



Stage 2 local government reforms

Information paper on recent changes to legislation and future amendments under consideration

October 2019





Acronyms and glossary

BCC	Brisbane City Council
CEO	Chief Executive Officer
COI	Conflicts of interest
DLGRMA	Department of Local Government, Racing and Multicultural Affairs
ECQ	Electoral Commission of Queensland
LGE	Local government employee
LGRC	Local Government Remuneration Commission
MPI	Material personal interest
OIA	Office of the Independent Assessor
ROIs	Register of interests
RTI	Right to Information
Third parties	Entities in an election that participate in the electoral process by publishing electoral material or making a donation



Introduction

The Queensland Government is pursuing a rolling reform agenda in the local government sector. The reforms further strengthen the transparency, accountability and integrity measures that apply to the system of local government in Queensland.

Several enquiries including the Crime and Corruption Commission's Operation Belcarra have identified a range of opportunities to further enhance the quality of local government in Queensland through reform, including the way councillors are elected.

The Belcarra Report, finalised in October 2017, found that good government requires elections to be held on a level playing field, with equal participation available to all. It also stressed the need for complete transparency in elections.

This document begins with a high-level summary of the reforms and then provides more detail about Belcarra stage 2 in subsequent pages.

Legislative reform principles

- **Integrity:** ensuring current and future councillors are fully informed about their obligations as candidates and councillors, and requiring councillors 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 to reduce corruption risks, and ensuring that the community can understand why councils make the decisions they do in the public interest
- **Diversity:** promoting 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.

Belcarra stage 1

Following the Belcarra Report, the government assessed a number of changes as requiring priority, with a first stage of legislative changes under the *Local Government Electoral (Implementing Stage 1 of Belcarra) and other Legislation Amendment Act 2018*.

Stage 1 changes:

- prohibition of donations from property developers
- new regime for dealing with conflicts of interest (COIs).

Belcarra stage 2

Following consultation with stakeholders and review by the Economics and Governance Parliamentary Committee, the Queensland Parliament recently passed the Local Government Electoral (Implementing Stage 2 of Belcarra) and other Legislation Amendment Bill 2019.

Changes in effect from the Governor's assent of the legislation:

- mandatory *So you want to be a councillor?* training for election candidates
- transparent dedicated candidate bank accounts and financial returns
- new restrictions on decisions during the election period (i.e. caretaker period).



In effect 18 November 2019:

- Right to Information laws to cover Brisbane City Council civic cabinet meetings
- expanded councillor rights to access council information
- clarified responsibilities for councillors in preparing council budgets
- changes to mayoral powers to direct CEOs and senior executive officers and the appointment of senior executive officers.

In effect 20 January 2020:

- improved real-time donation disclosures
- improved disclosures of real donation and gift sources
- real-time expenditure disclosures.

In effect 30 March 2020:

- the Office of Independent Assessor (OIA) to investigate councillor complaints for Brisbane City Council.

See pages 5-6 for more detailed information on each of the stage 2 changes.

Finance reforms

In April 2019, the Department of Local Government, Racing and Multicultural Affairs released a paper proposing changes for governance, budget and other financial matters, available at <https://www.dlgrma.qld.gov.au/resources/publication/reform/proposed-lg-regulatory-reforms.pdf>.

The proposals in part reflect recommendations and suggestions from the Queensland Audit Office, Queensland Law Society, Ombudsman, and the Local Government Association of Queensland.

Finance proposals include:

- councils being required to consult with the community on their budgets (proposed to commence for 2021-22 budget year)
- strengthening the requirements on the use of council-controlled entities
- clarification on the provisions for the sale of land for rate areas.

Following initial consultation with stakeholders, the department expects to release an updated information paper soon for further public comment.

More information

The Queensland Government is committed to ensuring the community and stakeholders are aware of the legislated and proposed reforms and their impacts.

The Department of Local Government, Racing and Multicultural Affairs (DLGRMA) is available to answer questions on 07 3452 7148 or by email to lgreforms@dlgrma.qld.gov.au.

You can also visit the department's website at www.dlgrma.qld.gov.au/lgreform for more information including resources and fact sheets.



Belcarra stage 2 in detail

Below is the summary of the reforms passed as part of Belcarra stage 2. *Note that the information below is not a substitute for reading the Act or Explanatory Notes.*

Candidate training	Mandatory training for all local government election candidates to be completed before nominating for election, including existing mayors and councillors
Postal ballot elections	<p>Councils to apply to the Minister for Local Government before 1 May in the year before a quadrennial election for referral to the Electoral Commissioner who will provide recommendations to the Minister for approval</p> <p>New criteria for postal ballot elections includes:</p> <ul style="list-style-type: none"> • the views of council • costs • number of electors and population density • history of postal ballots
Electoral finance records	<ul style="list-style-type: none"> • Candidates and groups must open a dedicated campaign account • All election funding and expenditure must go through the dedicated campaign account • Clarification that credit cards cannot be used for election expenditure • Account details disclosed on ECQ nomination form
Multi-member divisions	Amendment to clarify that a division may be represented by more than one councillor
Postal voting applications	<ul style="list-style-type: none"> • A person wanting a postal vote must apply at least 12 days before polling day • Ballots received before polling day can be processed early to enable them to be counted after the close of poll
Caretaker period	<p>New prohibition on making decisions during the caretaker period:</p> <ul style="list-style-type: none"> • significant procurement activities such as establishing preferred supplier arrangements • making local laws • making planning schemes • approve development variation requests or change variation approvals that involve: <ul style="list-style-type: none"> ○ varying the category of development or category of assessment of consequential development ○ varying the assessment benchmarks or criteria for accepted development that would apply to consequential development ○ facilitating development that would result in a greater demand on infrastructure that the demand anticipated in the Council's infrastructure plan <p>Fact sheets or newsletters that raise the profile of a councillor added as an example of prohibited material during the caretaker period</p>
Prohibited campaigning techniques	Only political parties and registered groups of candidates can undertake group-like campaigning techniques



Real-time electoral financial disclosures	<ul style="list-style-type: none"> • Real-time disclosure of electoral donations and loans (\$500 minimum) required within seven days: <ul style="list-style-type: none"> ○ gifts from individuals: the individual's occupation or industry (to ensure they not a prohibited donor) ○ gifts from companies: details of directors and whether company has business with council • Third parties are required to disclose if the expenditure was used to benefit or support a candidate, a group or an issue • Information published by ECQ • Candidates must notify donors of disclosure obligations • Candidates must notify public of requirement to disclose • Donors must advise candidates of the true source of donations
BCC RTI requirements	Right to Information requirements will apply to BCC's Establishment & Coordination Committee
Councillor access to information	<ul style="list-style-type: none"> • CEOs must ensure councillors obtain requested information within 10 business days of the request or advise that is not practicable and then provide within 20 business days • BCC councillors entitled to information that does not specifically pertain to their wards
Mayoral powers changes	<ul style="list-style-type: none"> • All councillors are responsible for setting budgets • Senior executive employees can only be directed by the CEO, not elected officials • Mayor can only direct the CEO in accordance with council policies and decisions
Intervention powers	<ul style="list-style-type: none"> • BCC subject to the same intervention powers as other councils • Minister for local government may take remedial action in the public interest • Powers of the Minister now include where the use of a power is in the public interest
BCC councillor complaints	Councillor conduct and complaints provisions of the <i>Local Government Act 2009</i> extend to BCC councillors, including application of Code of Conduct and investigation of councillor complaints by the Office of the Independent Assessor

Below is a summary of future regulatory amendments that will need to be made to support the above new legislated provisions.

Real-time electoral financial disclosures	<ul style="list-style-type: none"> • During the last seven days of an election, all expenditure and donations disclosed within 24 hours
Discretionary funds	<ul style="list-style-type: none"> • Discretionary funds allocation to be advised by the councillor to the CEO within seven business days and then published on the council website within seven days • Councils capped at 0.1% of general rates for the amount of funds (excluding capital works by council) allocated as discretionary funds • Councillors may allocate funds only in financial year in which budgeted (no roll-overs) • Councillors prohibited from making new decisions to use discretionary funds from 1 January in election year

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