



Local Government Reforms

Key amendments currently under consideration

March 2019



Acronyms and glossary

BCC	Brisbane City Council
CEO	Chief Executive Officer
DLGRMA	Department of Local Government, Racing and Multicultural Affairs
ECQ	Electoral Commission Queensland
RTI	Right to Information
Third parties	In an election - an entity that participates in the electoral process by publishing electoral material or making a donation.



Introduction

The Queensland Government is on a journey to reform the local government sector.

These reforms will strengthen the transparency, accountability and integrity of local government in Queensland. The government is committed to supporting local government and ensuring that public confidence and accountability is restored.

Proposed changes

There is an opportunity to further enhance the quality of local government in Queensland through reform, including the way Councillors are elected.

The Belcarra Report found that good government requires elections to be held on a level playing field, with equal participation available to all.

Belcarra also stressed the need for complete transparency about who candidates are, how their campaigns are funded, and their interests and affiliations - along with their relationships with other candidates.

The proposed reforms informed by the Belcarra Report and discussions with stakeholders includes:

- Compulsory preferential voting;
- Compulsory candidate training;
- Proportional representation in undivided councils;
- Tighter regulation of discretionary funds;
- Campaign spending caps; and
- Clarification of COI/MPI provisions.

This document provides details of proposed amendments in the next tranche of Belcarra legislative reform.

In addition to the proposed reforms in the Bill, the Government is proposing to also make amendments to particular Regulations to further improve council integrity, increase transparency, encourage diversity and ensure consistency in the local government system.

The regulation changes will tighten controls around the issues councils may discuss in closed meetings and ensure resolutions and minutes have enough information for the community to understand why councils have made decisions.

Changes include, Councils being required to consult with the community on their budgets. There will also be stronger requirements on the use of council controlled entities.

The publishing of Councillor registers of interest will also be standardised so that the community is better informed about potential conflicts of interests. Further information about these changes will be published on the Department's website.



How to use this document

The document is structured in four sections; before, during, after an election and elected councils. Current and proposed amendments are outlined as well as the reasoning for proposed changes.

Engagement opportunities

The Queensland Government is committed to ensuring stakeholders are aware of these proposed changes and their impacts.

The Department of Local Government, Racing and Multicultural Affairs is available to answer questions on a dedicated phone hotline 07 3452 6747 and email lgreforms@dlgrma.qld.gov.au. Live webinars will also be held by the Department, for more information and to register your interest go to <http://www.dlgrma.qld.gov.au/local-government-reform.html>



Legislative reform principles

The proposed amendments in the next tranche of legislative reform are about integrity, transparency, diversity and consistency in local government.



Integrity

Ensuring current and future Councillors are fully informed about their obligations as candidates and Councillors. Councillors are required to uphold the highest levels of honesty and impartiality when making decisions in the public interest.



Transparency

Clarifying and strengthening requirements before, during and after an election to enable voters to better know who they are voting for and reduce corruption risks. It's also about the community understanding why councils make the decisions they do in the public interest.



Diversity

Councils being representative of their communities and making it easier for potential candidates to nominate and campaign.



Consistency

Aligning local government election requirements with State and Federal electoral processes and aligning requirements between Brisbane City Council (BCC) and other local governments.

The icons are used throughout the document to indicate what reform principle/s aligns with each of the proposed amendments.



Before the election commences



Multi-member divisions

Current	Post reform	Reasoning
Doubt exists about whether councils can have divisions represented by more than one Councillor.	The provisions related to allowing local governments to be structured so a division may be represented by more than one Councillor will be more explicit (note: Change Commission Process still applies).	To provide certainty and clarity on existing provisions.



Postal ballot elections

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Councils must apply before 1 July in the year before quadrennial election. • Applications considered by Minister for approval without any criteria. 	<ul style="list-style-type: none"> • Councils to apply before 1 July in the year before quadrennial election. • New criteria for Councils wanting to conduct elections by postal ballot including: <ul style="list-style-type: none"> ○ The views of Council ○ Costs ○ Number of electors and population density ○ History of postal ballots • Councils to apply to ECQ who will provide recommendations to the Minister for approval. 	<ul style="list-style-type: none"> • Voting in person at a polling booth on election day is an open, transparent and democratic process. • Postal ballots give rise to issues: ballot security, delayed declaration of election results, lower voting participation (76% compared to 83% for attendance ballots). • Changed Australia Post service standards impacts on costs and delivery times. • Lack of criteria may lead to inconsistent decisions.



Candidate training

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Candidates are provided with an information pack from ECQ. • Candidates may attend an information session conducted by DLGRMA. 	<p>Mandatory training for all people wanting to nominate to be a candidate at a local government election.</p>	<p>To ensure that all candidates are fully informed of their obligations as candidates and Councillors.</p>



Groups of candidates

Current	Post reform	Reasoning
<p>May only register with returning officer during the nomination period.</p>	<p>People interested in forming a group of candidates for a local government election will be able to register their group at any time up until the close of nominations.</p>	<ul style="list-style-type: none"> • Greater transparency. • Enables voters to better know who they are voting for.



Electoral finance records

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Candidates and groups of candidates must open and maintain a dedicated campaign account. • All election funding and expenditure must go through the dedicated campaign account. 	<ul style="list-style-type: none"> • Candidates and groups will need to open a dedicated campaign account when they publicly announce or otherwise indicate their intention to be a candidate. • Candidates and groups of candidates must disclose the dedicated campaign account on their nomination form. • All election funding and expenditure must go through the dedicated campaign account. • All candidates must advise on the nomination form their dedicated account details. 	<ul style="list-style-type: none"> • Aligns State and local government election requirements. • Enhances transparency in relation to campaign donations and expenditure. • Reduces corruption risks.



During the campaign



Caretaker

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Caretaker commences when ECQ publishes notice of election. • Limitations on decisions about: <ul style="list-style-type: none"> ○ employment/termination of CEO ○ contracts of more than \$200,000 or 1% of rates. 	<ul style="list-style-type: none"> • Caretaker commences when ECQ publishes notice of election. • Limitations on making decisions about: <ul style="list-style-type: none"> ○ employment/termination of CEO ○ contracts of more than \$200,000 or 1% of rates ○ significant procurement activities such as establishing preferred supplier arrangements ○ making local laws ○ making planning schemes ○ varying existing development approvals. • Councillors will also be prohibited from using discretionary funds from 1 January in election year. 	<ul style="list-style-type: none"> • Aligns State and local government electoral processes. • Significant policy decisions that bind future councils should not be made while a council is in caretaker mode. • Council resources not to be used, or perceived to be used, to promote a sitting Councillor standing for re-election.



Dual candidacy

Current	Post reform	Reasoning
Not permitted.	<ul style="list-style-type: none"> Divided Councils cannot have dual candidacy. Undivided Councils can nominate for Mayor and Councillor. If successful as Mayor, votes received in Councillor election will be distributed according to preferences. 	<ul style="list-style-type: none"> Avoid depletion of possible pool of qualified or experienced Councillor candidates. Assist in attracting high quality candidates with less risk of their loss to local government.



Registers of interest for candidates

Current	Post reform	Reasoning
Not required.	<ul style="list-style-type: none"> Candidates must disclose as part of their nomination: <ul style="list-style-type: none"> Membership in political parties including membership in last 12 months If a candidate or close associate is involved in contractual arrangement with council If the candidate or close associate has any development applications before council. 	<ul style="list-style-type: none"> Enables voters to know about political affiliation and potential conflicts of interest.



Prohibited campaigning techniques

Current	Post reform	Reasoning
<ul style="list-style-type: none"> Group like behaviour only regulated if there was an intention to form a group. The actions of groups of candidates only regulated during election period. 	<ul style="list-style-type: none"> Only political parties and registered groups of candidates will be able to undertake group like campaigning techniques. 	<ul style="list-style-type: none"> Enables voters to better know who they are voting for by limiting 'secret' groups.



Postal voting applications

Current	Post reform	Reasoning
<ul style="list-style-type: none"> Individual voters need to apply for a postal ballot by no later than 7pm on the Wednesday before polling day. Ballot must be received within 10 business days after polling day. Ballots processed after the close of poll. 	<ul style="list-style-type: none"> A person wanting a postal vote must apply at least 10 business days before polling day (other than in a full postal ballot election). Ballots must be received within 10 business days after polling day. Ballots received prior to polling day can be processed early to enable them to be counted after the close of poll. 	<ul style="list-style-type: none"> Align with the State process under the <i>Electoral Act 1992</i>. 10-day application timeframe will provide sufficient time for ECQ to provide voter with their ballot before the election. Early processing enables quicker election result.



Real time financial disclosures

Current	Post reform	Reasoning
<ul style="list-style-type: none"> Real time disclosure (7 days) of electoral donations and loans by candidates, groups of candidates and third parties. 	<ul style="list-style-type: none"> Real time disclosure of electoral donations and expenditure (\$500 minimum) by candidates, groups of candidates and third parties Third parties are required to disclose if the expenditure was used to benefit or support a candidate or group of candidates or a particular issue. Information to be published by ECQ. During last 7 days of election: all expenditure and donations must be disclosed within 24 hours by candidates, groups of candidates and third parties. 	<ul style="list-style-type: none"> Ensures all donations and expenditure are publicly declared before polling day.



Disclosure requirements in relation to gifts

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Real time disclosure (7 days) of electoral donations and loans by candidates, groups of candidates and third parties. 	<ul style="list-style-type: none"> • Real time disclosure of electoral donations and loans by candidates, groups of candidates and third parties. • Candidates and groups of candidates are required to disclose: <ul style="list-style-type: none"> ○ gifts from individuals: the individual occupation or industry ○ gifts from companies: details of directors and whether a company has business with Council • Third parties are required to disclose original source of donation. • Candidates must notify donors of disclosure obligations. • Donors must advise candidates of the true source of donations and candidates will be deemed to know the true source of donations. 	<ul style="list-style-type: none"> • Enables voters to better understand the interests, industries and companies associated with donations. • Enables Councillors to deal with actual or perceived conflicts of interests more appropriately, transparently and consistently. • Donors are aware of the obligation for details of their gifts to be published.



Election expenditure caps

Current	Post reform	Reasoning
<p>No current caps.</p>	<ul style="list-style-type: none"> • The following caps will be introduced on electoral expenditure at local government elections: <ul style="list-style-type: none"> ○ Councillor candidates in local government areas/divisions — <ul style="list-style-type: none"> ➤ with fewer than 20,000 electors - \$10,000; ➤ with 20,000 electors or more – sliding cap of 50¢ per elector ➤ with 40,000 electors or more - \$20,000. ○ Mayoral candidate in Local Government areas — <ul style="list-style-type: none"> ➤ with fewer than 60,000 electors - \$30,000; ➤ with more than 60,000 electors – a sliding cap of 50¢ per elector ➤ with 200,000 electors or more - \$100,000. ○ Third parties: same cap that applies for Mayoral candidates. ○ Groups of candidates and political parties that endorse candidates: sum of individual members expenditure caps up to the maximum for positions to be filled in lieu of candidate caps. • Caps are per four-year term. • Aggregation and collaboration limits on candidates and groups of candidates using third parties to exceed expenditure caps. 	<ul style="list-style-type: none"> • Setting expenditure caps aims to: <ul style="list-style-type: none"> ○ improve transparency ○ reduce integrity risks associated with reliance on significant donations. • Create diversity by more equitable participation by those wishing to run for local government. • Reduces candidates' need to seek large donations from external parties, increasing integrity. • Reconciliation of donation and other income for electoral purposes with actual expenditure.



Voters' experience

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Mayor and single councillor divisions: optional preferential voting - mark at least one (or more) boxes, in order of preferences. • Multi-Councillor division or undivided council: first past the post voting - mark the number of boxes equal to number of Councillors to be elected with no preference expressed. 	<ul style="list-style-type: none"> • Introduction of compulsory preferential voting. • Full preferential voting for Mayors and single Councillor divisions. • Full preferential proportional representation for Councillors in undivided councils. • All ballot papers will be filled in the same way by placing a 1 for first preference candidate and recording a preference vote for all other candidates in ascending order. 	<ul style="list-style-type: none"> • Aligns with voting methodologies for State and Federal elections. • Avoids voter confusion by using the same process within an electorate. • Full preferential voting elects the candidate preferred by more voters. • Every vote counts.



After polling closes



Public campaign funding

Current	Post reform	Reasoning
<p>No current public funding.</p>	<ul style="list-style-type: none"> • Candidates, groups of candidates and political parties that receive more than 4% of first preference votes are entitled to \$1.57 per first preference vote up to the amount of electoral expenditure. • Dual candidates entitled to public funding for the higher of the amount entitled to receive, not both. • Payment into dedicated campaign account and may be withdrawn to reimburse personal campaign contributions and loans taken out to cover electoral expenditure. • Councils to fund by way of annual payments to ECQ except for 2020 quadrennial local government elections 	<ul style="list-style-type: none"> • Aligns State and local government electoral processes. • Encourages greater candidate participation in the electoral process by subsidising the cost of campaigning. • Reduce reliance on or need for donations and thereby reduce associated corruption risks.



Counting votes

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Mayor and single Councillor division: optional preferential voting • Multi-Councillor division or undivided council: first past the post. 	<ul style="list-style-type: none"> • There are no changes to how votes will be counted for Mayors and where only one Councillor is to be elected (i.e. use preferences to achieve a majority). • Where more than one Councillor is to be elected, the count will change from a first-past-the-post count to a proportional count (i.e. using preferences to achieve quotas). 	<ul style="list-style-type: none"> • Aligns with State and Federal electoral processes. • Proportional voting avoids situations under first past the post where the voting preferences of the majority of electors are not captured. Proportional voting ensures that Councillors elected are representative of the community due to all votes counting in the final result.



Electoral finance returns

Current	Post reform	Reasoning
<p>Within 15 weeks of the conclusion of the election, candidates, groups of candidates, political parties and third parties to the election must submit a donations return to ECQ.</p>	<ul style="list-style-type: none"> • Within 15 weeks of the conclusion of the election, candidates, groups of candidates, political parties and third parties to the election must submit a financial return (donations and expenditure) to ECQ. • Must provide a bank statement for the dedicated campaign account. 	<ul style="list-style-type: none"> • Enable auditing of electoral financial records for greater transparency. • Enable the allocation of public funding to candidates and groups of candidates.



Councillor vacancies

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Mayors – filled by way of by-election. • Councillors: <ul style="list-style-type: none"> ○ In first 12 months – filled by appointing runner up ○ From 12 months to 30 months – by-election ○ After 30 months – appointment ○ Last 6 months – may leave vacant. 	<ul style="list-style-type: none"> • Mayors: <ul style="list-style-type: none"> ○ In first 36 months – filled by way of by-election ○ Last 12 months – filled by Councillors appointing one of their own to fill vacancy. • Councillors: <ul style="list-style-type: none"> ○ In first 36 months: <ul style="list-style-type: none"> ▪ For single-Councillor division - filled by way of by-election ▪ For multi-member or undivided council – filled by appointing next candidate after allocating preferences. ○ Last 12 months – filled by appointment. ○ Last 3 months – may leave vacant. 	<ul style="list-style-type: none"> • Minimise costs associated with conducting by-elections resulting from Mayoral and Councillor vacancies. • Appointment of runners-up in single-Councillor divisions can lead to ‘opposition’ Councillors being appointed. • Reduce the length of a vacancy so the community remains represented.



After council is constituted



Registers of interests

Current	Post reform	Reasoning
<p>Councillors must notify of any changes to their interests within 30 days.</p>	<ul style="list-style-type: none"> • Councillors will have 30 days after the election to submit a new register of interests or face vacating office. • Councillors must notify of any changes to their interests within 30 days. • Councillors must provide an annual update to their register of interest. • The contents of the register of interests will align where practicable with requirements for State MPs including: <ul style="list-style-type: none"> ○ Gifts under \$2,000 only need to be recorded for two terms ○ Electoral gifts do not need to be recorded ○ Better clarity on interests arising from official duties. 	<ul style="list-style-type: none"> • Aligns with the register interest processes for State MPs. • Improve the quality and timeliness of disclosures by Councillors.



Conflicts of interests

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Councillors with a material personal interest in a matter at a council meeting must disclose their interest and leave the meeting. • Councillors with a conflict of interest in a matter at a council meeting must disclose the conflict and other Councillors decide whether they can participate. • Where Council loses its quorum because of conflicts of interest, issue must be delegated. 	<ul style="list-style-type: none"> • Councillors with conflicts of interests will be prohibited from dealing with the matter unless council resolves that it is in the public interests for them to do so. • Material personal interests will be replaced with prescribed conflicts of interests which require relevant Councillor to refrain from being involved in the matter. • Prescribed conflicts of interests will include interests associated with: <ul style="list-style-type: none"> ○ gifts or donations worth more than \$2,000 from an entity to a councillor, group or party (if the gift is an electoral donation) or to councillor or close associate (if other gift or sponsored hospitality benefit) with a matter before council ○ CEO employment matters (e.g. appointment, discipline, and remuneration) if the CEO or applicant is a close associate ○ an application for a licence, permit, registration or other approval for the Councillor or close associate or an entity which the Councillor or close associate has a financial interest in ○ a contract between the council and the Councillor or close associate or an entity which the Councillor or 	<ul style="list-style-type: none"> • Address issues raised by Councils about the complexity and effectiveness of the current conflicts of interest system. • Address the existing gap in relation to conflicts of interests that arise outside of council meetings.



Current	Post reform	Reasoning
	<p>close associate has a financial interest in.</p> <ul style="list-style-type: none"> • Exempt interests will include the existing circumstances in the Act such as merely having an interest due to— <ul style="list-style-type: none"> ○ Non-board memberships in community associations ○ Religious beliefs ○ Membership in political party ○ Having been a student, or being a parent of a student, at an educational facility. • Exempt interests will include some, but not all, of the matters covered under the previous 'ordinary business' exemptions. • Non-conflicted Councillors will be able to decide whether another Councillor can deal with a matter they have an interest in even if there are not enough remaining Councillors to form a quorum. 	



Discretionary funds

Current	Post reform	Reasoning
<ul style="list-style-type: none"> • Councils may allocate discretionary funds to Councillors to allocate for: <ul style="list-style-type: none"> ○ community purposes ○ capital works ○ grants to community organisations. 	<ul style="list-style-type: none"> • Councils will be capped at 0.25% of general rates for the amount of funds allocated as discretionary funds. • Councillors will be prevented from rolling funds over financial years. • Discretionary funds expenditure will be published within 7 days. • Discretionary funds will not be allowed to be expended from 1 January in election years until the conclusion of the election. 	<ul style="list-style-type: none"> • Enhance accountability about allocation and use of discretionary funds. • Prevent use of discretionary funds to raise the profile of sitting Councillors before an election.



Intervention powers

Current	Post reform	Reasoning
Brisbane City Council (BCC) has its own Councillor complaints system.	<ul style="list-style-type: none"> • The Office of the Independent Assessor will investigate complaints about the conduct of BCC Councillors. • BCC will be subject to the same intervention powers as other councils. • Clarify that the Minister may take remedial action in the public interest. 	<ul style="list-style-type: none"> • To ensure impartiality and consistency with BCC Councillors being treated the same as other Councillors.
The State has certain powers of intervention with respect to local governments, including the appointment of advisors and financial controllers.	<ul style="list-style-type: none"> • Widening the instances in which these powers can be used to include where the use of a power is in the public interest. 	<ul style="list-style-type: none"> • To ensure consistency with previously amended provisions which introduced the concept of intervention where public interest grounds exist.



Committee minutes

Current	Post reform	Reasoning
<ul style="list-style-type: none"> BCC committees do not need to keep minutes Other councils may exempt their committees from keeping minutes. 	<ul style="list-style-type: none"> All council committees will need to keep minutes. BCC will lose its RTI exemption for its Establishment & Coordination Committee. 	<ul style="list-style-type: none"> Enhance transparency through recording and publication of committee minutes.



Councillor access to information

Current	Post reform	Reasoning
<p>Councillors may request information to assist them in their duties.</p>	<ul style="list-style-type: none"> CEOs must ensure Councillors obtain information within 5 days of the request. BCC Councillors will be entitled to information even it does not specifically pertain to their wards. 	<p>To ensure Councillors have the necessary information to make informed decisions in the public interest.</p>



Mayoral powers

Current	Post reform	Reasoning
The Mayor prepares and presents the budget for consideration by Council.	<ul style="list-style-type: none"> All councillors responsible for this. 	<ul style="list-style-type: none"> Better reflect that the budget should be developed by all Councillors and represents the entire local government area and the input of all Councillors.
The Mayor has the power to direct the Chief Executive Officer and senior executive staff.	<ul style="list-style-type: none"> Power of direction of senior executive staff rests with the Chief Executive Officer rather than elected officials. 	<ul style="list-style-type: none"> Better reflects the organisational hierarchy of Councils and reduces the prospect for corruption and to give clearer reporting lines.
Few limitations about the power of the Mayor to direct the Chief Executive Officer.	<ul style="list-style-type: none"> Mayor can only direct the Chief Executive Officer in accordance with Council policies and directions. 	<ul style="list-style-type: none"> Reduces the prospect of corruption.



A number of additional technical amendments are also being proposed – they relate to the powers of the Independent Assessor and technical electoral matters to assist ECQ run elections.

What next?

The Department of Local Government, Racing and Multicultural Affairs will be available to answer questions through a dedicated hotline and live webinars. For more information and to register your interest go to <http://www.dlgrma.qld.gov.au/local-government-reform.html>

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