures and funding. Park It (Park in Toowong) – 036 States that the Bill emulates the NSW regulatory framework which has proven not to be sufficient. Operation Spicer uncovered corruption in NSW even with the prohibition on property developer donations. Legislation needs compliance procedures and funding.	Recommendation 20 of the Belcarra Report recommended the introduction of offences based on provisions contained in the *Election Funding, Expenditure and Disclosures Act 1981* (NSW). The offences and penalties at section 307A – 307C of the Electoral Act and section 194A – 194C of the Local Government Electoral Act are all based on similar offences and penalties contained in the New South Wales legislation. This includes a new offence for a person to knowingly participate, directly or indirectly in a scheme to circumvent a prohibition about political donations which carries a significant maximum penalty of 1500 penalty units or 10 years imprisonment. The only significant difference with the New South Wales provisions is that the maximum penalty for the circumvention offence includes the ability to impose a maximum penalty of 1500 penalty units. This is consistent with penalties for serious offences of similar nature in Queensland such as the offence of Money Laundering at section 250 of the *Criminal Proceeds Confiscation Act 2002*. It is appropriate that a level of consistency is adopted with other jurisdictions for these types of offences given that both property developers and political parties operate across borders. Additionally, the Bill provides that, if a person receives a prohibited donation, the amount of the donation may be recovered as a debt due to the state. The Bill further provides that debt due to the state will be doubled in circumstances where the person knew it was unlawful to receive the prohibited donation. In terms of enforcement, there are a suite of powers under the Electoral Act that authorised officers will be able to use to investigate contraventions of the property developer donation prohibitions under both the Electoral Act and LGEA. These enforcement powers include: • entry powers with consent or under a warrant; • general powers when entry to a place is obtained i.e. search a place, take extracts from documents, produce images at places etc; • powers to require reasonable help from person at a place being searched; • power to seize evidence and supporting powers; • power to require name and address; • power to require the production of certain documents; and • power to require information (where an authorised officer suspects an offence has been committed and the person may be able to give information about the offence).

Submitter/Submission Key Points	Departmental response
New offence provisions and enforcement of the prohibition **Clause 15 (new sections 307A – 307C *Electoral Act*) and clause 32 (new sections 194A – 194C LGEA)**	
Queensland Law Society – 037 Notes that the Bill introduces new offence provisions across the Acts it amends. Many of these impose custodial sentences which, in the QLS's view, are not proportionate to the subject act or omission and we urge the Committee to recommend that these custodial sentences be removed. Environmental Defenders Office – 042 The Bill emulates the NSW regulatory framework which has proven not to be sufficient. Operation Spicer uncovered corruption in NSW even with the prohibition on property developer donations.	As stated in the Explanatory Notes, the costs associated with the amendments will be determined through normal budgetary processes.

Submitter/Submission Key Points	Departmental response
Consultation	
Property Council of Australia – 016 States that there was insufficient time to make submissions to the committee. Crime and Corruption Commission – 018 Expresses the view that a proper public consultation process is highly desirable in extending the reforms to state elections. Urban Institute of Australia Queensland – 024 Expresses concern with the limited time made available for consideration of the Bill.	Operation Belcarra was initiated by the CCC following receipt of more than 30 complaints about the conduct of candidates for several councils in the 2016 local government elections. The CCC conducted nine days of public hearings, and took evidence from 40 witnesses, including candidates, donors, the commissioner and the Local Government Association of Queensland (LGAQ). In addition, the CCC invited written submissions from a range of key stakeholders including registered political parties, the LGAQ and academic experts. Six written submissions were received. With regards to the Property Council of Australia's comments in particular, the Premier and then Minister for the Arts met with the Property Council of Australia in relation to the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017. The Property Council of Australia also made a submission to the Legal Affairs and Community Safety Committee on the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017.

Submitter/Submission Key Points	Departmental response
Commencement **Clause 2 (Commencement)**	
Queensland Law Society (QLS) – 037 QLS urges the Government to take thorough and immediate steps to ensure that potentially affected people are made aware of their duty to repay donations received within this time period and that departmental officers are notified so that they can urgently inform their local communities. Electoral Commission of Queensland (ECQ) – 038 • The ECQ indicates that the lead in time to commencement of 3-6 months would be required for the ECQ to design and deploy the administrative and compliance/enforcement policies, procedures and processes required to support the implementation on the ban on political donations from property developers. • The ECQ indicates that there are areas where operational policy will be required to guide the ECQ's business processes, advice giving and decision making and the ECQ is cautious about developing any framework until such time as there is certainty about the passage and form of the prohibited donor scheme. • The ECQ refers to the need for thorough compliance reviews and a mechanism to identify and address vexatious complaints. • The ECQ states that the Electronic Disclosure System will require modification to allow the Commission to capture returned gifts, instances of non-compliance and users who are captured under the definition of prohibited donor. ECQ also indicates that there will be flow on effects for other systems, knowledge set, staffing capabilities and expertise that the Commission would be require to administer and regulate this scheme and engage with stakeholders regulated by it.	Amendments to the Electoral Act and LGEA are proposed to commence on proclamation. The communication of obligations to repay donations will be a matter for the ECQ.

Submitter/Submission Key Points	Departmental response
Additional Belcarra reforms – introduction of expenditure caps on campaigns	
Save Our Broadwater – 021 Introduce expenditure caps on campaigns. Your Community First Inc – 025 Introduce expenditure caps on campaigns. If not, supports the Bill in banning developer donations as a way of, to some extent, levelling up the playing field. Carla Clynick – 027 The Bill needs a cap on expenditure by candidates and other parties for elections (Belcarra Report recommendation 1). John Woodlock – 033 Supports a cap on expenditure by candidates and other parties for elections (Belcarra Report recommendation 1) and in place in NSW. Brisbane Residents United – 035 Supports a cap on campaign expenditure in local and state government elections (Belcarra Report recommendation 1) and in place in NSW. Park It (Park in Toowong) – 036 Supports a cap on campaign expenditure in local and state government elections (Belcarra Report recommendation 1) and in place in NSW. Local Government Association of Queensland – 040 Supports the introduction of local government election campaign expenditure caps. Environmental Defenders Office – 042 Recommends a cap on expenditure by candidates and other parties for elections (Belcarra Report recommendation 1).	This is a matter of policy for government. Recommendation 1 of the Belcarra Report was that an appropriate Parliamentary Committee review the feasibility of introducing expenditure caps for Queensland local government elections. Without limiting the scope of the review, the CCC recommended that the review should consider: • expenditure caps for candidates, groups of candidates, third parties, political parties and associated entities • the merit of having different expenditure caps for incumbent versus new candidates • practices in other jurisdictions. The Government's response to recommendation 1 stated that the government will undertake a review of expenditure caps for Queensland local government elections. The Government's response also stated that the Government will consult with the LGAQ on these matters during the review. In the introductory speech, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs stated that as indicated by the short title of the Bill, the Bill represents the first stage of the Palaszczuk government's reform agenda, not only in implementing the remaining recommendations of Operation Belcarra but also in further reforms aimed at reinforcing integrity, minimising the risk of corruption and providing for increased transparency and accountability at both state and local government levels. The timing of stage 2 is a matter for the government.

Submitter/Submission Key Points	Departmental response
Implementation issues	
Kenneth Park – 015 States that the proposed legislation places many additional responsibilities on ECQ. States that the Belcarra Report demonstrated that the present leadership and resources of the ECQ is not up to its present tasks, unless the organisation is overhauled, strengthened and re-focussed there is a potential problem in expanding its roles. Urban Institute of Australia Queensland – 024 • States that leaving the preparation of guidelines to the ECQ is inadequate and should be done in consultation with stakeholders. • Makes reference to there being no indication of an education campaign.	The proposed provisions are modelled on the *Election Funding, Expenditure and Disclosures Act 1981* (NSW). Property developers and their close associates have been prohibited from making political donations in NSW since the prohibition commenced on 14 December 2009. The NSW Electoral Commission website includes information for assisting people to determine what is and is not a "political donation" and there are fact sheets on "political donations" and "prohibited donors". The tools used in NSW may be of assistance to the ECQ and stakeholders in Queensland. As stated in the Explanatory Notes, the costs associated with the implementation of the amendments will be determined through normal budgetary processes.

Part C: Conflict of interest or a material personal interest

Parts 2 and 4 of the Bill – amendments to the *City of Brisbane Act 2010* (COBA) and the *Local Government Act 2009* (LGA)

CCC Recommendation 23 – *"That section 173 of the Local Government Act and section 175 of the City of Brisbane Act be amended so that after a councillor declares a conflict of interest, or where another councillor has reported the councillor's conflict of interest as required by the implementation of Recommendation 24, other persons entitled to vote at the meeting are required to decide:*

(a) whether the councillor has a real or perceived conflict of interest in the matter

(b) whether the councillor should leave the meeting room and stay out of the meeting while the matter is being discussed and voted on, or whether the councillor should remain in the meeting room to discuss and vote on the matter. A councillor who stays in the room to discuss and vote on the matter in accordance with the decision does not commit an offence under the proposed Recommendation 26.

The views put forward by each person and the final decisions of the group should be recorded in the minutes of the matter."

Government Response – The government supports strengthening the processes associated with conflicts of interests.

Clauses of the Bill – Part 2 (clause 6 - new sections 177C, 177E and 177J(2) COBA) and Part 4 (clause 24 - new sections 175C, 175E and 175J(2) LGA)

Submitter/Submission Key Points	Departmental response
Recommendation 23 implementation supported **Clause 6 (new sections 177C, 177E and 177J(2) COBA) and clause 24 (new sections 175C, 175E and 175J(2) LGA)**	
Your Community First - 025 Submits that features of the Bill such as councillors having to declare a conflict of interest should go a significant way to reducing the impact of donor influence on council decisions in the property development field. Development Watch Inc – 031 Agrees with sections 175J Environmental Defenders Office – 042 Notes with support the amendments seeking to clarify the means by which perceived or real conflicts of interest or material personal interests are to be dealt with by councillors Sunshine Coast Environment Council – 034 Supports the strengthened provisions proposed requiring that perceived or real conflicts of interests held by councillors must be disclosed as they arise and then put to vote by the other members as to whether the councillor should not remain in the meeting.	DLGRMA welcomes the submitters' support for the implementation of the Government's response to recommendation 23.

Submitter/Submission Key Points	Departmental response
Recommendation 23 implementation not supported **Clause 6 (new sections 177E and 177J(2) COBA) and clause 24 (new sections 175E and 175J(2) LGA)**	
Greg Smith – 007 • submits that the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors • submits the amendments appear to be introducing a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of section 175J • submits the community would have little faith in a process that requires a councillor's colleagues to decide these matters because councillors might be loath to vote against a colleague who has indicated an intention to remain in the room after declaring a conflict of interest. This would be even more likely where councillors tend to vote as a bloc or in councils where there are formal political party groupings • submits the amendments will remove the personal accountability of a councillor, making the proposed section of the bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation. Noosa Shire Council – 008 • submits proposed section 175E(3) and (4) will not work in practice and will create significant problems • submits the proposed provision will be open to abuse by councils where there are voting blocs or groups of councillors and it may be possible to have two entirely different results on the same declaration of a conflict of interest • submits the remaining councillors need to make that decision without necessarily having all of the relevant information and there is a risk that council meetings could degenerate into inquiries into fellow councillors and their conflicts of interest • submits reducing the incentive for councillors to declare a perceived conflict of interest for a very low-level conflict as they would not have the final decision on whether they stay in the meeting. Organisation Sunshine Coast Association of Residents – 011 • submits the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors • submits the amendments introduce a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of section 175J • submits the community would have little faith in a process that requires a councillor's colleagues to decide these matters as councillors would be loath to vote against a colleague who has indicated an intention to remain in the room • submits the community would also not have faith that councillors/members of a "team" would vote against other team members if they had indicated an intention to stay in the room and participate in the debate and subsequent voting • submits the proposed process removes the personal accountability of a councillor who under the legislation being proposed can claim it was his or her colleagues who determined whether she/he stayed in the room to take part in debate and vote on the matter which makes the proposed section of the bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation	Submissions that do not support the Bill's implementation of recommendations 23 of the Belcarra Report are responded to below, in terms of specific issues raised: Improperly voting on another councillor's conflict of interest • In relation to comments that councillors may vote on other councillors' conflicts of interest improperly, including by voting in blocs, the LGA and COBA require that councillors must perform their responsibilities under those Acts in accordance with the local government principles. • Under the LGA section 176 and COBA section 178 conduct of a councillor that adversely affects the honest or impartial performance of the councillor's responsibilities, or the exercise of the councillor's powers or that is or involves the performance of the councillor's responsibilities, or the exercise of the councillor's powers in a way that is not honest or impartial or that is or involves a breach of the trust placed in the councillor is misconduct. Disciplinary action for misconduct includes suspension or removal from office. • Voting improperly on other councillors' conflicts of interest may also amount to corrupt conduct if it involves performing or failing to perform a function of office with an intent to dishonestly gain a benefit for the councillor or another person or to dishonestly cause a detriment to another person under section 92A of the Criminal Code. • The Bill requires the decision and the reasons for the decision of other councillors about a councillor's conflict of interest to be recorded in the minutes of the meeting and on the council website (section 177J(2) COBA and section 175J(2) LGA). This will aid transparency of local government decision-making. • In response to submissions that the provisions may result in different results in relation to the same conflict of interest, all councillors are able to seek

Submitter/Submission Key Points	Departmental response
Recommendation 23 implementation not supported **Clause 6 (new sections 177E and 177J(2) COBA) and clause 24 (new sections 175E and 175J(2) LGA)**	
• submits there has been a historical failure by councillors to observe the spirit of previous legislation. Livingstone Shire Council – 013 Does not support empowering councils to exclude councillors with a conflict of interest from council meetings. Kenneth Park – 015 Submits that the process of having councillors decide whether their 'mates' need to declare an interest is very dangerous. Clara Clynick – 027 • submits the decision as to whether a councillor can stay in a room cannot be made by his or her fellow councillors. If this decision can be passed off to fellow councillors the process will be compromised as councillors will likely support each other in these matters and the law may not be upheld • submits it also takes the onus from the councillor with the conflict and removes his/her personal accountability. Development Watch Inc – 031 • submitter does not agree with the proposal to have councillors in the room decide whether a councillor has a conflict or perceived conflict and whether that conflict warrants the leaving of the meeting or not • notes that apart from this being extremely complicated, this will not deal with the issues. Submitter cites instances within its council where it has appeared some councillors have a theory "you scratch my back, I'll scratch yours" and this needs to stop. Gecko Environment Council Assn Inc – 032 • submits that the LGA section 177E (3) and (4) [sic – LGA section 175E(3) and (4)] raise a question about the impartiality of councillors in making such a determination. Given the existence over many years of blocs of pro-development councillors voting on development applications there is potential for conflicts of interest to be swept aside • submits this is certainly the case with Gold Coast Council where there is a bloc of 11 councillors who vote together. This example further supports the establishment of the Office of the Independent Assessor as proposed in the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 currently before this Committee and offers a councillor the opportunity to take the matter further. Sunshine Coast Environment Council – 034 • concerned that where there are many other councillors with shared interests, or possibly lower levels of integrity within a council, that this vote may be biased towards the councillor remaining regardless	the advice of the Integrity Commissioner on conflict of interest issues. A councillor who disagrees with a decision made by other councillors may seek the advice of the Integrity Commissioner and provide that advice at a subsequent council meeting. Alternatively, a councillor may proactively seek the Integrity Commissioner's advice before a matter is considered by the council and give the advice at the council meeting when the councillor declares his or her interest. Offence for a councillor to not inform a meeting about personal interests • In response to submissions that the proposed process removes the personal accountability of a councillor or will reduce the incentive for councillors to declare a conflict of interest, the Bill requires a councillor at a meeting with a conflict of interest/perceived conflict of interest to inform the meeting about the councillor's personal interests in the matter. The Bill inserts an offence for a councillor who does not inform a meeting about the councillor's personal interests in a matter (section 177E(2) COBA and section 175E(2) LGA). The maximum penalty for this offence is 100 penalty units or 1 year's imprisonment. The offence is prescribed as an 'integrity offence' meaning the councillor stops being a councillor on conviction and cannot be a councillor for 4 years from conviction. • The Bill does not prevent a councillor with a conflict of interest in a matter from voluntarily leaving a meeting and staying away while the matter is being discussed and voted on. Administrative complexity • In response to submissions that the provisions will introduce unnecessary administrative complexity due to the requirements in section 177J of the COBA and section 175J of the LGA, the additional requirements in these sections are considered

Submitter/Submission Key Points	Departmental response
Recommendation 23 implementation not supported **Clause 6 (new sections 177E and 177J(2) COBA) and clause 24 (new sections 175E and 175J(2) LGA)**	
of the level of conflict, however this is an improvement on current regulations which leave the discretion as to how to manage the conflict to the person holding the conflict • submits requiring fellow councillors to decide whether a councillor has a real conflict of interest or perceived conflict of interest in the matter and then determine, in the cases where they do in fact decide the councillor has a real conflict of interest or perceived conflict of interest in the matter, as to whether they remain in the room appears to be introducing a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of section 175J and an undesirable 'tension' between councillors • submits that this can also lead and/or perpetuate some council's practise of "voting blocs" and/or registered/unregistered "teams" of councillors, often associated with support for or against the Mayor. In such instances the community does not have faith that councillors/members of the "team" would vote against other team members had they indicated that they intended to stay in room and participate in the debate and subsequent voting • submits the proposed process unacceptably removes the personal accountability of a councillor who under the legislation being proposed can claim it was his/her colleagues who determined whether she/he/they stayed in the room to take part in debate, and vote, on the matter in question. This makes the proposed section of the Bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation. Submitter suggests this is not what the CCC intended despite the recommendation made on this issue. <u>Brisbane Residents United</u> – 035 • submits that requiring fellow councillors to decide whether a councillor has a real conflict of interest or perceived conflict of interest in the matter and then determine, in the cases where they do in fact decide the councillor has a real conflict of interest or perceived conflict of interest in the matter, whether they remain in the room appears to be introducing a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of section 175J • submits much more importantly, however, is that the community would have little faith in a process that requires a councillor's colleagues to decide these matters. Submitter believes that councillors would be loath to vote against a colleague who has indicated an intention to remain in the room after declaring a conflict of interest. Or even worse use this ability to silence an honest councillor in a room of compromised councillors • submits this removes the personal accountability of a councillor who under the legislation being proposed can claim it was his/her colleagues who determined whether she/he stayed in the room to take part in debate, and vote, on the matter in question. This makes the proposed section of the bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation. <u>Park It (Park in Toowong)</u> – 036 • submits the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors.	necessary to ensure transparency and accountability of local government decisions. • Councillors are required to inform the meeting of specified particulars of their personal interests such as the value and date of receipt of a gift that gives rise to a conflict to assist other councillors to make a decision about the councillor's conflict of interest. These particulars and the decision and the reasons for the decision of the other councillors to be recorded in the minutes of the meeting and on the local government website (section 177J of the COBA and section 175J of the LGA).

Submitter/Submission Key Points	Departmental response
Recommendation 23 implementation not supported **Clause 6 (new sections 177E and 177J(2) COBA) and clause 24 (new sections 175E and 175J(2) LGA)**	
• submits requiring fellow councillors to decide whether a councillor has a real conflict of interest or perceived conflict of interest in the matter and then determine, in the cases where they do in fact decide the councillor has a real conflict of interest or perceived conflict of interest in the matter, whether they remain in the room appears to be introducing a level of unnecessary administrative complexity to the conduct of council meetings given the requirements of section 175J • submits much more importantly, however, is that the community would have little faith in a process that requires a councillor's colleagues to decide these matters. We believe that councillors would be loath to vote against a colleague who has indicated an intention to remain in the room after declaring a conflict of interest. Or even worse use this ability to silence an honest councillor in a room of compromised councillors • submits this removes the personal accountability of a councillor who under the legislation being proposed can claim it was his/her colleagues who determined whether she/he stayed in the room to take part in debate, and vote, on the matter in question. This makes the proposed section of the bill even less likely to result in ethical and consistent behaviour than is the case under the existing legislation.	

Submitter/Submission Key Points	Departmental response
Councillors should be required to leave a meeting if they have a conflict of interest **Clause 6 (new section 177E COBA) and clause 24 (new section 175E LGA)**	
Dereka Ogden – 001 • notes that councillors have declared a vested interest in a matter but did not excuse themselves and voted in their interests for the matter. The submitter submits that this should not be allowed • would like to see the Government change the legislation to prevent these happenings from occurring in future. Robyn Deane – 002 • submits that it should be mandated that councillors with a conflict of interest should absent themselves during discussion and particularly when a vote on matters concerning them is before the council • submits that it would be unconscionable for councillors with a conflict of interest to remain in the room. Patrick Corballis – 003 The submitter asks the honorable members to consider a ban on any councillor voting on projects even if the slightest perception of conflict of interest is apparent. Greg Smith – 007 • submits amendments must mandate that councillors can take no part in debate or voting on the matter under consideration • submits there has been a historical failure by councillors to observe the spirit of existing legislation governing conflict of interest and their discretionary power in this area must be removed • submits the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats conflict of interest in the same way as material personal interest. Organisation Sunshine Coast Association of Residents – 011 • submits amendments to the LGA and COBA must mandate that a councillor can take no part in debate or voting on the matter under consideration and must leave the room • submits councillors' discretionary power in this area must be removed • submits the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats conflicts of interest in the same way as a material personal interest. Livingstone Shire Council – 013 Supports LGAQ's suggestion that a conflict of interest arising from a gift or donation above $500 could be required to be treated in the same way as a Material Personal Interest (MPI). Under section 172 of the *Local Government Act 2009*, a councillor with an MPI must leave the meeting when the matter is being debated. Terry Winston – 014 Submits all election campaign donations (either monetary or in-kind) are to be deemed to be a conflict of interest. As such, affected councillors are required to declare the conflict of interest at the beginning of a	The Bill implements the Government's support of recommendation 23 by inserting new section 177E of the COBA and new section 175E of the LGA. The following responds to specific issues in submissions: • The LGA and COBA provide that for a material personal interest, a councillor must leave a meeting and stay out of the meeting while a matter in which the councillor has a material personal interest is being discussed and voted on. The Bill retains this requirement. A councillor has a material personal interest in a matter if the councillor or specified other persons or entities stand to gain a benefit or suffer a loss depending on the outcome of the consideration of the matter at the meeting. • Submissions seek the same requirement in relation to conflict of interests, however, the CCC stated in the Belcarra Report (page 84) that it did not believe that all conflicts of interest should require councillors to leave the meeting room and abstain from voting. Specifically, the Belcarra Report (page 83) provides: *"One way to resolve this problem would be to require councillors who declare a conflict of interest in a matter to leave the meeting room and not vote. However, the CCC's view was that eliminating councillors' discretion in this way would have undesirable consequences. For one, such a requirement could substantially disrupt a council's operations if, for instance, multiple councillors had received money from the same donors. More significantly, the CCC did not think that it would be acceptable for a councillor, having received a substantial number of donations from people with interests subject to council consideration, to be routinely excluded from deliberations. Consistent with the responsibilities of councillors and the local government principles underpinning the LG Act, the CCC's view is that councillors are elected to represent the interests of their community, and they cannot do this effectively if they*

Submitter/Submission Key Points	Departmental response
Councillors should be required to leave a meeting if they have a conflict of interest **Clause 6 (new section 177E COBA) and clause 24 (new section 175E LGA)**	
meeting, and when the relevant matter is to be discussed, must leave the room until the matter has been decided upon. Denise Ravenscroft – 017 Submits that where there are conflicts of interest no councillor, Mayor or CEO should have any vote. Pre-arranged block voting must also be done away with. Clara Clynick – 27 Submits that once a conflict is declared (or reported by a third party) it must be mandated that the councillor can take no part in the debate or voting on the matter and must leave the room. The Main Beach Association of Queensland – 028 • the submission attaches a previous submission made to the then Minister for Infrastructure, Local Government and Planning, the Honourable Jackie Trad on 12 May 2016 which proposed that several steps could be taken by the department to restore public confidence in decision making including ensuring that councillors who have received funding either directly or indirectly from relevant developers at any time, abstain from voting when there is a conflict of interest • the submission also attaches the submitter's submission on the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 which stated that they attest to the need for significant reform in all of these areas, including tightening up of some of the wording of the draft legislation and ensuring that councillors who have a conflict of interest in a matter before council that is to be voted on have to remove themselves from the Chamber while the discussion and voting takes place. Development Watch Inc – 031 • submits if there is any suspicion at all on the part of a councillor that he or she may have a conflict, then that councillor should declare and leave the room, as is the case with MPIs • submits keeping the procedure the same for both material personal interests and conflicts of interest will save much confusion both on the part of the councillors and the community. Recommends dealing with conflicts of interests at a meeting be dealt with in the same manner as material personal interests ie. the conflict is declared and the councillor should always leave the room. • submits councillors, if they declare a conflict of interest or material personal interest, should leave the room. This will ensure once and for all that the conflicted councillor will not in any way be influenced by the donation and will save much confusion both for the declarant and for the community Sunshine Coast Environment Council – 034 • submits that the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors. Once a conflict of Interest is declared (or reported by a third party), amendments to the LGA and COBA must mandate that a councillor can take no part in debate or voting on the matter under consideration and must leave the room	*are not participating in council decision-making. The CCC also had regard for the view of former Queensland Integrity Commissioner Richard Bingham, who argued that it is sometimes sufficient for conflicts of interest to be disclosed, with a reliance on full transparency to help protect the public interest when the councillor continues to participate in the decision-making process. Instead of eliminating councillors' discretion, therefore, the CCC determined that what is required are more checks on councillors' discretion and more guidance for councillors about how they should exercise it."* • Further, the Bill does not prevent a councillor with a conflict of interest in a matter from voluntarily leaving a meeting and staying away while the matter is being discussed and voted on. • DLGRMA notes submitter 040's (the LGAQ's) recommendation to require a councillor with a conflict of interest arising from a gift or donation above $500 on their register of interests to treat it in the same way as a material personal interest and remove themselves from a decision-making meeting. The LGAQ's recommendation is not a recommendation of the Belcarra Report. • In relation to comments of submitters 034, 035 and 036 regarding an historical failure by councillors to observe the spirit of previous legislation, recommendation 25 of the Belcarra Report was to provide for suitable penalties to ensure a sufficient deterrent is in place with regard to conflicts of interest and material personal interest of councillors.

Submitter/Submission Key Points	Departmental response
Councillors should be required to leave a meeting if they have a conflict of interest **Clause 6 (new section 177E COBA) and clause 24 (new section 175E LGA)**	
• submitter notes the events that led to the establishment of Operation Belcarra, and its subsequent findings, strongly suggest that in the councils investigated, and clearly in other councils in Queensland (such as the Sunshine Coast Council where there is little consistency in how certain councillors act after declaring a conflict of interest), there has been a historical failure by councillors to observe the spirit of previous legislation governing conflict of interest and their discretionary power in this area must be removed • submitter believes the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats conflict of interest in the same way as material personal interest. Accordingly, conflict of interest should be dealt with in the same way as determined by section 175C(2)(b) which requires that in the case of material personal interest [The councillor must] "leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is being discussed and voted on". <u>Brisbane Residents United</u> – 035 • submits the decision as to whether a councillor can remain in the room cannot be made by his/her fellow councillors. Once a conflict of Interest is declared (or reported by a third party), amendments to the LGA and COBA must mandate that councillors can take no part in debate or voting on the matter under consideration • submits the events that led to the establishment of Operation Belcarra, and its subsequent findings, strongly suggest that in the councils investigated, and clearly in other councils in Queensland, there has been a historical failure by councillors to observe the spirit of previous legislation governing conflict of interest and their discretionary power in this area must be removed • submits the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats conflict of interest in the same way as material personal interest. Accordingly, conflict of interest should be dealt with in the same way as determined by section 175C(2)(b) which requires that in the case of material personal interest [The councillor must] "leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is being discussed and voted on". <u>Park It (Park in Toowong)</u> – 036 • submits the intent and recommendations of the Operation Belcarra Report are best served by legislation that treats conflict of interest in the same way as material personal interest. Accordingly, conflict of interest should be dealt with in the same way as determined by section 175C(2)(b) which requires that in the case of material personal interest [The councillor must] "leave the place at which the meeting is being held, including any area set aside for the public, and stay away from the place while the matter is being discussed and voted on". • submits the events that led to the establishment of Operation Belcarra, and its subsequent findings, strongly suggest that in the councils investigated, and clearly in other councils in Queensland there has been a historical failure by councillors to observe the spirit of previous legislation governing conflict of interest and their discretionary power in this area must be removed.	

Submitter/Submission Key Points	Departmental response
Councillors should be required to leave a meeting if they have a conflict of interest **Clause 6 (new section 177E COBA) and clause 24 (new section 175E LGA)**	
Queensland Local Government Reform Alliance – 039 Submits that any Mayor or councillor who has a real, or perceived conflict of interest, should leave the meeting and be unable to vote on the proposal before council. Local Government Association of Queensland – 040 Submits the proposal would require a councillor with a conflict of interest arising from a gift or donation above $500 on their register of interests to treat it in the same way as a material personal interest and remove themselves from a decision-making meeting. This would remove any discretion for the councillor as to whether they may participate in deciding a matter. Under section172 of the *Local Government Act 2009*, a councillor with a material personal interest must leave the meeting when the matter is being debated. The LGAQ sees this as an alternative, and superior, proposal than that contained in the Belcarra recommendations surrounding conflict of interest provisions that were proven in the past not to work.	

Submitter/Submission Key Points	Departmental response
Greater clarity about what is a real or perceived conflict of interest or a material personal interest in a matter **Clause 6 (new sections 177B and 177D COBA) and clause 24 (new sections 175B and 175D LGA)**	

Noosa Shire Council – 008
• submits that to achieve the intent of the amendments, the better option would be to tighten the definition of a real conflict of interest to identify the circumstances that require the councillor to declare the real conflict and leave the meeting
• submits the opportunity exists for the state while undertaking these other amendments to make some of the aspects of conflicts of interest clearer in the definitions
• submits the current legislative framework could be enhanced through a series of detailed scenarios in a regulation that give definitive guidance
 	
Kenneth Park – 015
• submits that the term "benefit" needs to be defined as there may be many other benefits other than cash or material benefits.
 	
Redlands2030 – 23
• submits the Bill's definition of "a material personal interest"" needs to be broadened. As tabled, a councillor (inter alia) "stands to gain a benefit, or suffer a loss, (either directly or indirectly) depending on the outcome of consideration of the matter."
• submits this definition fails to capture gifts that predate and anticipate the outcome, but do not depend on it. They're investments, rather than donations, but the corrupting effect is identical. The risk to the donor of paying in advance of a council decision that may not be favourable has proved to be no deterrent whatsoever.
 	
Development Watch Inc – 031
• section 175B of the LGA meaning of material personal interest - submitter notes and agrees with this meaning, however, there will still be instances of uncertainty and an independent determination will be required. For this reason submitter would recommend a Committee that could make a determination in a timely manner (submitter refers earlier in submission in context of developer donations that it would be advantageous to have an independent committee made up of two or more persons from whom a ruling could be obtained in a timely manner, in the event of uncertainty)
• section 175D LGA meaning of conflict of interest – submitter notes and agrees with this meaning, however, there will still be instances of uncertainty and an independent determination will be required. For this reason submitter would recommend a Committee that could make a determination in a timely manner (submitter refers earlier in submission in context of developer donations that it would be advantageous to have an independent committee made up of two or more persons from whom a ruling could be obtained in a timely manner, in the event of uncertainty)
• submits that there should be clear guidelines on the definition of conflicts of interest, perceived or otherwise
• submits there needs to be a very clear and succinct set of guidelines setting out what constitutes a conflict of interest, what constitutes a material personal interest and how councillors must deal with them.
	The following responds to specific issues in submissions:
	• The term 'material personal interest' is currently defined in sections 174(2) – (4) of the COBA and section 172(2) – (4) of the LGA. The term 'conflict of interest' is currently defined in section 175(2), (3) and (9) of the COBA and section 173(2), (3) and (9) of the LGA.
	• The Belcarra Report did not recommend amending the current definitions of 'conflict of interest' or 'material personal interest' in the LGA or COBA.
	• The Bill defines 'material personal interest' in new sections 177B of the COBA and 175B of the LGA. These definitions generally align with the current definitions, but clarify two matters in relation to material personal interests:
	  ○ new section 177B(2) and new section 175B(2) clarify that a councillor does not have a material personal interest in the matter if the councillor, or another person or entity mentioned in section 177B(1) or section 175B(1) respectively, stands to gain a benefit or suffer a loss that is no greater than that of other persons in Brisbane; and
	  ○ to clarify the meaning of 'partner of the councillor' as it appears in the current section 174(2)(d) of the COBA and current section 172(2)(d) of the LGA, new section 177B(1)(d) of the COBA and new section 175B(1)(d) of the LGA provide that a councillor has a material personal interest in a matter if a person who is in a partnership with the councillor stands to gain a benefit or suffer a loss (either directly or indirectly) depending on the outcome of consideration of the matter.
	• The Bill defines 'conflict of interest' in new sections 177D of the COBA and 175D of the LGA. These definitions align with the current definitions.
	• DLGRMA will be undertaking training and developing materials to provide additional guidance

Submitter/Submission Key Points	Departmental response
Greater clarity about what is a real or perceived conflict of interest or a material personal interest in a matter **Clause 6 (new sections 177B and 177D COBA) and clause 24 (new sections 175B and 175D LGA)**	
Redland City Council – 043 • submits extending the definition of political donations to include registrable gifts and benefits under Schedule 5 of the Local Government Regulation 2012 to both be deemed as a material personal interest requiring effected councillors to remove themselves from statutory meetings and influence of a Government decision, activity or service.	to councillors on what constitutes a material personal interest and a conflict of interest. • In relation to comments by submitter 015, the term 'benefit' in relation to material personal interests is not defined in the LGA or COBA, so would have its ordinary meaning.

Submitter/Submission Key Points	Departmental response
Re-introduction of provisions that were previously removed **Clause 6 (new section 177E COBA) and clause 24 (new section 175E LGA)**	
Livingstone Shire Council – 013 • Submitter is opposed to empowering councils to force councillors with a conflict of interest to leave the meeting. • this power used to be in the *Local Government Act 2009* but was removed because it was proven not to work and has the potential for abuse for political purposes. Local Government Association of Queensland – 040 • strongly opposed to empowering councils to force councillors to leave a meeting over a conflict of interest that they may not even have (Recommendation 23). • Submits that this power used to be in the *Local Government Act 2009* but was removed by a previous Labor Government in 2011 upon advice from the (then) Crime and Misconduct Commission, Ombudsman and Integrity Commissioner because it was proven not to work (It was used by some councillors to "gag" minority councillors. It could also be used by some councillors to legitimise a councillor voting on a matter - i.e. keep them in the meeting - where they have a conflict of interest.). The LGAQ's 2011 submission (copy attached) arguing for the removal of this provision includes two detailed case studies which remain valid and support the LGAQ's arguments. Moreton Bay Regional Council – 041 • submits the balance of councillors determining whether a conflict of interest exists and then deciding whether the relevant councillor should leave the room or participate further in a matter has been included in previous iterations of the LGA. • recommends the existing methodology for treatment of conflicts of interest be maintained. The broader requirements in respect of disclosure may be a better balance in respect of the competing policy issues.	The Government's response to the Belcarra Report supported recommendation 23. The Bill implements the Government's response by inserting new section 177E of the COBA and new section 175E of the LGA. The following response is to specific issues in submissions: • Recommendation 23 recommended amendments to the LGA and the COBA to introduce provisions similar to the provisions that were previously removed. However, consistent with the CCC's view that not all conflicts of interest should require the councillor to leave the room and abstain from voting, recommendation 23 requires other councillors to decide whether a councillor with a real or perceived conflict of interest in a matter should leave the meeting room while the matter is being discussed and voted on, or whether the councillor should remain in the meeting room to discuss and vote on the matter. • Historically, on commencement of the LGA in 2009 and the COBA in 2010, sections 173(4) and section 175(4) respectively (the original provisions) provided that if the other persons who are entitled to vote at the meeting are informed about a councillor's interest in a matter by the councillor or someone else, the other persons must decide whether the councillor has a conflict of interest, or could reasonably be taken to have a conflict of interest, in the matter; and if the other persons decide that is the case, direct the councillor to leave the meeting room (including any area set aside for the public), and stay out of the meeting room while the matter is being discussed and voted on. • In considering possible ways of improving how councillors manage conflicts of interest, the CCC '*recalled previous versions of the LG Act, which contained much more stringent provisions on conflicts of interest.*' (Belcarra Report, page 83). The CCC did not support requiring councillors to leave the room and abstain from voting for all conflicts of interest, but did consider that '*there is value in the other aspects of [the original] provisions.*' (Belcarra Report, page 84). • The CCC stated that '*Requiring other councillors to decide whether a councillor has a conflict of interest and whether they should stay in the room to vote on a matter ensures that alternative and more independent perspectives are taken into consideration. The CCC notes that the rationale for removing the original requirement in 2011 was that it is sometimes possible and appropriate for a councillor to determine that they can make a decision in the public interest, and that other councillors are not necessarily in a better position than the councillor themselves to determine if there is a conflict. The CCC acknowledges that this may sometimes be the case. However, the CCC believes that other councillors can give voice to other perspectives, and may be better able to reflect on the perception of a conflict than the councillor in question.*' (Belcarra Report, page 84).

Submitter/Submission Key Points	Departmental response
Scope of material personal interests and conflicts of interest should be expanded **Clause 6 (new sections 177C and 177E COBA) and clause 24 (new sections 175C and 175E LGA)**	
Noosa Shire Council – 008 Noosa Shire Council encourages consideration of broadening the requirements in relation to conflicts of interest to enshrine the same obligations in the less formal discussion forums, workshops etc that occur at most councils. Organisation Sunshine Coast Association of Residents – 011 • submits all developer gifts or donations to a councillor, prior to the ban being in place in October 2017, regardless of the value, be cumulative from the date of a councillor's initial nomination • submits all private "business" relationships between a councillor and a developer be included in the Conflict of Interest and Material Personal Interest provisions. • submits that the "accumulated" figure be included in any Conflict of Interest or Material Personal Interest declarations. Kenneth Park – 015 • submits there will never be transparency, accountability or openness in Queensland local government while pre-meeting in some places called "workshops" are permitted. These are secret meetings with no publicly available agenda or minutes, where the rules of the Act [especially declarations of interest] may or may not be enforced. Pre-meetings or workshops need to be addressed and whether a meeting includes a workshop needs to be clarified. • submits the ordinary business of a council is excluded from the provisions of these amendments in section 175C and elsewhere. The blanket omission of the ordinary business of council opens up very significant opportunities for developers and others to corruptly influence major decisions of councils. Ngaire Stirling – 020 • submits conflicts of interest need to go beyond the council meeting level and right back to any involvement what so ever from the person to whom the conflict applies. There should be no participation in the workshops or closed meetings at any time • submits interests should go beyond the council elects and through to the spouse and or trusts held by the families. It is absurd to think that a spouse is not investigated for conflicts given it is a common arrangement to hold assets in a spouse's name for taxation purposes. • submits employees in senior positions within council are just as open to conflicts of interests, particularly town planners and CEOs. I do not	Under the current LGA and COBA, a councillor must inform a meeting of the local government or any of its committees if the councillor has a material personal interest or conflict of interest in a matter, other than an ordinary business matter, to be discussed at the meeting. The following responds to specific issues in submissions: Ordinary business matter • 'Ordinary business matter' is defined in schedule 4 (Dictionary) of the LGA and schedule 1 (Dictionary) of the COBA and includes matters such as the remuneration of councillors or members of a local government committee, the making or levying of rates and charges, or the fixing of a cost-recovery fee, by the local government, a planning scheme, or amendment of a planning scheme, for the local government area, or a resolution required for the adoption of a budget for the local government. • The recommendations of the Belcarra Report did not propose to extend the scope of the conflict of interest or material personal interest requirements to apply to ordinary business matters. • However, the local government principles under the LGA section 4 and COBA section 4 provide that, to ensure the system of local government is accountable, effective, efficient and sustainable, Parliament requires anyone who is performing a responsibility under those Acts must do so in accordance with the local government principles including ethical and legal behaviour of councillors and local government employees. • Further, the Bill does not prevent a councillor with a conflict of interest in an ordinary business matter from voluntarily leaving a meeting and staying away while the matter is being discussed and voted on. Application outside formal council meetings or under delegated authority • The requirement for a councillor to inform a meeting of a material personal interest or conflict of interest in a matter currently applies under the LGA and COBA in a meeting of the local government or any of its committees. • The recommendations of the Belcarra Report did not propose to extend the scope of the conflict of interest or material personal interest requirements to apply outside meetings. • However, councillors are required to perform their responsibilities under the LGA and the COBA in accordance with the local government principles which include transparent and effective processes and decision-making in the public interest (section 4 of the LGA and section 4 of the COBA). • Conduct of a councillor that adversely affects the honest or impartial performance of the councillor's responsibilities or the exercise of the councillor's powers, or that is or involves the performance of the councillor's

Submitter/Submission Key Points	Departmental response
Scope of material personal interests and conflicts of interest should be expanded **Clause 6 (new sections 177C and 177E COBA) and clause 24 (new sections 175C and 175E LGA)**	
understand why they should not also be included as much to protect the community but also them, entering positions as well meaning employees. Pat Coleman – 022 Submits that the Bill should be amended to provide that a councillor has a material personal interest if a donor of the councillor stands to gain a benefit or suffer a loss depending on the outcome of the consideration of the matter Redlands2030 – 023 Submits that many of the proposed law reforms dealing with conflicts of interest are sensible and supported, but because they only apply to formal council meetings, the current laws about conflicts of interest are almost useless. Much discussion happens among councillors prior to formal decisions in a formal meeting. Urban Development Institute of Australia – 024 • submits that political decision making on planning scheme policy has not been caught in the Bill's conflict of interest provisions as they are an "ordinary business matter." • such decisions are a critical decision point arguably equally or more an area of concern as development assessment decisions. Your Community First Inc – 025 Submits that one area of concern, not addressed in the Bill but of relevance in relation to Mayors and councillors circumventing conflicts of interest regulation is the practice of councils to conduct pre-meetings prior to the conduct of formal general meetings which are open to the public. These pre-meetings are treated as "unofficial meetings" where no minutes are taken and the potential for orchestration of outcomes in relation to decision making is obvious. Development Watch Inc – 031 Section 175C – submitter agree with how councillors are to deal with material personal interests as set out in the amendment. Submits also the councillor with the interest should also not be permitted to discuss the development with other councillors in the lead up to the meeting Gecko Environment Council - 032 • submitter cites LGA section 257 (delegation of local government powers) and queries whether a council officer, as a member of the Delegated Authority making planning decisions then act as a de facto councillor and should he/she be subject to the provisions of this Bill?	responsibilities, or the exercise of the councillor's powers in a way that is not honest or impartial or that is or involves a breach of the trust placed in the councillor is misconduct. Disciplinary action for misconduct includes suspension or removal from office. • If a councillor's conduct involves performing or failing to perform a function of office with an intent to dishonestly gain a benefit for the councillor or another person or to dishonestly cause a detriment to another person under section 92A of the Criminal Code, it may amount to corrupt conduct. • Also, new offences inserted by the Bill provide that a councillor with a material personal interest or conflict of interest in a matter, must not influence, or attempt to influence another councillor to vote on the matter in a particular way at a council meeting or a council employee or contractor who is authorised to deal with the matter to do so in a particular way (new section 177I of the COBA and new section 175I of the LGA). The application of these offences is not limited to council meetings. The maximum penalty for these new offences is 200 penalty units or 2 years imprisonment. Gifts and relationships between councillors and property developers/family/local government employees • In relation to comments about gifts and relationships between councillors and property developers prior to the commencement of the prohibition, councillors are required to include all gifts more than $500 in their register of interests. The value of the gifts for this purpose is cumulative. • Further, under the LGEA all candidates are required to disclose electoral donations of $500 or more. This amount is cumulative, so that it includes the value of all previous gifts given to the candidate by the same entity during the candidate's disclosure period. The disclosure period for a person who has previously been a candidate starts 30 days after the most recent election in which the person was a candidate, or, for a new candidate, the earlier of the day the person announces their candidature or nominates as a candidate. • The Bill provides that, if a councillor has a conflict of interest in a matter because of the councillor's relationship with, or receipt of a gift from, another person, the councillor must inform a meeting of the local government of the name of the other person, the nature of the relationship or value and date of receipt of the gift and the nature of the other person's interests in the matter (section 177E(2) of the COBA and section 175E(2) of the LGA). • The Bill also provides that if a councillor has a material personal interest in a matter because another entity stands to gain a benefit or suffer a loss depending on the outcome of the matter, the councillor must inform the meeting of the name of the other entity, how the entity stands to gain the

Submitter/Submission Key Points	Departmental response
Scope of material personal interests and conflicts of interest should be expanded **Clause 6 (new sections 177C and 177E COBA) and clause 24 (new sections 175C and 175E LGA)**	
• submits that it is reasonable for the public to expect that the obligations for councillors (in relation to the conflict of interest matters addressed by the Bill) would apply in the same way under Delegated Authority as they would for what is described in the Bill as a Committee. • submitter suggests that if this is the case, the Bill should be amended to insert, wherever there is reference to a council meeting, the words "or any committee convened under Delegated Authority" and while it might be unwieldy, insert "or council officer acting under Delegated Authority" after each reference to a councillor. Sunshine Coast Environment Council – 034 Submits that the exclusion rules apply during "adjournment periods" and to councillor and/or staff only councillor spaces. Queensland Local Government Reform Alliance – 039 Submits that any Mayor or councillor who has a real, or perceived conflict of interest, should leave the meeting and be unable to vote on the proposal before council and this should also be the case during council's pre-meeting meetings where minutes are not kept and conflict of interests are not required to be declared. Redland City Council – 043 Submits extending the personal interests and influence provisions beyond the statutory meeting regime under the *Local Government Act 2009* to include any meeting, workshop or event which the subject councillor may have a personal interest and ability as a councillor to influence a Government decision, activity or service.	benefit or suffer the loss and the nature of the councillor's relationship to the entity (section 177C(2)(a) of the COBA and section 175C(2)(a) of the LGA). • In relation to councillor's family members, the Bill continues to provide that a councillor has a material personal interest in a matter if the councillor's spouse, parent, child or sibling stands to gain a benefit or suffer a loss depending on the outcome of the consideration of the matter (section 177B(1)(b) and (c) of the COBA and section 175B(1)(b) and (c) of the LGA). • In relation to comments about conflict of interest provisions applying to local government employees, the LGA and COBA provide that anyone who is performing a responsibility under the Acts is required to do so in accordance with the local government principles (section 4 LGA and section 4 of the COBA) and all local government employees are responsible for carrying out their duties impartially and with integrity (section 13(2)(d) of the LGA and section 15(1)(d) of the COBA). Further, all local government employees are required to comply with a code of conduct under the *Public Sector Ethics Act 1994* (section 13(2)(i) of the LGA and section 15(1)(i) of the COBA). The Code of Conduct includes a requirement to disclose a personal interest that could be seen as influencing the performance of their duties and ensuring that any conflict of interest is resolved in the public interest (para 1.2 Code of Conduct for the Queensland Public Service).

Submitter/Submission Key Points	Departmental response
Councillor must declare specified particulars when declaring a material personal interest or conflict of interest at a meeting **Clause 6 (new sections 177C(2)(a) and 177E(2) COBA) and clause 24 (new sections 175C(2)(a) and 175E(2) LGA)**	
John Woodlock – 033 Supports prescribing additional information to be provided by a councillor when informing a meeting of a real or perceived conflict of interest or a material personal interest in a matter other than an ordinary business matter. Sunshine Coast Environment Council – 034 Supports prescribing additional information to be provided by a councillor when informing a meeting of a real or perceived conflict of interest or a material personal interest in a matter other than an ordinary business matter.	DLGRMA notes the submitters' support for prescribing particulars which must be declared by councillors when declaring a material personal interest or conflict of interest.

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 23	
Patrick Corballis – 003 Submits that the Mayor, CEO and councillors be able to be charged retrospectively where conflict of interest or material personal interest votes benefit them commercially even after they have left office. Noosa Shire Council – 008 • submits that there is no appeal right for a councillor excluded even if the reasons behind the decision to remove that councillor is based on a "numbers game", not the basis of the conflict of interest • the draft legislation does not indicate whether the decision of councillors about another councillor's conflict of interest needs to be undertaken via formal resolution or how it would be done in a Committee meeting type scenario Organisation Sunshine Coast Association of Residents – 011 • seeks clarification in relation to section 175C(2)(b), where an adjournment of a meeting occurs without a decision being made and a vote taken and councillors leave the chamber and move to a separate councillor only area does the rule, "stay away from the place while the matter is being discussed and voted on" include the adjournment period? • recommends that the exclusion rules apply during "adjournment periods" and to councillor and/or staff only councillor spaces • recommends that all conflicts of interests or material personal interests declarations be made and resolved in "open session" of the meeting and recorded in the minutes of the meeting and recommends that making such declarations in a confidential session is unlawful. Livingstone Shire Council – 013 Submits that a broadly defined requirement to leave the meeting because of a conflict of interest would have ramifications for council governance and become unworkable, particularly in small and rural councils where it is common for councillors to have multiple conflicts of interest (real or perceived) due to their non-council related activities and relationships in those smaller communities. Terry Winston – 014 Submits that it is evident from many years of previous Ipswich City Council's minutes of meetings conflicts of interest are declared, however parties involved have come to the conclusion that "because of the relatively minor nature of the perceived conflict they can participate in the discussion of the matter and vote in the public interest." Submits that this is totally unacceptable.	The following responds to specific issues in submissions: Proceedings • In relation to comments by submitter 003, proceedings for offences in the Bill relating to conflicts of interest (section 177E(2) and (5) of the COBA and section 175E(2) and (5) of the LGA) must be started within 1 year after the offence was committed or within 6 months after the offence comes to the complainant's knowledge, but within 2 years after the offence was committed (section 243 of the LGA and section 225 of the COBA). • The same time limit applies to offences in the Bill relating to material personal interests (section 175C(2) of the COBA and section 177C(2) of the LGA), if the proceedings are to be heard summarily (sections 242 and 243 of the LGA and sections 224 and 225 of the COBA). • No time limit applies to proceedings for offences in the Bill relating to material personal interests if the proceedings are to be taken on indictment. • These provisions apply whether or not the person remains a councillor. • In relation to complaints about the conduct of a councillor, the LGA and the COBA currently provide that, in relation to former councillors, a complaint about conduct engaged in while the person was a councillor must be made within 2 years after the person stopped being a councillor (section 176A of the LGA and section 178A of the COBA). • The Councillor Complaints Bill will provide that new Chapter 5A of the LGA (Councillor conduct) applies in relation to a former councillor, if the conduct the subject of a complaint or investigation is alleged to have happened when the person was a councillor (new section 150M of the LGA). Appeals • In relation to appeals against decisions of councillors about other councillors' conflicts of interest, all councillors are able to seek the advice of the Integrity Commissioner on conflict of interest issues. A councillor who disagrees with a decision made by other councillors could seek the advice of the Integrity Commissioner and provide that advice at a subsequent council meeting. Alternatively, a councillor could proactively seek the Integrity Commissioner's advice before a matter is considered by the council and furnish the advice at the council meeting when the councillor declares his or her interest. Decisions about conflicts of interest • In response to clarification sought by submitters 008 and 011 about how a decision about a councillor's conflict of interest will be made, the Local Government Regulation 2012 section 260 and 270 provide that questions at meetings of the local government or one of its committees are decided by a

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 23	
Pat Coleman – 022 Submits that the Bill should be amended: • to remove section 177C(4) providing that a councillor does not commit an offence against section 177C(2) if the councillor participates in the meeting for the purpose of delegating the matter or under an approval from the Minister • to provide that a councillor does not have a material personal interest if the councillor is an unremunerated member of a board of a not for profit corporation or association • to omit section 177D(2)(ii), (iii) and (iv) which provide that a councillor does not have a conflict of interest merely because of membership of a political party, community group, sporting club or similar organisation if the councillor is not an office holder and the councillor's religious beliefs. • to omit the Minister's power to approve a councillor participate in a meeting (section 177F) and instead provide that the Minister or court or tribunal must disallow council decisions in favour of donors or prohibited donors under the electoral act • in section 177J to provide that all public council or committee meetings must be fully filmed and recorded in a council Hansard to be made available to the public on the council website. Local Government Association of Queensland – 040 • Submits the proposed section 175E(2) prescribes an offence for a councillor who fails to declare a conflict of interest, punishable by a fine of 100 penalty units or 1 year imprisonment. Allegations of a failure to declare a conflict of interest will, by virtue of the definition of corrupt conduct in section 15 of the *Crime and Corruption Act 2001*, be an allegation of corrupt conduct, referable in the first instance to the CCC. This is, in the LGAQ's view, highly problematic because it would mean that minor conflict of interest errors would have to be referred to the CCC, in the first instance. • Submits the proposed provision also conflicts with the proposed section 150L(1)(c)(iv) in the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 which identifies the failure to declare a conflict of interest as an act of misconduct. • Proposes the following amendment to improve the definition of conflict of interest: - 'A councillor has a conflict of interest in a matter if, in relation to that matter there exists a conflict– (a) between -.' Environmental Defenders Office – 042 Submits that amendments be made to clause 6, new sections 177C(3), 177E(6) and clause 24, new sections 175C(3) and 175E(6) to clarify that, where a majority of councillors have a personal interest in a matter for consideration, the delegate	majority of votes of the councillors present with the chairperson having a casting vote if the votes are equal. The City of Brisbane Regulation 2012 section 250 provides for the same in relation to meetings of the council. • In response to the recommendations of submitter 011 about declarations of conflicts of interest and material interest being made in open sessions of local government meetings and recording the declarations in the minutes of the meeting, the Local Government Regulation 2012 sections 274 and 275 provide that meetings of a local government and its committees must be open to the public unless it is resolved to close the meeting to discuss specified matters. The City of Brisbane Regulation 2012 sections 249 and 255 provides for the same in relation to meetings of the council. Resolutions may not be made in closed session (section 275(3) of the LGR and section 255(3) of the CBR). Further, the Bill provides that the minutes of the meeting must record details of a councillor's personal interests in a matter. Delegate under the COBA section 238 and the LGA section 257 • In response to the proposed amendment by submitter 042 to clarify that the delegate chosen under the COBA section 238 and the LGA section 257 must not have a conflict of interest or material personal interest in the subject matter, the local government principles under the LGA section 4 and COBA section 4 provide that, to ensure the system of local government is accountable, effective, efficient and sustainable, Parliament requires anyone who is performing a responsibility under those Acts must do so in accordance with the local government principles including ethical and legal behaviour of councillors and local government employees. • If the delegate chosen is a Mayor, the conflict of interest and material personal interest provisions may apply. Further there is nothing in the Bill to prevent a delegated person from declaring a conflict of interest/material personal interest. Conflict of interest and adjournment • In response to the request of submitter 011 for clarification about how the provisions would apply during an adjournment of a meeting, the Bill requires that, if other councillors decide a councillor has a conflict of interest and must leave the meeting, the councillor must leave the place at which the meeting is being held, including any area set aside for the public, and stay away from that place while the matter is being discussed and voted on. • If the meeting is adjourned councillors may leave the place where the meeting is being held. However, the councillor would commit an offence if the councillor influenced or attempted to influence another councillor in relation to the matter during the adjournment (section 177I of the COBA and section 175I of the LGA).

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 23	
chosen to make the decision as to how to address the matter must not have a conflict of interest or material personal interest in the subject matter.	<u>Corrupt conduct in section 15 of the *Crime and Corruption Act 2001* (CCC Act)</u> • In response to the comments of submitter 040 that the proposed section 175E(2) is highly problematic because it would mean that 'minor conflict of intertest errors' will, by virtue of the definition of corrupt conduct in section 15 of the CCC Act, be an allegation of corrupt conduct, referable in the first instance to the CCC, as the definition of corrupt conduct is under the CCC Act, it is a matter for the CCC to determine if the conduct is corrupt conduct regardless of how 'minor' the breach is perceived to be. Whether or not it is in the public interest to take any action is also a matter for the CCC. <u>Drafting matters</u> • DLGRMA is aware of the conflict between the proposed section 150L(1)(c)(iv) in the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018, which identifies the failure to declare a conflict of interest as an act of misconduct but thanks submitter 040 for raising the issue. Any necessary consequential amendments will be considered. • In response to the amendment proposed by submitter 040 to the definition of conflict of intertest, DLGRMA considers that the Bill as drafted satisfies the policy intent. • The comments of submitter 022 are noted, however DLGRMA considers that the Bill as drafted satisfies the policy intent.

CCC Recommendation 24 – *"That the Local Government Act and the City of Brisbane Act be amended to:*

(a) require any councillor who knows or reasonable suspects that another councillor has a conflict of interest or material personal interest in a matter before the council to report this to the person presiding over the meeting (for a conflict of interest or a material personal interest arising at a meeting) or the Chief Executive Officer of the council

(b) require the Chief Executive Officer after receiving a report of a conflict of interest or a material personal interest relevant to a matter to be discussed at a council meeting to report this to the person presiding over the meeting."

Government Response – The government supports this recommendation and the requirement to report to the chairperson of a meeting. It should be noted that the requirement to report to the chief executive officer (CEO) is likely to be unnecessary as the CEO has no formal role in a council meeting. A legislative amendment is already scheduled to be progressed in a separate Bill to parliament about councillor conduct, that (if passed) will establish an obligation on councillors to report inappropriate conduct and misconduct.

Clauses of the Bill – Part 2 (clause 6 - new sections 177G and 177H) and Part 4 (clause 24 - new sections 175G and 175H)

Submitter/Submission Key Points	Departmental response
Recommendation 24 implementation supported **Clause 6 (new sections 177G and 177H COBA) and clause 24 (new sections 175G and 175H LGA)**	
Your Community First Inc – 25 Submits that features of the Bill such as colleagues being obliged to disclose fellow councillors conflicts of interest should go a significant way to reducing the impact of donor influence on council decisions in the property development field. John Woodlock – 033 Supports requiring any councillor at a meeting who believes or suspects on reasonable grounds that another councillor at the meeting has a real or perceived conflict of interest or a material personal interest in a matter other than an ordinary business matter to inform the person who is presiding at the meeting of the councillor's belief of suspicion. Sunshine Coast Environment Council – 034 Supports requiring any councillor at a meeting who believes or suspects on reasonable grounds that another councillor at the meeting has a real or perceived conflict of interest or a material personal interest in a matter other than an ordinary business matter to inform the person who is presiding at the meeting of the councillor's belief of suspicion.	DLGRMA welcomes the submitters' support for the implementation of the Government's response to recommendation 24.

Submitter/Submission Key Points	Departmental response
Does not support the implementation of Recommendation 24 **Clause 6 (new sections 177G and 177H COBA) and clause 24 (new sections 175G and 175H LGA)**	
Noosa Shire Council – 008 • submits this proposal will prove to be extremely divisive in councils. It is open to abuse and potentially will set back the development of cohesive and productive councillor working relationships • submits that individual councillors should take personal responsibility for identifying their own potential conflicts of interest • submits that a councillor could potentially be referred for misconduct because they forgot that one of their colleagues is on the committee of a community group or received an election donation from a person with a matter before the council • submits that the offence should be focused on the relevant councillor who has failed to declare, not on the other councillors • submits that the provisions of section 175G are open to abuse where there are voting blocs • submits that the provisions may place the Chairperson of a meeting (whether a council meeting or a Committee meeting) in a difficult position if such a declaration is made. The meeting could easily degenerate into a "star chamber" type scenario. Gecko Environment Council Assn Inc – 032 Submits that section 177G *[sic – correct reference for LGA is section 175G]* implements the Government's response to the Belcarra Report recommendation 24. Submitter notes it is not necessary to include a requirement to report to the chief executive officer as the chief executive officer has no formal role in a council meeting. However submitter notes that the CEO can play a role in decision-making in circumstances in which he is given delegated authority. Submitter raises further concerns about delegated authority (refer to comments under 'Scope of material personal interests and conflicts of interest')	• The Government's response to the Belcarra Report supported recommendation 24 and the Bill implements the Government's response by inserting new section 177G of the COBA and new section 175G of the LGA. The following responds to specific issues in submissions: • The duty to report another councillor's conflict of interest or material personal interest will only apply where a councillor reasonably believes or reasonably suspects that another councillor has failed to inform the meeting of their interests. • Individual councillors continue to have personal responsibility for informing a meeting of their personal interests in a matter. The Bill inserts an offence for a councillor who does not inform a meeting about the councillor's personal interests in a matter (section 177E(2) of the COBA and section 175E(2) of theLGA). The maximum penalty for this offence is 100 penalty units or 1 year's imprisonment and includes removal from office. • In relation to comments that councillors may abuse the duty to inform a meeting of other councillors' personal interests, the LGA and COBA require that councillors must perform their responsibilities under those Acts in accordance with the local government principles. • Conduct of a councillor that adversely affects the honest or impartial performance of a councillor's responsibilities or the exercise of the councillor's powers or involves the performance of the councillor's responsibilities or the exercise of the councillor's powers in a way that is not honest or impartial or that is a breach of the trust placed in the councillor may amount to misconduct. Disciplinary action for misconduct includes removal from office. • In relation to comments from submitter 008 about a meeting degenerating into a 'star chamber' type scenario, should the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 be passed by the Legislative Assembly, the Bill requires the chief executive of DLGRMA to make model meeting procedures for the conduct of meetings of a local government and its committees. The model meeting procedures will provide guidance to chairs of committees on the new provisions. In addition, DLGRMA will undertake training and develop materials to provide additional guidance to councillors on material personal interests and conflicts of interest. • In relation to comments from submitter 032 that a CEO can play a role in decision-making under delegated authority, the requirements in section 177G of the COBA and new section 175G of the LGA apply only in a

Submitter/Submission Key Points	Departmental response
Does not support the implementation of Recommendation 24 **Clause 6 (new sections 177G and 177H COBA) and clause 24 (new sections 175G and 175H LGA)**	
	meeting of the local government or any of its committees if a councillor is present at the meeting and another councillor reasonably believes or suspects that the councillor has a material personal interest or conflict of interest of which the councillor has not informed the meeting. The offence does not apply in relation to matters decided by the chief executive officer under delegated authority, however, refer to response above under 'Scope of material personal interests and conflicts of interest' in relation to the requirement for CEOs about conflicts of interest.

Submitter/Submission Key Points	Departmental response
Re-introduction of provisions that were previously removed **Clause 6 (new section 177G COBA) and clause 24 (new section 175G LGA)**	
Local Government Association of Queensland – 040 Questions the merit of proposed section 175G which reintroduces the requirement on a councillor to inform the person presiding at a meeting if the councillor reasonably believes that another councillor has a material personal interest or conflict of interest, which that other councillor has failed to declare, contravention of which will be an act of misconduct. Again, this is a return to a provision which was removed in 2011 and is, in the LGAQ's view, an excessive response to the matters exposed by the CCC.	• In considering ways of improving how councillors manage conflicts of interest, the CCC '*recalled previous versions of the LG Act, which contained much more stringent provisions on conflicts of interest.*' (Belcarra Report, page 83). The CCC did not support requiring councillors to leave the room and abstain from voting for all conflicts of interest, but did consider that '*there is value in the other aspects of [the repealed] provisions.*' (Belcarra Report, page 84). • The CCC stated that 'Re-introducing *a specific obligation on councillors to report another councillor's conflict of interest would increase councillors' accountability and reinforce the importance of dealing with conflicts of interest in transparent and accountable ways. The CCC acknowledges that the previous requirement was removed on the basis that it was "an unnecessary duplication as all councillors are bound by the local government principles", and not disclosing another councillor's conflict of interest would breach these. In the CCC's view, however, relying on the local government principles alone does not reflect the seriousness of undeclared conflicts of interest. Indeed, the Explanatory Notes for the original LG Act note that the specific duty to report was "consistent with the high ethical standards of behaviour expected of councillors". As the then Queensland Integrity Commissioner noted at the public hearing, where a councillor remains silent about another councillor's undeclared conflict of interest, the public interest is not well served. Such concealment of conflicts of interest can significantly undermine public confidence in the integrity of local government, and the legislative obligations on councillors should reflect this.*' (Belcarra Report, page 84). • The Belcarra Report recommendation 24 recommended amendments be made to the LGA and COBA to introduce requirements similar to the original provisions. On commencement of the LGA in 2009 and the COBA in 2010 section 174 and section 176 respectively (the original provisions) provided that if a councillor knew, or suspected on reasonable grounds, that another councillor had a material personal interest, or conflict of interest, in a matter before the local government; or had engaged in misconduct, the councillor was required, as soon as practicable, to report to— o for a material personal interest or conflict of interest— ▪ if the material personal interest or conflict of interest arose at a meeting of a local government, or any of its committees—the person who was presiding over the meeting; or otherwise—the chief executive officer; or o for misconduct—the chief executive officer. • The Government's response to the Belcarra Report supported recommendation 24 but noted that the requirement to report to the CEO is likely to be unnecessary as the CEO has no formal role in a council meeting.

CCC Recommendation 25 – *"That the Local Government Act and the City of Brisbane Act be amended to provide suitable penalties for councillors for councillors who fail to comply with their obligations regarding conflicts of interest, including possible removal from office."*

Government Response – The government supports strengthening the processes associated with conflicts of interest. It is noted that section 180 of the LGA currently contains penalties for failing to declare conflicts of interest, including possible removal from office.

Clauses of the Bill – Part 2 (clause 4, clause 6 - new sections 177E(2) and (5), 177H and 177I COBA) and Part 4 (clause 22, clause 24 - new sections 175E(2) and (5), 175H and 175I LGA)

Submitter/Submission Key Points	Departmental response
Recommendation 25 implementation supported	
Organisation Sunshine Coast Association of Residents – 011 • supports the application of penalties and the penalty regime outlined in the proposed Bill and urges the Government to ensure penalties are applied consistently across the state • supports inclusion of the 'dismissal' provision so a clear message is sent that the community no longer will tolerate some of the shady practices and dishonest actions of some councillors and councils in the past. Save Our Broadwater – 021 Commends the legislation's provisions regarding conflicts of interest and how they should be managed. Clara Clynick – 027 • supports the application of penalties and the penalty regime outlined in the proposed Bill • submits that penalties need to apply and they need to be consistent in their application, dismissal of a councillor who contravenes the regulations is important as this will be a clear deterrent to non-disclosure. Gecko Environment Council Assn Inc - 032 Supports the insertion of clause 4 amending section 153 of the Local Government Act [sic] to provide that an offence against the following sections is an integrity offence. John Woodlock – 033 Supports strengthened penalties for councillors who fail to comply with their obligations Sunshine Coast Environment Council – 034 • supports strengthened penalties for councillors who fail to comply with their obligations • supports the application of penalties and the Penalty Regime outlined in the proposed Bill. • urges the Government to ensure penalties are applied consistently across the state • supports inclusion of the 'dismissal' provision so a clear message is sent that the community no longer will tolerate some of the shady practices and dishonest actions of some councillors and councils in the past.	DLGRMA welcomes the submitters' support for the implementation of the Government's response to recommendation 25.

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 25	
Save Our Broadwater – 021 Asks the Committee to give attention to examination of the efficacy of enforcing the current provisions and these new requirements. Queensland Law Society – 037 • notes that the Bill introduces new offence provisions across the acts it amends. Many of these impose custodial sentences which, in our view, are not proportionate to the subject act or omission • urges the Committee to recommend that these custodial sentences be removed	The following responds to specific issues in submissions Enforcement • Currently, failure to declare a conflict of interest is misconduct (section 176(3)(d) of the LGA and section 178(3)(c) of the COBA). A person may make a complaint about the conduct of a councillor that may be misconduct which is heard and decided by a regional conduct review panel or the Local Government Remuneration and Discipline Tribunal (section 179 of the LGA) or, in relation to Brisbane City Council (BCC) councillors, by the BCC councillor conduct review panel (section 182 of the COBA). • The Bill introduces a number of new offences and makes a failure to declare a conflict of interest an offence rather than misconduct. Failure to comply with the requirement for a councillor to inform a meeting of another councillor's conflict of interest or material personal interest will amount to misconduct. • The Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 (the Councillor Complaints Bill) was introduced into the Legislative Assembly on 15 February 2018 and referred to the Economics and Governance Committee for detailed consideration. The Committee is to report to the Legislative Assembly by 9 April 2018. The Councillor Complaints Bill aims to provide a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland, including by establishing the position of 'Independent Assessor' to investigate and deal with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the Independent Assessor by the Crime and Corruption Commission, corrupt conduct. • Offences relating to conflicts of interest or material personal interest may be investigated by the Crime and Corruption Commission as corrupt conduct under the *Crime and Corruption Act 2001*. The Councillor Complaints Bill provides that the independent assessor may investigate corrupt conduct matters referred to the assessor by the Crime and Corruption Commission (section 150CU(1)(a) of the LGA). Proportionate sentences • In the Belcarra Report the CCC stated that '*the CCC is nevertheless of the view that the LG Act must also specifically provide for severe penalties for councillors who engage in the most serious breaches of the Act's conflict of interest provisions. This would ensure a sufficient deterrent is in place even if relevant offences were rarely prosecuted*'. (page 84). • The explanatory notes for the Bill discuss the new offences and associated penalties in the context of Fundamental Legislative Principles: o the maximum penalties for the offences associated with a councillor's obligation to inform a meeting of a conflict of interest (section 177E(2) and (5) of the COBA and section 175E(2) and (5) of the LGA) are 100 penalty units or 1 year's imprisonment. This is less

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 25	
	than the maximum penalty that applies for a failure to inform a meeting of a councillor's material personal interest and reflects the relative seriousness of the offences; ○ the maximum penalty for the offence of taking retaliatory action against a councillor or another person because the councillor complied with the requirement to inform the person presiding at a local government meeting of another councillor's material personal interest or conflict of interest (section 177H of the COBA and section 175H of the LGA) is 167 penalty units or 2 years imprisonment. This is equivalent to the maximum penalty that applies for the similar offence of taking a reprisal in the *Public Interest Disclosure Act 2010*; ○ the maximum penalty for the offence of a councillor influencing another councillor or a local government employee or contractor in relation to a matter in which the councillor has a conflict of interest or material personal interest (section 177I(2) and (3) of the COBA and 175I(2) and (3) of the LGA) is 200 penalty units or 2 years imprisonment. This significant penalty reflects that this offence protects against a situation where a councillor seeks to circumvent the requirements of the LGA and COBA relating to material personal interest and conflicts of interest. The explanatory notes state that '*the creation of these offences and the penalties that apply are significant but are considered reasonable and proportionate to address the issues relating to the perceived integrity of local government operations raised in the Belcarra Report and to ensure that local governments fulfil public expectations. The offences and penalties are also reflective of the local government principles that decision-making is in the public interest and supported by transparent and effective processes.*' (page 13). • The monetary and custodial penalties provided for in the Bill are maximum penalties and the penalty imposed by the Court for a particular offence will be decided by the Court in light of the seriousness of the circumstances of the offence.

CCC Recommendation 26- *"That the Local Government Act and the City of Brisbane Act be amended so that, where a councillor has a real or perceived conflict of interest in a matter it is an offence for the councillor to influence or attempt to influence or attempt to influence any decision by a councillor a council employee in relation to that matter at any point after the matter appears on an agenda for a council meeting (except in the circumstances described in recommendation 23, part b). A suitable penalty should apply including possible removal from office."*

Government Response – The government supports strengthening the processes associated with conflicts of interest.

Clause of the Bill - Part 2 (clause 6 - new section 177I of the COBA) and Part 4 (clause 24 - new section 175I of the LGA)

Submitter/Submission Key Points	Departmental response
Recommendation 26 implementation supported	
Redlands2030 – 023 • submits that the CCC's Operation Belcarra recommendation 26 says that attempts by a conflicted councillor to influence others should be banned from any point "after the matter appears on an agenda for a council meeting" • submits that this reflects a lack of understanding by the CCC as to how decisions are made in some councils. Redland City councillors are regularly involved in discussions and even decision making at non-public meetings or 'workshops' which are not subject to the provisions of the Local Government Act. • submits that to preclude inappropriate influence by conflicted councillors, the ban on attempting to influence others should apply from the moment any councillor becomes aware that a matter involving the donor is being considered by the council. Development Watch Inc – 031 • agrees with section 175I • submits that councillor should also not be permitted to discuss the development with other councillors in the lead up to the meeting. John Woodlock – 033 Supports providing that it is an offence for a councillor who has a material personal interest or a real or perceived conflict of interest in a matter other than an ordinary business matter to influence or attempt to influence any vote by another councillor or any decision by a council employee or contractor in relation to the matter Sunshine Coast Environment Council – 034 Supports providing that it is an offence for a councillor who has a material personal interest or a real or perceived conflict of interest in a matter other than an ordinary business matter to influence or attempt to influence any vote by another councillor or any decision by a council employee or contractor in relation to the matter.	DLGRMA welcomes the submitters' support for the implementation of the Government's response to recommendation 26. In response to the comments from submitters 023 and 031, the application of the offences in the Bill of a councillor with a conflict of interest or material personal interest on a matter influencing another councillor or a local government employee or contractor in relation to that matter, apply at all times in relation to those matters in which the councillor has a conflict of interest or material personal interest.

Submitter/Submission Key Points	Departmental response
Other issues relating to Recommendation 26	
Pat Coleman – 022 Submits that the Bill should be amended to remove section 177I(3) (that a councillor with a conflict of interest or material personal interest in a matter must not influence a council employee or contractor to decide or deal with the matter in a particular way). Redlands2030 – 023 Submits that in 2012, local government legislation was amended to give Mayors the power to direct council staff. Mayors were empowered to do so without any documentation of their directions or accountability in the form of a report to the full council about any directions issued. This amendment has given Mayors the scope to exert influence inappropriately and is a huge risk to the integrity of local government decision making. Your Community First Inc – 025 Submits that another area of concern in relation to the potential for council decisions to be influenced by donors is the ability of Mayors to issue directions to CEOs without it being recorded and thus subject to scrutiny.	The comment of submitter 022 is noted. In relation to the comments from submitters 023 and 024, the implementation of recommendation 26 in the Bill will apply to Mayors as to all councillors.

Part D: Issues relating to the Crime and Corruption Commission report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government*

Submitter/Submission Key Points	Departmental response
Greg Smith – 007 The submitter noted the Government's response to Operation Belcarra and strongly welcomes it for the most part. Mark Stuart-Jones – 009 The submitter strongly supports all recommendations of the Belcarra Report and submits that all recommendations suggested by the CCC should be implemented in full. Organisation Sunshine Coast Association of Residents – 011 Notes the Government's response to Operation Belcarra and strongly welcomes it for the most part and submits that the proposed Bill reflects the intention of the Crime and Corruption Commission and the desire of the community for reform in the area of developer donations and handling of conflict of interest by councillors. Ngaire Stirling – 020 • the submitter is concerned about the lack of detail around Operation Belcarra and how it applies to local government • the submitter is a resident of the Moreton Bay Region and until recently had no idea how much power individuals at a local government elect level had to decide massive changes impacting communities for generations. Pat Coleman – 022 • submits that in relation to what the CCC spoke of at pages 87-98 of the Belcarra Report, and in relation to removal of councillors because at this time there is no legislation in place to rid legislation of time limits for prosecutions for corruption and other electoral offences, increasing the penalties for such offences, or who should be allowed to prosecute them, it is appropriate to bring that up and demand the relevant changes to bring that about as this is an omnibus Bill • submits that recommendation 7 from the Belcarra Report (that candidates must be taken to know where their donations have come from) must be legislated for. Redlands2030 – 023 Submits that it should be incumbent on any person receiving a political donation to be fully aware of who is giving the donation. In the case of gifts from corporations this should include a presumption that the recipient is aware of any related bodies corporate. Urban Development Institute of Australia – 024 Submits that all of the recommendations arising from the Crime and Corruption Commission report *Operation Belcarra: A blueprint for integrity and addressing corruption risk in local government* should	The following responds to specific issues in submissions: Government's response to Belcarra Report • The Government's response to the Belcarra Report supported, or supported in principle all 31 recommendations of the Belcarra Report. • In relation to submission 40 from the LGAQ, the proposal in the LGAQ's letter dated 16 January 2017 about register of interests and the proposal in the LGAQ's letter dated 7 September 2017 about expenditure caps are both matters that the CCC addressed in the Belcarra Report (recommendation 3 and recommendation 1, respectively). The Government supported in principle recommendations 1 and 3. • As the short title of the Bill suggests, the Government has flagged further reforms aimed at not only implementing the remaining recommendations of the Belcarra Report, but also aimed at providing for increased transparency and accountability at both state and local government levels. • The timing of the stage 2 reform agenda is a matter for the Government. Scope of Bill • In relation to the comments of submitter 032, the Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 also addressed 5 recommendations from the Belcarra Report. Person taken to be aware of source of gift • In relation to the comments of submitters 022 and 023 regarding providing that any person receiving a political donation be deemed to be fully aware of who is giving the donation, the CCC recommended in the Belcarra Report that:

Submitter/Submission Key Points	Departmental response
receive thorough consideration and investigation. The results of this investigation and rationale for action taken should be documented and made publicly available. Clara Clynick – 027 The submitter highlights reforms which would enable the CCC jurisdiction to extend as raised in the Belcarra Report (page 3) to: • disciplinary breaches by councillors, currently disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not "criminal offences" or non-discretionary dismissible breaches and • possible corrupt conduct by unsuccessful candidates. Queensland Audit Office – 029 Supports the recommendations made by the Crime and Corruption Commission in their Belcarra Report and this subsequent Bill to implement these recommendations. Gecko Environment Council Assn Inc – 032 Submits this Bill does not go as far as the previously tabled Local Government Electoral (Implementing Belcarra) and Other Legislation Amendment Bill 2017 which lapsed in that it only addresses 5 of the Belcarra recommendations. Submitter looks forward to further legislative reform being introduced in the near future to address the remaining recommendations. Sunshine Coast Environment Council – 034 • raises its concern regarding the continued resistance of the LGAQ - has not taken the opportunity as the peak body for local government to fully acknowledge the seriousness of the findings of the inquiry and the obvious need to address the substance of the recommendations • highlights the need for reforms which would enable the CCC jurisdiction to extend, as raised in the Belcarra Report (page 3), to: o disciplinary breaches by councillors. Currently councillor disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not 'criminal offences' or non-discretionary dismissible breaches; and o possible corrupt conduct by unsuccessful candidates. Brisbane Residents United – 035 • welcomes the Government's response to Operation Belcarra Report and its timely response to the most important issues raised by that report. • looks forward to further legislation to deal with the remaining outstanding recommendations. Submitter would like to see this legislation expanded so that it would apply at the state government level Park It (Park in Toowong) – 036 • welcomes the Government's response to Operation Belcarra Report and its timely response to the most important issues raised by that report. • looks forward to further legislation to deal with the remaining outstanding recommendations. Submitter would like to see this legislation expanded so that it would apply at the state government level	o the LGEA be amended to deem that a gift and the source of the gift referred to in Recommendation 6 is at all times within the knowledge of the person or entity required to lodge a return under Part 6 (Electoral Funding and Disclosure) and for the purpose of proving any offence against Part 9 (Enforcement), Divisions 5–7 (recommendation 7) and o the LGA and COBA be amended to deem that a gift and the source of the gift referred to in Recommendation 6 is at all times within the knowledge of the councillor for the purposes of Chapter 6 Part 2 Divisions 5 and 6 (Obligations of councillor and conduct and performance of councillors) (recommendation 21). • The Government's response to the Belcarra Report supported these recommendations and stated that it imposes a reasonable requirement and that it enhances transparency (for recommendation 7) and that it imposes a reasonably requirement on a councillor who had accepted electoral gifts and donations (for recommendation 21). Legislative limitation • In relation to comments of submitter 022 regarding legislative limitations, the CCC recommended that the LGEA be amended so that prosecutions for offences related to dedicated accounts and groups of candidates may be started at any time within four years after the offence was committed, consistent with the current limitation period for offences about disclosure returns (recommendation 29) and that the penalties in the LGEA for offences including funding and disclosure offences be increased to provide an adequate deterrent to non-compliance, including consideration of removal from office for councillors (recommendation 30). • The Government's response supports in principle both of these recommendations. The Government's response to recommendation 29 states that consideration will be given to the possibility of complaints being deliberately withheld and then made in the months leading up to the subsequent local government election. The Government's

Submitter/Submission Key Points	Departmental response
Local Government Association of Queensland – 040 • submits that on 16 January 2017, the LGAQ wrote to the Government following the LGAQ Policy Executive's endorsement of a proposal to make the completion of a register of interests compulsory at the time a candidate nominates for election • submits that the LGAQ has received legal advice indicating that the desired objective could be relatively easily achieved by amending section 27 of the *Local Government Electoral Act 2011* and through consequential amendments to the Local Government Electoral Regulation 2012. Detailed drafted amendments were provided to the Government with the letter. To date, the LGAQ submits it has not received a response to this proposal • submits that on 7 September 2017, the LGAQ put forward a further proposal for the Government's consideration, namely the introduction of local government election campaign expenditure caps. A literature review undertaken by the LGAQ showed there are various advantages of election expenditure caps: (to date, the LGAQ submits that it has not received a response to this proposal) o prevention of corruption and undue influence as they deal with the demand for campaign funds that drives fund-raising practices. o promotion of fair elections by reducing or containing the costs of elections, thereby facilitating open access to elections and increasing their competitiveness • strongly supportive of efforts to increase transparency in local government elections, such as real time disclosure of donations, and has been pro-actively putting forward proposals to address current deficiencies, many of which have been taken up by the CCC in the Belcarra Report, including expenditure caps, compulsory registers of interests for all candidates and tightening the definition of a group of candidates • publicly welcomed the CCC report and supported all recommendations except two (developer donation bans and empowering councils to force councillors to leave a meeting over a conflict of interest that they may not even have). Environmental Defenders Office – 042 • strongly supports the Government implementing the full suite of recommendations made by the CCC in the Report • the submitters recommendation 4 is to allow the CCC to investigate disciplinary breaches by councillors - currently councillor disciplinary breaches do not fall within the definition of corrupt conduct under the CC Act as they are not 'criminal offences' or non-discretionary dismissible breaches - and possible corrupt conduct by unsuccessful candidates. Redland City Council – 043 Submits extending the Bill to cover all 31 recommendations in the Belcarra Report; alternatively a timeframe for such assessment and extension to occur in a future Bill.	response to recommendation 30 states that a review will be undertaken of all relevant offences and penalties prior to finalisation and implementation. Investigation of councillor disciplinary breaches and corrupt conduct by unsuccessful candidates by CCC • In relation to submissions 027, 034 and 042 about providing for the CCC to investigate disciplinary breaches by councillors, the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 (the Councillor Complaints Bill) was introduced into the Legislative Assembly on 15 February 2018 and referred to the Economics and Governance Committee for detailed consideration. The Committee is to report to the Legislative Assembly by 9 April 2018. The Councillor Complaints Bill aims to provide a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland, including by establishing the position of 'Independent Assessor' to investigate and deal with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the Independent Assessor by the Crime and Corruption Commission, corrupt conduct. • In relation to submissions about providing for the CCC to investigate possible corrupt conduct by unsuccessful candidates, the jurisdiction of the CCC is provided for under the *Crime and Corruption Act 2001* and is outside the scope of this Bill. Any offence committed by an unsuccessful candidate, including an electoral offence, may be investigated by the Queensland Police Service.

Part E: Issues raised in submissions which are outside the scope of the Bill

Submitter/Submission Key Points	Departmental response
Dereka Ogden – 001 Submission includes concerns about residents' Right to Information rules or if documents are supplied large sections are redacted. Patrick Corballis – 003 • submission includes concerns about council authorising developments under delegated authority; government members voting on projects with a perceived/conflict of interest; independent 6 monthly audits of council books and the business holdings; banning CEO's from certain roles e.g. a director of a council insurer; making debates open to the public; tendering issues; constituents consulted before selling assets; development application parking requirements; all developments 'pay their own way'; background checks on all political aspirants just as they are done on liquor licensees • supports a totally independent complaints and enquiry watchdog, not linked in any way with council; the installation of an independent panel of judges (similar to those used in the NZ military to ensure independent rulings) to deal with all council cases, and civil cases against council, with support available to ensure the general public are not at a disadvantage; a higher understanding of ethics, accountability to the public, and open communication are encouraged, with feedback and two way dialogue to be enforced and audited regularly by an independent watchdog. John and Kathryn Edwards – 006 • submission includes that the process for assessing development applications and the method of making recommendations to councillors needs an urgent overhaul; Mareeba Shire Council (MSC) meeting process does not allow proper consideration of material by councillors or the public • MSC has a complaints system which does not function effectively. Judy Andrews – 010 • submission includes concerns about the inadequate provision to limit the power of councillors to delegate to the CEO in terms of monetary, social or environmental value of development applications • submits that there needs to be strict limits on decisions that are able to be delegated to ensure proper decision making processes which allow the interests of the community to be fully considered. Livingstone Shire Council – 013 Supports the recommendations of the Local Government Association of Queensland as alternative measures including disclosures by groups of candidates and banning donations from a political party to non-endorsed candidates. Kenneth Park – 015 • submits if it is intended to reduce corruption then it is desirable to reduce the influence of Mayors. This can be achieved by the councillors annually electing the Mayor from among their number [no	The issues raised by submitters in this column do not specifically relate to the Bill. In the introductory speech, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs stated that as indicated by the short title of the Bill, the Bill represents the first stage of the Palaszczuk government's reform agenda, not only in implementing the remaining recommendations of Operation Belcarra but also in further reforms aimed at reinforcing integrity, minimising the risk of corruption and providing for increased transparency and accountability at both state and local government levels However, to assist submitters the following responds to certain issues raised in submissions: • In relation to submissions about an independent complaints and enquiry watchdog, the Local Government (Councillor Complaints) and Other Legislation Amendment Bill 2018 (the Councillor Complaints Bill) was introduced into the Legislative Assembly on 15 February 2018 and referred to the Economics and Governance Committee for detailed consideration. The Committee is to report to the Legislative Assembly by 9 April 2018. The Councillor Complaints Bill aims to provide a simpler, more streamlined system for making, investigating and determining complaints about councillor conduct in Queensland, including by establishing the position of 'Independent Assessor' to investigate and deal with the conduct of councillors where it is alleged or suspected to be inappropriate conduct, misconduct or, when referred to the Independent Assessor by the Crime and Corruption Commission, corrupt conduct. The Bill also provides for a code of conduct to set appropriate standards of behavior for councillors in performing their functions. • In response to submission 017 and 025 that it is essential that full time ongoing disclosure of all donations must be

Submitter/Submission Key Points	Departmental response
point in corrupting a very temporary Mayor] and by eliminating the Mayor's exclusive role in framing the budget and in appointing, sacking and making performance reviews of the CEO • submits that the second objective seeks to promote council transparency and accountability. However, there will never be transparency, accountability or openness in Queensland local government while it remains so easy to exclude the public and media from the meeting and to permanently retain the secret status of certain documents and formal complaints disappear into bureaucratic black holes or yield only bureaucratic non-answers • submits the proposed legislation is far too detailed, prescriptive and codified. A codified system instantly sets the lawyers to work seeking loopholes. The submitter would prefer a statement of principles in the same way as section 4(2) of the *Local Government Act 2009* • submits that the most common form of electoral cheating is for incumbent councillors to freely avail themselves of ratepayer funded facilities. This takes the form of council supplied vehicles, offices, stationery etc for campaign purposes and using insider information and influence to obtain discounted advertising. The legislation does not address this matter. <u>Denise Ravenscroft</u> – 017 • submits it is essential that full time ongoing disclosure of all donations must be made to a publicly accessible register - to all politicians and also to all councils. Not only at election time. This must include gifts or services in kind • submits that retrospective legislation affecting residents and ratepayers makes a mockery of our legal system. Submitter was shocked to hear of approved changes to the differential rating system • submits a fully independent complaints team must be set up to field complaints about councils. The current system whereby councils investigate and then absolve themselves of any wrongdoing is a complete farce. The process to take a complaint first to the CEO before it can go to the Ombudsman wastes time and resources. The councils do not take on board the advice given leaving those with serious issues no natural justice. Also, it is totally unacceptable for the CCC to refer matters taken to them to the CEO's of councils • submits a large part of the problem is the complete devolution of responsibility to local governments. There is no point in having a local government Minister who cannot reign in councils who are acting unreasonably, unethically and unfairly • raises additional points including pooling election funds into one account; full transparency about all council decisions; investigation of complaints made against residents; public availability of council records; full disclosure of planned developments; council amalgamations; recording of phone calls; government staff taking positions in the private sector; priority development areas; open green space; salaries and travel expenses for CEOs, Mayors and councillors. <u>Ngaire Stirling</u> – 020 • submits audits need to be held of our local councils beyond just financial levels • submits no one is watching the watcher anymore and given local councils are doing a lot more than simply rates, roads and rubbish, perhaps it is time their governance reflects this responsibility • submitter would like to see all council workshops be opened to minutes to be viewed by the public. Closed workshops seem to be masking discussions that communities should be able to view and understand what was said, who participated and what was decided.	made to a publicly accessible register, the government in 2017 introduced Australia's first real-time electronic donation disclosure system to ensure Queenslander's are fully informed when they go to the polls. Refer to the Electoral Commission of Queensland's <u>website</u> for further information. • In response to submission 017 about retrospective legislation affecting residents and ratepayers, although the *Local Government Legislation (Validation of Rates and Charges) Amendment Act 2018* operates retrospectively, the amendments apply to only those local governments that may have constructed their resolutions in a way that has similar deficiencies to those outlined in the Supreme Court of Queensland's decision in Linville Holdings Pty Ltd v Fraser Coast Regional Council. For further information please refer to the <u>Committee's final report</u>. • In response to submission 029, the QAO Report 13: 2017-18, *Local government entities: 2016-17 results of financial audits* recommends DLGRMA mandate: 1. financial statements of controlled entities be made publicly available 2. audit committees for all councils. As advised in the Acting Director-General's correspondence of 14 March 2018 to the Auditor-General (refer Appendix A to QAO Report 13), the DLGRMA will give the recommendations further comprehensive consideration. The Acting Director-General also supported the four draft recommendations to councils. • In response to submission 031 that the local government disclosure threshold should have remained at $200, the former Infrastructure, Planning and Natural Resources Committee considered this issue in its Report No. 43, 55th Parliament on the Local Government Electoral (Transparency and Accountability in Local Government) and Other Legislation Amendment Bill 2016. The Committee sought clarification from the Deputy Premier, and then Minister for Transport and Minister for Infrastructure and Planning during her second reading speech regarding the rationale for aligning the disclosure

Submitter/Submission Key Points	Departmental response
Save Our Broadwater – 021 Submits the Bill does not ban property developers from getting elected to council or indeed continuing to act as property developers while acting as councillors. Pat Coleman – 022 The submitter raises a number of issues including: • that the Bill be amended to bring back optional preferential voting at state elections • it should be mandatory that all convicted for corruption offences should be removed from office • that it is time to legislate for compulsory verbatim Hansard and filming of council committee and in-camera proceedings • that amendments be made to the *Right to Information Act 2009* to abolish the fees for personal affairs. Redlands2030 – 023 • submits a case study that argues for further amendments: o candidates for state or local government election should publicly declare all financial transactions with prohibited donors which may not be gifts, but from which the candidate has gained, or could gain a benefit o the Bill should contain a mechanism whereby those transactions identified in the dot point above, which exceed a certain dollar value, trigger a conflict of interest assessment as to whether the councillor concerned can remain in the chamber and vote on a matter involving parties to the transaction • submits that the Bill needs to be supplemented by legislation that enables specific and discreet incidents that arouse reasonable suspicions of corruption within state or local government to be reported and investigated by an independent agency. It may require no more than extending the powers of an office that already exists. Your Community First Inc. – 025 States that real time donations will also help with transparency. Nicki Cassimatis – 026 Submission raises concerns about problematic "practice" within the Brisbane City Council of untimely and obstructionist access to information relating to public infrastructure projects that negatively affect the statutory rights of citizens having their homes compulsorily acquired and concerns that BCC does not abide by its own published values of integrity accountability and transparency. Carla Clynick – 027 Advocates for a betterment tax for land zoning decisions; addressing the revolving door between industry and government; a better definition of lobbyist and enforcing existing limitations on lobbyists moving between government and the private sector. Queensland Audit Office – 029	threshold at $500 rather than $200. To address concerns about the inconsistencies in the election disclosure threshold, the amendments increased the disclosure donation threshold for candidates from $200 to $500 and decreased the threshold for third parties from $1,000 to $500 to align with the councillor register of interest gift threshold. On 10 May 2017 in her second reading speech on the Bill the Deputy Premier informed the House that the CCC in its December 2015 report *Transparency and Accountability in Local Government* recommended that the Government consider amendments to disclosure requirements in the *Local Government Electoral Act 2011* and the Local *Government Act 2009* to align the threshold obligations for reporting, but did not recommend the amount at which the threshold should be aligned. On this issue, the government accepted the recommendation of the review panel formed to consider the CCC's recommendations. The panel agreed with the CCC that it would be optimal to align the threshold obligations for reporting. The panel considered that a new threshold of $500, bringing candidate and third party disclosures in line with councillors' gift disclosure requirements, would be appropriate. • In response to submission 043 about extending the real time disclosure requirements within the LGEA to include third party donors, section 125 of that Act provides that if a third party for an election receives the gift during the disclosure period for the election; and applies the gift, either wholly or in part, to a political activity relating to the election, the third party must give the ECQ a return about the gift on or before the disclosure date for the return. The Local Government Electoral Regulation 2012 section 9 provides that for section 125(2) of the LGEA, the disclosure date for a return for a gift received by a third party is the seventh business day after the day the gift is applied, wholly or in part, to a political activity relating to the election. • In response to submissions about the use of confidential sessions of local government meetings, the Local Government Regulation 2012 section 274 and the City of Brisbane Regulation 2012 section 249 provide that

Submitter/Submission Key Points	Departmental response
• submits the importance of transparency and the risk of conflicts of interest has also been raised in submitter's reports to Parliament. Reports that the Committee may be interested in: o Report 6: 2017-18 *Fraud risk management* o Report 13: 2017-18 *Local government entities: 2016-17 results of financial audits*. • the submitter's report to Parliament on Local government entities (Report 13: 2017-18) tabled in March 2018 recommends establishing appropriate mechanisms to manage conflicts of interest regarding controlled entities of councils. Councils often appoint councillors or senior executives to their companies' boards and they need to have appropriate mechanisms to manage the inherent conflicts of interest between the council's own activities and those of its controlled entities • submits that to improve the transparency of council-controlled entities, the submitter's local government report also recommends that it be mandated that the financial statements of controlled entities be made publicly available. <u>The Main Beach Association of Queensland</u> – 028 • the submission attached a previous submission made to the then Minister for Infrastructure, Local Government and Planning, the Honourable Jackie Trad on 12 May 2016 which deals with developers, political donations and the Gold Coast City Council • that submission proposed that several steps could be taken by the department to restore public confidence in decision making including: o clarify and tighten up what is allowable in terms of disclosure of political funding; o ensure transparency in terms of links between companies whose clients include both politicians and developers o ensure that politicians from the state and federal spheres are not able to interfere in council matters o initiate a Crimes and Corruption Commission enquiry to determine whether the current council is a fit and proper body to make decisions on development applications – and delay any major planning decisions until this is determined • the submission also attaches a letter to the then Minister for Local Government and Minister for Aboriginal and Torres Strait Islander Partnerships lodging a complaint against a councillor who allegedly initiated a community consultation on a light rail proposal without complying with the relevant rules. <u>Coolum Residents Association Inc</u> – 030 • requests inclusion of a provision in the Local Government Regulation 2012 to permit relaxation of restrictions set out in section 53.1 of the Queensland Audit Act when performing external auditing of local government's commercial business enterprises. Submits the external auditor is prevented from stating qualifications in Annual Reports • submits extracts from submitter's submission dated 19 September 2016 to the Councillor Complaints Review Panel outline further concerns regarding the effectiveness of Queensland Audit Office's audits of commercial business entities of Sunshine Coast Regional Council • submits earlier version of legislation ensured the Minister Local Government/Department had approval authority for council's annual budgets. This safeguard no longer exists.	meetings of a local government must be open to the public unless it is resolved to close the meeting. Section 275 of the LGR and section 255 of the CBR provide that a meeting may only be closed if councillors or members consider it is necessary to close the meeting to discuss matters specified in those sections. A resolution that a meeting be closed must state the nature of the matters to be considered while the meeting is closed. A local government must not make a resolution (other than a procedural resolution) in a closed meeting.

Submitter/Submission Key Points	Departmental response
Development Watch – 031 • notes that Ipswich City Council set up a company in order to attract development to rejuvenate their town centre. Submitter's council is doing the same. Submitter considers this to be a mistake • submits that development should occur as and when Planning Schemes allow and when the economic climate is right – it should not be driven or facilitated by a company set up by a council • submits there should be more transparency within council and the use of confidential sessions - the Sunshine Coast Council has a fairly high percentage of confidential sessions • submitter fully understands the need for confidential sessions in certain circumstances. However, recommends that local governments minimise the use of confidential sessions where possible. If a confidential session is warranted the council should state the reason for the confidential session and provide as much detail as possible. If this does not occur, a perception of corruption is again aroused within the community and the community loses trust • submission includes an extract from its submission on a previous amendment to the Local Government Electoral Act in relation to the increase in the disclosure threshold. Submitter still believes the disclosure threshold for local government should have remained at $200 • submits the state government should set up an independent committee of two or more persons to: o make rulings on conflicts of interest/material personal interests/prohibited donors etc. in a timely manner both for councillors and the community; o be a contact point for Community Groups to report unethical or potentially corrupt conduct on the part of councillors and/or CEOs and for the Committee to – • determine whether such conduct is unethical and/or corrupt; and • determine whether the conduct warrants CCC investigation; o keep a record of these issues which could indicate a picture of a potentially escalating problem within a particular local government; o set one Code of Conduct for all local governments; o set up a website similar to www.goodgovernance.org.au; o review the provisions of the Public Sector Ethics Act. John Woodlock – 033 Advocates for a betterment tax for land zoning decisions; addressing the revolving door between industry and government; a better definition of lobbyist and enforcing existing limitations on lobbyists moving between government and the private sector. Sunshine Coast Environment Council – 034 • supports that all conflicts of interest or material personal interest declarations be made and resolved in "Open session" of the meeting and recorded in the minutes of the meeting. Submits that making such declarations in a confidential session is unlawful • submits that councillors must understand that "ignorance of the law" is no defence. The Belcarra Report identifies a number of such instances and some concerning large donation amounts. There are examples of where a complaint has been made in relation to non-declaration of donations and the Councillor has been excused arguing he/she was not aware of the details of the donation and the donor. There is strong support from the community for penalties to be applied and consider dismissal as appropriate	

Submitter/Submission Key Points	Departmental response
• submits that the previous Local Government Electoral Act was quite clear about the recording of donations, over a certain threshold from any source. It was arrogant of councillors to ignore these provisions. Despite the evidence arising from the thorough nature of the CCC inquiry, the submitter is frustrated that the Crime and Corruption Commission and some Regional Disciplinary Panels ultimately excused councillors who were found to have infringed the law but have not and will not be charged with an offence • advocates for a betterment tax for land zoning decisions; addressing the revolving door between industry and government; a better definition of lobbyist and enforcing existing limitations on lobbyists moving between government and the private sector. <u>Brisbane Residents United</u> – 035 • submits that councils 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 • advocates for political donations at all levels of government be replaced with only publicly funded election materials allowed • recommends a betterment tax for land zoning decisions; addressing the revolving door between industry and government; a better definition of lobbyist and enforcing existing limitations on lobbyists moving between government and the private sector. <u>Park It (Park in Toowong)</u> – 036 • submits that councils 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 • advocates for political donations at all levels of government be replaced with only publicly funded election materials allowed • advocates for a betterment tax for land zoning decisions; addressing the revolving door between industry and government; a better definition of lobbyist and enforcing existing limitations on lobbyists moving between government and the private sector. <u>Queensland Local Government Reform Alliance</u> – 039 • submits a full review of the Local Government Act that will effectively force councils to adhere to the five core principles is of paramount importance • submits a complete overhaul of the Electoral Act that will see recalcitrant Mayors and councillors brought before the courts and NOT allowed to go unpunished as the CCC has recently doen [*sic* done] for those against whom they have damming evidence. <u>Environmental Defenders Office</u> – 042 • recommends publicly funded elections and a cap on expenditure by candidates and other parties for elections • advocates for a 'betterment tax' payable to the government where land zoning benefits a property developer in order to reduce the incentive in existence to change zoning to benefit particular	

Submitter/Submission Key Points	Departmental response
developers, and to compensate the community adequately in exchange for the windfall to the developer due to the change in planning regulation • states that the Bill should address 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 • also proposes improvements to the definition of 'lobbyist', for example to include acting for even non-profit entities that represent private industry, such as the Queensland Resources Council, and better enforcing existing limitations on lobbyists moving between government and the private sector. Redlands City Council – 043 • submits extending the real time disclosure requirements within the *Local Government Electoral Act* 2011 to include third party donors, so that candidates, groups of candidates, agents of candidates and third party donors are treated equally to disclose their interests as required by the Act • advocates that adoption of a public funding model of candidates.	