

Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

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3 October 2023

Committee Secretary
State Development and Regional Industries Committee
Parliament House
George Street
Brisbane QLD 4000

Email: SDRIC@parliament.qld.gov.au

Dear Committee Secretary,

Submission on Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023

At the outset I note that given the short timeframe for lodging submissions, this submission represents the views of the administrative arm of Logan City Council (Council) rather than being a submission endorsed by our councillors.

Council commends the Queensland Government's general policy intent in the Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023 (Bill) to improve the efficiency and effectiveness of the councillor conduct complaints system and to further clarify and enhance the councillor conflict of interest requirements in Queensland.

There are however a number of matters with the proposed amendments to the *Local Government Act 2009* (Act) which Council raises for the State Development and Regional Industries Committee's (Committee) consideration.

1. Clause 34 Amendment of s.122 (Removing a councillor)

While Council supports the emphasis being placed on councillor training in the Bill, the proposed amendment which will result in a councillor suspended for a failure to comply with a councillor training provision not being remunerated while suspended, seems excessive.

It is noted that this will be the only basis for suspension where a councillor will not be entitled to be remunerated, despite the other grounds arguably being more serious, e.g. "a councillor has seriously or continuously breached the local government principles" (s.122(1)(b) of the Act).

2. Clause 38 Insertion of new s.150CAB

Council notes its support for excluding a person who was, but is no longer, a councillor from the councillor conduct complaints system, unless the person has engaged in conduct that is suspected corrupt conduct.

However, it is submitted that this provision should be reviewed in 12 months from commencement to ensure that it does not encourage poor behaviour in a person who is a councillor, but does not intend to run for re-election, or is otherwise intending on stepping down from their role.

3. Clause 43 Amendment of s.150L (What is misconduct)

This clause includes several amendments to the section of the Act that defines what conduct of a councillor is misconduct.

A new type of conduct that will be misconduct is “non-compliance with an Act by the councillor”. Firstly, Council assumes this reference to “an Act”, is a reference to a ‘local government act’ as defined. Secondly, Council submits that given the serious nature of misconduct, that the proposed provision should be amended to include an element of knowledge or recklessness, that is, the new provision could be, “non-compliance with an Act by the councillor, either knowingly or recklessly”.

4. Clause 46 Insertion of new ch 5A, pt 3, divs 3A and 3B

Council supports the introduction of a preliminary assessment process for the assessor, and the inclusion of prescribed grounds for when the assessor must dismiss the complaint or decide to take no further action.

One of the proposed prescribed grounds is, when the conduct the subject of the complaint relates solely to behaviour engaged in by the councillor in a *personal capacity* unless the conduct is suspected corrupt conduct.

Council notes that it is not always easy to distinguish conduct engaged in by the councillor in a personal capacity from that conduct engaged in as a councillor. The Committee may wish to consider providing a definition or examples to assist councillors to understand the application of this provision. It is further noted the lack of clarity may be compounded because of the councillor conflicts of interest provisions being structured around the personal interests of councillors in matters.

5. Clause 51 Amendment of ss.150AA (Notice and opportunity for councillor to respond)

As outlined above, Council supports the introduction of a preliminary assessment process for the assessor. However, Council does not support removing the step which provides a councillor with an opportunity to provide a statement or information about why the matter should not be referred to the local government to be dealt with before a decision is made by the assessor. The basis of the submission is that a councillor’s interests may be adversely affected by such a decision, warranting procedural fairness being provided.

If you have any further questions in relation to this matter, please contact the City Solicitor, Cherie Watt on [REDACTED].

Yours faithfully

[REDACTED]
Darren Scott
Chief Executive Officer