



Speech By  
**Hon. Dr Steven Miles**  
**MEMBER FOR MURRUMBA**


---

Record of Proceedings, 14 November 2023

**LOCAL GOVERNMENT (COUNCILLOR CONDUCT) AND OTHER LEGISLATION  
AMENDMENT BILL**

Resumed from 13 September (see p. 2615).

**Second Reading**

 **Hon. SJ MILES** (Murrumba—ALP) (Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure) (4.45 pm): I move—

That the bill be now read a second time.

This bill is the culmination of an extensive consultation process with the local government sector and the broader community to address concerns about the operation of the councillor conduct complaints system. Across the local government sector, we have many hardworking councillors who are dedicated to their communities and who are delivering on their commitments to them. Queensland communities deserve to have confidence in their elected representatives at all levels of government. In instances where a councillor's conduct comes into question, our communities also deserve to have a streamlined system that responds quickly, fairly and in the best interests of all involved.

For this reason, in October 2021 I wrote to the chair of the State Development and Regional Industries Committee conveying stakeholder concerns about the performance of the functions of the Independent Assessor. On 14 October 2022 the committee tabled a report making 40 recommendations for changes to the system. The government support or supports in principle all 40 recommendations. Since then we have undertaken a recruitment process to appoint a new Independent Assessor. Whilst this recruitment process is ongoing, I have appointed Ms Bronwyn Blagoev to act as interim Independent Assessor. She has a wealth of experience across all areas of local government. She will perform an important role during the implementation of the bill. In addition, I am pleased to inform the House that Mr Russell Hood commenced in the role of President of the Councillor Conduct Tribunal this week on 13 November. Mr Hood has most recently been a senior Crown prosecutor in the Office of the Director of Public Prosecutions.

The bill before the House today seeks to recalibrate the councillor conduct framework to make it more effective and more efficient and to ensure that only matters of substance and in the public interest proceed to the Councillor Conduct Tribunal for determination. It addresses 19 committee recommendations requiring legislative amendments. The remaining recommendations are either fully implemented or are operational matters. The bill also enhances the conflict of interest requirements and modernises councillor advertising obligations. Minor technical amendments provide for recovery of election costs and make consequential amendments reflecting the change of classification of the former Moreton Bay Regional Council. Appropriate transitional arrangements will ensure the new and streamlined complaints system operates more efficiently.

I want to thank the members of the State Development and Regional Industries Committee for their thorough examination of the bill. The committee tabled its inquiry report on 27 October 2023. I also want to thank all stakeholders for their contributions, particularly the Local Government Association of Queensland. I note the committee's acknowledgement that there was general support for the bill during its development and that this was largely consistent with feedback received by the committee through its inquiry process. It is important to note that consultation on this bill was in addition to the consultation undertaken by the committee to inform its 2022 report which included consideration of 59 written submissions, eight regional public hearings and multiple public sessions here in Brisbane. The committee was satisfied that the consultation process on the bill has been comprehensive. The committee made five recommendations, the first being that the bill be passed, and I am pleased to table the government's response to the committee's report.

*Tabled paper:* State Development and Regional Industries Committee: Report No. 48, 57th Parliament—Local Government (Councillor Conduct) and Other Legislation Amendment Bill 2023, government response [1875](#).

I will address the detail of our response and some of the committee's comments in its inquiry report as I outline the key elements of the bill. I also inform the House that the government will move amendments to the bill during consideration in detail to correct two minor drafting errors and make one minor clarifying change. Additional amendments will address an unintended consequence of the electoral expenditure caps legislation passed earlier this year in relation to the operation of local government candidate campaign accounts.

Recommendation 1 of the 2022 committee report included target time frames to be applied by the Office of the Independent Assessor and the Council Conduct Tribunal. While this part of the recommendation is not being prescribed, the recommendation also included adoption of a statute of limitation to accept complaints unless they involve matters to be referred to the Crime and Corruption Commission. To implement the government's policy in relation to recommendation 1, a key feature of the bill is to introduce a statutory preliminary assessment process for complaints, notices and information about councillor conduct, including time limitations for receipt. Under this process the assessor must dismiss a complaint or take no further action in certain circumstances. These include that the complaint, notice or information was received outside of the prescribed time period unless the conduct is suspected corrupt conduct or the time limitation was not met because of exceptional circumstances. The assessor must also dismiss a complaint or take no further action where dealing with the matter would not be in the public interest or where the conduct was to comply with a guideline made by the department.

Providing for compliance with a departmental guideline addresses the government's policy in relation to recommendation 39 of the 2022 committee report. The same obligation to dismiss or take no further action applies where the conduct clearly does not constitute a conduct breach or misconduct or where the office of the councillor is vacated, unless the conduct is suspected corrupt conduct. Similarly, the assessor must dismiss a complaint or take no further action where the conduct relates solely to behaviour by the councillor in a personal capacity unless the conduct is suspected corrupt conduct. If a person who makes a complaint has been declared a vexatious complainant the assessor must dismiss the complaint unless it has been permitted. The assessor has discretion to dismiss a complaint or decide to take no further action if the assessor is satisfied of any one of a range of matters. For example, the conduct has already been dealt with by another entity or it would be an unjustifiable use of resources for the assessor to deal with the matter. The discretion also applies where the complaint, notice or information is frivolous or vexatious or was made other than in good faith or lacks substance or credibility.

For a suspected conduct breach, the assessor may also dismiss the complaint or take no further action if at least six months have elapsed since the conduct occurred and it would not be in the public interest to take action. The same discretion applies where there is insufficient information to properly make a preliminary assessment. The bill also provides options for the assessor to make appropriate recommendations—for example, that the councillor attend training, counselling or mediation. In addition, the bill provides for a range of matters to which the assessor may have regard in making a preliminary assessment. These include any reason for or factors relevant to the conduct, any steps taken by the councillor to mitigate or remedy the effects of the conduct and the consequences, both financial and non-financial, resulting from the conduct. Importantly, the bill also provides examples of reasons for or factors relevant to the conduct. These include training completed by the councillor or First Nations cultural customs of the councillor. The committee in its inquiry report on the bill noted strong support expressed by participants for the introduction of the preliminary assessment process.

In relation to the specific issues faced by Indigenous councillors, the committee conducted a private hearing with the Indigenous Leaders Forum at the Local Government Association of Queensland annual conference in Gladstone in October. The committee heard of the challenges faced by Indigenous

councillors in applying certain conflict of interest provisions, particularly around declaring family and kin relationships. The committee acknowledged the recommendation proposed by the LGAQ that the assessor must consider Aboriginal traditions and Islander customs during the preliminary assessment process. Further, the committee's recommendation 2 was that the department take further steps to ensure that the councillor conduct framework is operating as intended and fit for purpose for Queensland's Indigenous councils. I note that the committee intends to conduct further consultation on this matter with Indigenous councillors as part of its ongoing oversight responsibilities. The government's response supports recommendation 2. The department has developed a suite of tools to assist Indigenous and Torres Strait Islander councillors to manage the councillor conduct issues they face in their unique context dealing with law and traditional responsibilities. These tools are in the final stage of production following review by the Office of the Independent Assessor.

I turn now to the issue of the personal conduct of councillors. As I mentioned, the assessor must dismiss a complaint where the councillor engages in behaviour in a personal capacity unless the conduct is suspected corrupt conduct. The committee noted a mix of views expressed on this amendment. The committee was satisfied that the amendment to limit the assessor's jurisdiction to consider personal or private conduct is reasonable and appropriate. The committee's recommendation 3 is that the department, in consultation with the tripartite forum, prepare and update training materials to assist stakeholders to interpret the distinction between private and public conduct. Membership of the tripartite forum comprises the department, the Office of the Independent Assessor and the Councillor Conduct Tribunal.

The government supports recommendation 3. The department has a full suite of information, training and guidance material in development to support the incoming cohort of councillors over the course of the next term. This includes the clarification of the distinction between public and private conduct of councillors. The department will continue to consult with the tripartite forum during the development of this material. As part of this work, the code of conduct for councillors in Queensland will also be updated to reinforce that a councillor's conduct in their capacity as a candidate for election is not subject to the complaint system. Moderating a social media account, including blocking certain individuals, is not a breach of the code of conduct. However, it is important to note that engaging in defamatory or offensive remarks could breach the code of conduct and have wider ramifications.

In relation to the preliminary assessment process and time limitations, all inquiry participants agreed that the timeliness of complaint resolution was of utmost importance to ensure that the system is operating as intended. The committee welcomed the introduction of a preliminary assessment process to ensure only the most serious conduct complaints moved forward for determination. It should also be noted that the bill addresses recommendation 22 of the 2022 committee report by ensuring that councillors are notified of potential disciplinary orders as early as possible.

As I have mentioned, the preliminary assessment process requires dismissal of a complaint where the complainant has been declared a vexatious complainant. To implement the government's policy in relation to recommendations 28 and 29 of the 2022 committee report, the Independent Assessor may declare in certain circumstances that a person is a vexatious complainant for a period of not more than four years. The assessor must be satisfied a person has repeatedly made complaints and at least three of the complaints have been dismissed as being frivolous or vexatious or have been made other than in good faith. The committee in its inquiry report noted broad support for this amendment by several local government representatives at the public hearings in Gladstone as well as in written submissions. The LGAQ submitted that it appreciated the changes, noting that this would ensure that the councillor conduct system does not become a political weapon against individuals, which is critical in maintaining the confidence of the sector and the integrity of the role of the assessor and the tribunal.

The bill does not limit vexatious complainant declarations to just members of the public. Any person, including a councillor, may make a complaint to the assessor about the conduct of a councillor. Councillors can be declared vexatious complainants for making complaints. However, to promote integrity, transparency and compliance, a councillor cannot be declared a vexatious complainant for referring complaints or giving a notice about conduct to the Independent Assessor where the act requires them to do so. Under the preliminary assessment process, the assessor may take no further action if a notice or information is frivolous or vexatious. Further, the Local Government Act 2009 currently provides that a councillor must not give a notice about conduct vexatiously. A penalty of 85 penalty units applies.

I turn now to issues around the Councillor Conduct Tribunal. Recommendation 4 of the committee's 2022 report was that the president of the tribunal be appointed on a full-time basis to drive the performance of the tribunal and that a deputy president be appointed on a part-time basis to support

this work. The bill provides for the appointment of a deputy president of the tribunal and for the deputy president to act as the president during periods of absence. The basis on which the president or deputy president is to be appointed full-time or part-time is a matter for Governor in Council.

The committee was of the view that structural amendments to the tribunal's resourcing model are necessary for the tribunal to operate effectively and to set a strong framework to support the determination of misconduct allegations in the future. The committee's recommendation 4 was that the department take steps to ensure the Councillor Conduct Tribunal is adequately resourced and has representatives from regional Queensland and First Nations communities, where practicable. The government's response supports recommendation 4. Following recent appointments, membership of the Councillor Conduct Tribunal will consist of a full-time president and 14 casual members. A number of casual members are from regional Queensland.

In relation to the constitution of the tribunal, recommendation 8 of the committee's 2022 report was to allow one tribunal member to hear and determine matters such as uncontested or expedited matters and that a panel of three members continue to hear and determine complex, serious or contested misconduct matters. The bill provides that the tribunal may be constituted by up to three members for hearing a matter about councillor conduct and by one member for dealing with administrative or procedural matters related to a hearing. Determining whether a matter is complex, serious or contested will be dealt with administratively by the president of the tribunal. The committee was satisfied that the amendment in relation to the constitution of the tribunal was appropriate.

To reflect recommendation 17 of the committee report and address duplication, the bill removes the requirement for the assessor to undertake a natural justice process before deciding whether to refer suspected inappropriate conduct to the council. The committee, in its inquiry report, noted mixed views on this amendment. The committee commented that it remained of the firm view that conduct breaches should be resolved locally and that the capacity of councils should be developed to enable them to do this. The committee welcomed the amendments to ensure that councils undertake appropriate natural justice processes prior to consideration. The committee also welcomed the change to terminology from 'inappropriate conduct' to 'conduct breach'.

Turning to matters of misconduct, recommendation 23 of the 2022 committee report supported that a breach of a council's acceptable requests guidelines should no longer be a category of misconduct. The bill makes this amendment. New additions to the definition include an unlawful direction by a mayor to a council CEO and certain conduct in relation to declarable conflicts of interest. In addition, the bill removes from the definition the concept of breach of the trust placed in the councillor. This is replaced with wording indicating that a councillor has complied with an act. In relation to this specific change, the committee canvassed a range of stakeholder views. The committee was satisfied that the amendment is appropriate in the circumstances and the policy intent is sound. However, the committee suggested that this matter be considered as part of any further review of the system to ensure that the amendment is operating as intended and there are no unintended consequences.

I will address the important issue of councillor training. Recommendation 27 of the 2022 committee report was for the department to make training and professional development on the councillor conduct system, including conflicts of interest, compulsory for all local government councillors, mayors and senior council managers. The government supported this recommendation in principle. The bill establishes a mandatory training scheme for councillors with a regulation to prescribe a range of matters, including the period for completion. Consequences for noncompliance include suspension without remuneration or dismissal at the discretion of the minister.

The bill also implements recommendation 36 of the 2022 committee report by removing training from the functions of the assessor. The committee noted there were mixed views from stakeholders. The committee remained of the view that an enhanced training regime in conflict of interest provisions, amongst other elements of the system, is vitally important. It also believed that the department needs to further its work in training and building capacity in the sector.

The committee noted that consultation with the local government sector and the tripartite forum will be important in determining the content of the regulation. The committee acknowledged that the penalty for noncompliance in this instance is substantial, but was also of the view that the impact of councillors failing to understand requirements around conflicts of interest, for example, are also substantial. The committee was satisfied that the amendments relating to councillor training have sufficient regard to the rights and liberties of individuals in respect of penalties, administrative power and natural justice. Further amendments to improve the effectiveness and efficiency of the councillor conduct complaints system include limiting the system's application in relation to former councillors. This will allow the resources of the assessor to concentrate on substantive conduct matters in the public interest.

Finally, the bill amends the Queen's Wharf Brisbane Act 2016. The amendments provide a simpler and more transparent process for freehold declarations and will ensure that the state can comply with its obligations under the various development agreements and grant the necessary tenure within the original contractual time frames. The committee was satisfied that the amendments to the Queen's Wharf Brisbane Act are reasonable.

In conclusion, I echo the sentiments of the chair of the committee that local government councillors play a fundamental role in their communities and that Queenslanders expect high standards of conduct from their elected community leaders. An effective independent councillor conduct and complaints framework is vital to maintaining public confidence in local government and providing positive outcomes for communities across the state. The committee and many inquiry participants welcomed the amendments proposed by the bill. I am pleased to note the committee's comments that there has been a noticeable improvement to the manner in which the system has been operating. It is important that we continue to build on this momentum. The committee, therefore, made recommendation 5 that the relevant parliamentary committee conduct a review of the councillor conduct complaints system in the next parliamentary term to ensure any amendments introduced by the bill are operating as intended and without unintended consequences. The government supports recommendation 5.

Again, I thank all stakeholders for their engagement with these reforms over an extended period, particularly the LGAQ, the Local Government Managers Australia (Queensland), the Office of the Independent Assessor, the Councillor Conduct Tribunal, the Queensland Law Society, the Crime and Corruption Commission and all those who took the time to make submissions and appear before the committee. I commend the bill to the House.