




Speech By  
**Hon. Stirling Hinchliffe**

**MEMBER FOR SANDGATE**

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Record of Proceedings, 17 June 2020

## **ELECTORAL AND OTHER LEGISLATION (ACCOUNTABILITY, INTEGRITY AND OTHER MATTERS) AMENDMENT BILL**

 **Hon. SJ HINCHLIFFE** (Sandgate—ALP) (Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs) (3.42 pm): I rise to speak in support of the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill. I would like to start by thanking the Economic and Governance Committee for its consideration of the bill. While there is so much I would like to address in terms of the broader elements of this bill, and stay relevant to the bill, I will focus on the elements of the bill which affect my portfolio responsibilities, limiting my comments to chapter 5 of the bill. This includes the amendments relating to dishonest conduct of councillors and other local government matters.

This bill further progresses the Palaszczuk government's rolling reform agenda. This is the third tranche of legislation debated by the parliament in this term to address issues of integrity in local government. As I have said many times, the vast majority of our councillors are dedicated and honest individuals who deliver excellent services to their local communities. Our reform program has targeted conduct which does not meet these high standards.

As with all the changes progressed under the local government rolling reform agenda, they are guided by the four key principles of integrity, transparency, diversity and consistency with local government and state frameworks. While the Economics and Governance Committee made no recommendations in relation to chapter 5, I inform the House that the government will move amendments during consideration in detail to address certain issues, including some raised by stakeholders. I will address these as I outline key elements of chapter 5.

In relation to the local government system and decision-making, the bill amends the City of Brisbane Act and the Local Government Act to introduce new offences that apply if a councillor dishonestly contravenes certain obligations in relation to conflicts of interest or registers of interests. These offences align with the new offences in the bill applying to ministers, maintaining consistency with the state governance framework. As this government has previously made clear, where we can align requirements for state and local governments we will. A maximum penalty of 200 penalty units or two years imprisonment will apply, and the offences will be prescribed as 'serious integrity offences'. A councillor is automatically suspended if charged with a serious integrity offence. On conviction, a person automatically stops being a councillor and will be disqualified for seven years. Failure to comply with the relevant integrity provisions will also amount to misconduct.

The committee canvassed a range of stakeholder views about these provisions, including issues raised by the CCC and the Office of the Independent Assessor. The committee noted that local government representatives, in contrast, generally expressed support for the bill's approach of including

a requirement for dishonest intent. I note the LGAQ's statement in their supplementary submission to the committee in January this year which says—

The LGAQ strongly supports the Government's position in this Bill as currently drafted and believes it strikes an appropriate balance between deterring and punishing serious and intentional wrongdoing while providing for an individual's right to natural justice such that they are enabled to function confidently and fulfill duties of an elected member, operating to the best of their knowledge and ability, with genuine intent to comply with the law.

In a media release on 21 January this year, the LGAQ further expanded on these comments, with CEO Greg Hallam saying—

... councils supported the introduction of the new offences to help ensure accountability and transparency.

...

... including the element of intent was critical as it would ensure innocent mistakes, errors of judgement or administrative oversights were not criminalised as a result of the reforms.

Elected representatives are entitled to natural justice and a presumption of innocence.

Removing the element of intent would see them essentially considered guilty until proven innocent.

We cannot have a situation where councillors are hauled before the courts for an administrative oversight, when there was no intention to act dishonestly in order to benefit themselves or others.

Subsequently, the committee made no recommendations for changes to these provisions. The bill also clarifies and strengthens how councillors' conflicts of interest are to be managed. These provisions establish new concepts of a 'prescribed conflict of interest' and a 'declarable conflict of interest' and outline the steps to be followed for each. The new conflict of interest regime provides greater clarity to councillors elected at March's quadrennial council elections in relation to how conflicts of interest are dealt with.

I note the submissions from the Cairns, Fraser Coast, Isaac and Whitsunday regional councils and the Logan City Council, which support these clarifying and reasonable provisions. I have had numerous conversations with mayors across Queensland in support of these amendments and most recently with the Lord Mayor of Brisbane. The current regime has been found wanting, and through this legislation the Palaszczuk government is addressing the concerns we have received from those actually affected by the law, so I am glad councils will see the benefits of the new system.

The proposed new register of interests requirements and associated dishonesty offence will also apply to councillor advisers. The bill enables councillors of the Brisbane City Council and other local governments prescribed by regulation to appoint councillor advisers to assist in performing their responsibilities. It also requires me to make a councillor adviser code of conduct.

The committee noted that responses from stakeholders in respect of councillor advisers were mixed. Following stakeholder feedback, the government will move amendments to provide for the Local Government Remuneration Commission to make future recommendations to the minister about the local governments to be prescribed for the purpose of allowing the appointment of councillor advisers and the number of councillor advisers prescribed for each councillor.

The bill amends the process for filling a vacancy in the office of a mayor or councillor. As a result of stakeholder feedback, the government will move amendments to further streamline the process by providing for the same process to apply to all vacancies, both mayoral and councillor, in divided and undivided local governments other than the Brisbane City Council. The bill also limits the involvement of Brisbane City Council councillors in the appointment of council employees. Submitters largely supported these changes and also expressed support for the amendments in the bill concerning local government elections.

I remind the House that on 24 January 2020 the CCC tabled its report *Operation Yabber: an investigation into allegations relating to the Gold Coast City Council*. The Yabber report made two recommendations to ensure stricter governance and accountability in local government. I am pleased to electronically table the government's response which supports recommendation 1 and provides in-principle support for recommendation 2.

*Tabled paper:* Crime and Corruption Commission Report—Operation Yabber: An investigation into allegations relating to the Gold Coast City Council, government response [\[917\]](#).

Section 170 of the Local Government Act provides that a mayor may give a direction to the CEO but that the direction must not be inconsistent with a resolution, or a document adopted by resolution, of the local government. Recommendation 1 of the Yabber report is that the department reviews the operation of section 170 and progresses amendments to ensure that section 170 directions cannot be used to undermine efforts of CEOs to carry out their responsibilities and ensure that sound governance

policies and procedures are observed and that the employees of their local government authority behave ethically and in the best interests of the authority. To implement the government's response to recommendation 1, it is proposed to amend section 170 of the Local Government Act and section 170 of the City of Brisbane Act during consideration in detail of the bill.

Recommendation 2 of the Yabber report was for legislative amendments to impose further requirements relating to the guidelines about the provision of administrative support to councillors by local government employees and the code of conduct for councillor advisers. The government considers that recommendation 2 can be addressed through the proposed councillor adviser code of conduct and amendments to the code of conduct for councillors.

To provide additional protections to the members of the Councillor Conduct Tribunal, amendments to the bill will provide the same protections and immunity to tribunal members as those applying to Supreme Court judges and members of the Queensland Civil and Administrative Tribunal. Finally, the government will move amendments to provide for commencement of more significant reforms, including conflicts of interest and register of interest reforms and councillor advisors on 12 October 2020. The remaining provisions will commence on assent. A comprehensive implementation plan to support the passage of the bill has been developed, including a training package to be delivered to mayors, councillors and council staff prior to these new laws commencing, and a range of fact sheets and guidelines will also be available on the department website.

With this bill the Palaszczuk government continues our commitment to rebuilding community trust and confidence in the local government sector. Residents, ratepayers and businesses across the state look to their community leaders in times of crisis and in times of recovery. I want to reassure all Queenslanders that the further reforms that we are progressing today will ensure they can have faith in their newly elected officials to focus on local people, local issues and the future wellbeing of their communities.

In relation to the further provisions outside of chapter 5 of the legislation, I think this is an historic step forward for democratic reform in this state. I reject the assertions that have been made by the shadow Attorney-General that this is somehow an attack on Queensland democracy. It is a further enhancement and development of Queensland democracy to have a reasonable and sensible process that manages and ensures that all actors and all citizens have a fair right to be heard and to speak. The regime established under the legislation for state elections does that. The regime established under this bill provides for a further enhancement of the modernising of Queensland and the modernising of Queensland politics. I commend the bill very strongly to the House. I absolutely reject the suggestion that this is an attack on Queensland democracy; it is an enhancement.