Speech By

Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 15 February 2024

INTEGRITY AND OTHER LEGISLATION AMENDMENT BILL

Second Reading

Hon. YM D'ATH (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for the Prevention of Domestic and Family Violence) (3.10 pm): I move—

That the bill be now read a second time.

I acknowledge the work of the formerly named Economics and Governance Committee in considering the bill and its recommendation that the bill be passed. The bill represents another significant milestone in delivering this government's commitment to an effective, enduring and contemporary integrity framework in Queensland. This bill addresses two fundamental messages from the Coaldrake report. The first is to improve the independence of core integrity bodies, and the second is to strengthen the regulation of lobbying. The bill achieves this in a number of ways.

The report recommends strengthening the independence of the core integrity bodies to help ensure they fulfil their functions as independently as possible, with no interference nor prejudice imposed by the executive government. However, it is also important to remember that Queensland's integrity bodies are funded from the state's revenue—that is, the taxpayers' money that the executive government is entrusted to distribute fairly, wisely and in the pursuit of the policies and infrastructure needed by the community.

This bill seeks to balance the executive government's responsibility for government spending with the integrity bodies' need for independence from financial interference. It does this by introducing an independent arbiter and transparent decision-making process. Recommendation 12 of the Coaldrake report, on page 3, states—

Integrity bodies' independence be enhanced by involvement of parliamentary committees in setting their budgets and contributing to key appointments.

Each of the five integrity bodies' acts are amended by the bill to provide for funding proposals from integrity bodies to firstly be submitted to, and considered by, the appropriate parliamentary committee. The committee will be required to consider the funding proposal and provide a report to the relevant minister either approving the proposal, not approving the proposal or approving a different or amended proposal. This report will need to be provided to the minister within 20 business days of the funding proposal being received by the committee to avoid delaying funding increases for the integrity bodies. If a report is not provided within this time frame, the funding proposal is deemed to be approved. The funding proposal will then be considered by government as part of usual budgetary processes. If the government's decision on a funding proposal differs from a parliamentary committee's report, the minister will be accountable back to the parliament for that difference and must table a report explaining why the proposal approved by the committee was altered.

The role of parliamentary committees in decisions on key appointments to the integrity bodies is also to be enhanced. The bill amends four of the integrity body acts to require parliamentary committee

approval for key appointments, being the Auditor-General, the Ombudsman, the Information Commissioner and the Integrity Commissioner. It is not necessary to apply these amendments to the Crime and Corruption Commission. The Parliamentary Crime and Corruption Committee already has an approving role in key appointments for that body. For the four integrity bodies, parliamentary committee approval will be required for the recruitment and selection process, the remuneration, allowances, terms and conditions of employment, and for the final nominee to be submitted to the Governor in Council. The responsible minister and department will undertake the recruitment and other administrative processes.

The committee will have 20 business days to consider a request for approval about the recruitment and selection process, the salary and conditions of employment or the nominee. After that time if the committee's decision has not been provided, the committee's approval will be deemed. Without committee approval or deemed approval, the minister will not be permitted to submit a nominee to the Governor in Council and will need to provide a new nominee to the committee for consideration. I foreshadow that, in respect of decisions on key appointments, the government intends to move amendments during consideration in detail to provide for an extension of time, of up to a further 20 business days, for parliamentary committee approval. The extension of time would need to be agreed between the committee chair and the minister, and would apply in the event of unforeseen situations of illness, natural disaster or other disruption to the committee.

In relation to the report of the independent auditor for the Queensland Audit Office, I foreshadow that I intend to move a minor amendment to address an operational issue which has been identified post drafting. I note the comments made by the Right to Information Commissioner who stated during committee hearings—

… no matter what model you adopt under the Westminster regime, there is no such thing as absolute independence. I think we have to be realistic about that.

Ms Winson went on to say—

We have to be realistic that under the Westminster model responsible government includes that the government of the day has ultimate accountability for the Consolidated Fund.

A sound set of statements. As we all know, the Westminster system, the system under which this parliament operates, has ministerial accountability at its heart and, in short, expenditure decisions of the executive are answerable to this parliament, the representative body of the people of Queensland. While this new system will enhance integrity bodies' accountability and independence, the decision to expend money from consolidated revenue will always rest with the executive government of the day, which is accountable to this chamber. In fact, the only way that a bill can pass this chamber if it expends funds is with a message from the Governor, something which can only be obtained by government ministers.

One primary way that ministers are accountable for expenditure is via the budget process where the decisions of expenditure are scrutinised not only in this chamber but also through the estimates process—a valuable cornerstone of our democratic system. While I know that there were some alternate views in respect of implementing some of the recommendations, such as aligning financial accountability with the Speaker, these would have required constitutional change—something that was not recommended.

The government believes that the amendments, coupled with the amendments circulated, provide a sound pathway forward to empower our parliament via its rigorous committee system to have a greater involvement in the setting of core integrity bodies' budgets and oversight of key appointments and other matters.

Moving onto other elements, the Auditor-General is being provided with the mandate to audit trusts where at least one public sector entity controls the trust and either one or more public sector entities collectively hold at least 50 per cent of the trust or the assets of the trust.

In relation to the Ombudsman, I note that the Ombudsman will have the authority to investigate complaints against private organisations carrying out functions on behalf of the government. This is a direct result of recommendation 13 of the Coaldrake report which stated—

The Ombudsman be provided with the authority to investigate complaints against private organisations carrying out functions on behalf of the government.

I am advised that the Ombudsman in their submission confirmed that the bill implements the Coaldrake report's recommendation and addresses the current limitations of the Ombudsman Act which have precluded it from investigating or making recommendations to non-government service providers regarding their delivery of public services. I am advised that some stakeholders had issues with some

elements of these reforms; however, I am advised that the Ombudsman will provide guidance and education to the NGO sector as we move forward with these important reforms.

I turn now to lobbying regulation. The Coaldrake report acknowledges the role of lobbying in informing good policy development, but the report also stresses the importance of sound regulation that maintains equal access to decision-makers and does not allow imposition by anyone of undue influence over a decision-maker. The bill focuses on the activity of lobbying rather than the role of the individual and indicates what is, and is not, lobbying activity. It also requires mandatory training for registered lobbyists. The bill provides a number of new powers and functions for the Integrity Commissioner to better manage the regulation of lobbying, such as the power to request information from government and opposition representatives, seek an explanation or issue a direction and warn lobbyists for alleged misconduct. On page 58 of the Coaldrake report, it states—

Lobbying regulation be strengthened by an explicit prohibition on the "dual hatting" of professional lobbyists during election campaigns. They can either lobby or provide professional political advice but cannot do both.

This is exactly what the bill, coupled with the amendments circulated, does. As noted by some stakeholders during the committee inquiry, these provisions may be too narrow to give full effect to the Coaldrake report recommendations. I therefore, wish to foreshadow that the government will be moving an amendment to this bill to strengthen the prohibition of lobbyists working in a substantial role in an election campaign. In short, from commencement of the proposed provision, if a registered lobbyist, anytime during a term of government, plays a substantial role in an election campaign of a political party, they are banned from being a registered lobbyist for the remainder of that term. If the party they played a substantial role for wins at the next general election, then they are banned from re-registering as a lobbyist for the next term.

However, if the party they played a substantial role for loses at the next general election then they can become a registered lobbyist again, if they so desire. This removes any ambiguity or the potential loophole, as some were describing it, that a registered lobbyist would deregister just before a general election, work in a substantial role and then come back, as they were not dual hatting during the election period. The amendments which will be moved are stronger and clearer. This is a prime example of how the Miles government is taking the matters of integrity in our democratic landscape seriously—and I understand that stakeholders like the Integrity Commissioner have been consulted on this amendment and are supportive of it.

Further, the Integrity Commissioner during the committee's inquiry requested further detail be provided in the long title of the Integrity Act 2009 about the lobbying code of conduct, the power to issue directives and mandatory training. We will also do this.

In addition, I foreshadow that I will move some other amendments which I am advised stem from requests or via consultation with the Integrity Commissioner, in addition to amendments to resolve definitional issues and references to obsolete terms. The Integrity Commissioner has advised that the change of definition of 'designated persons' which stemmed from recent reviews has meant that some individuals or positions are not captured, and there is no quick way to allow them to get advice from the Integrity Commissioner without adding them via regulation. As such, the government proposes moving an amendment that will authorise the Premier to nominate a person or class of persons for a period of 28 days.

The November 2022 reforms also inserted new sections into the Integrity Act to provide for requests for the Integrity Commissioner's advice by former designated persons and by ministers or assistant ministers about ministerial advisers. Further amendments will amend those sections, firstly, to allow a chief of staff to request advice about a ministerial adviser and for a minister or assistant minister to be notified that this has occurred. The second amendment will allow a ministerial adviser to seek the Integrity Commissioner's advice on an ethical or integrity issue that arises from a post-separation obligation before their separation.

Members will also see amendments circulated in relation to the Evidence Act. I can advise that these relate to the sexual assault counselling privilege framework and are being moved as an amendment due to the urgent nature of the amendments. The framework seeks to ensure that victims or alleged victims of sexual assault are not deterred from seeking therapy through fear of having their confidential discussions disclosed during legal proceedings.

The foreshadowed amendments address some potential issues with the framework that have been raised in the courts. They will confirm the implied power of the court to consider protected counselling communications for the purpose of deciding an application for leave by expressly providing that the court may order that protected counselling communication be produced to it, may consider the communication and make any other order to facilitate its consideration of the communication. The amendments will also clarify that, if protected counselling communication is produced to the court in

accordance with an order, the court must not make the communication available or disclose its contents to the parties to the proceeding before deciding the application for leave under the sexual assault counselling privilege framework.

I know that members of this chamber and indeed many Queenslanders are interested in how the government is implementing the 14 recommendations made by Coaldrake. I am advised by the Department of the Premier and Cabinet that the majority of the recommendations have been completed or are nearing completion.

Passed last year, the Integrity and Other Legislation Amendment Act 2022 strengthened the Auditor-General's independence by making them an officer of the parliament and providing staffing and operational independence, as proposed in recommendation 1. This bill builds on the lobbying amendments of the legislation passed last year and will make Queensland's lobbying regulatory framework among the strongest in the nation.

In further addressing recommendation 3, chief of staff diary extracts are disclosed on a monthly basis and a new fit-for-purpose lobbying register is now accessible via the Office of the Queensland Integrity Commissioner's website—and we have gone further. The Queensland Ministerial Handbook now requires publication of assistant minister diaries in the same format as ministerial diaries. Publication will commence with publication of the February 2024 diaries in March 2024. To further enhance the integrity landscape in Queensland, the Miles government will ensure that the diary extracts of not only the Leader of the Opposition and their chief of staff but also the Deputy Leader of the Opposition and all shadow ministers are published.

The Public Sector Commission has been funded to realise recommendation 5 and will allow them to focus on the rejuvenation of the capability and capacity of the Queensland public sector. The government has also appointed a new Public Sector Commissioner to ensure there is a renewed and energised focus within that commission on what Queenslanders want, which is a high-performing and dedicated public sector regardless of where they are in Queensland.

The Crime and Corruption Commission engaged an external consultant to review the organisation's culture and performance to ensure that their focus is on corrupt conduct complaints, fulfilling recommendation 7. As per recommendation 8, an independent director-general and the Public Sector Commission now oversee investigations of complaints made against senior public servants of SES3 rank and higher.

In realising recommendation 9, new guidelines have been published under the Queensland Procurement Policy, and the requirements for annual reporting have been updated to ensure that more detail on consultant expenditure is publicly available. From the annual reporting round in 2024 there will be enhanced reporting via the Open Data website. With the passage of the Information Privacy and Other Legislation Amendment Bill 2023, recommendation 10, which requires establishing a mandatory data breach notification scheme, is achieved. This scheme has been funded over four years.

A review of the Public Interest Disclosure Act 2010 occurred, with over 100 recommendations made. Government is reviewing the recommendations which will see a completely new act created, addressing recommendation 11. Recommendation 14 has been realised, with agency chief executives now appointed via initial five-year fixed-term contracts under the Public Sector Act 2022. Recommendations 12 and 13 are addressed in this bill.

There has been substantial progress on the remaining three recommendations. I am advised that, in respect of recommendation 4, each minister and director-general has been asked to meet with their senior leadership to promote an enduring, effective and respectful working relationship between the department and ministerial office. I am further advised that codes of conduct for ministers and ministerial staff and the protocols for communication with department employees have been reviewed to ensure they align with the Coaldrake review recommendations, and changes are expected to be implemented shortly.

In respect of recommendation 6 regarding the clearing house, enhancements have been put in place, including a new complaints platform, webpage and management framework tools, in addition to guidelines to departments regarding time frames they should respond to people by. Former Judge Forde was engaged to review the clearing house complaints suggestion from the report and to report to government on ways it could be achieved, with the ultimate aim of ensuring that Queenslanders have the ability via any door to make a complaint or provide feedback.

In respect of recommendation 2 regarding the proactive release of cabinet submissions, this will occur from the last cabinet meeting in March this year. While I note that those opposite and some in the public realm have been calling for this to start sooner, it should not go unstated that this is a completely

new and revolutionary idea and process not only for Queensland but also for Australia. It is complicated and it needed to be thought through and developed in a considered and methodical manner.

As some on the other side of the chamber would know, important, complex and sensitive matters go to cabinet. Therefore, a system needed to be designed to release information and submissions pursuant to the recommendation but also to ensure that matters such as individual privacy, legal professional privilege, budget matters, commercial matters and sensitive matters between states were not also released.

The infrastructure, training and processes that have had to be expended to set this up have been large. I take this opportunity to thank the hardworking and dedicated public servants not only in the Department of the Premier and Cabinet but right across government—including in my Department of Justice and Attorney-General, as we have a large volume of submissions—for their collective effort in setting up systems and processes to make this happen.

As outlined when the bill was introduced, Queenslanders rightly expect their government to provide public services that are transparent and accountable. They want to see these services delivered in a contemporary integrity framework that maintains and improves a culture of accountability. In respect of the substantive elements of the bill and the associated amendments, these reforms form part of the overall package of reforms progressed by our government. These reforms ensure that Queensland has a strong, independent and robust integrity system. I commend the bill to the House.