

# **Local Government and Other Legislation Amendment Bill 2005**

## **Explanatory Notes**

### **General Outline**

#### **Objective of the legislation**

The Bill provides for:

- Amendment of the *City of Brisbane Act 1924* (CoBA) to require Brisbane City Council to implement risk management contracting arrangements known as the Strategic Contracting Model (SCM) which is based on the State Purchasing Policy .
- Amendment of the *Liquor Act 1992* (Liquor Act) to exempt licensed entertainment venues in special entertainment precincts from the noise provisions in the Liquor Act, and instead be dealt with under a council's relevant local law.
- Amendment of the *Local Government Act 1993* (LGA) to:
  - establish a new risk management contracting framework known as the strategic contracting model;
  - provide councils with discretion to choose the strategic contracting model or the procedural contracting model based on current prescriptive requirements for their contracting arrangements;
  - ensure councils use an open and transparent process to assess the costs and benefits before adopting the strategic contracting model;
  - provide councils that decide to remain with the strategic contracting model an option to use the strategic contracting model for significant once-off purchases or disposals (other than land);

- increase the threshold levels to \$150,000 for tenders and \$15,000 for quotations for contracts under the procedural contracting model;
  - clarify that disposal provisions apply to the sale of assets used to produce the goods and services provided by a council, defined in the *Local Government Finance Standard 2005* (LGFS) as non-current assets;
  - ensure councils that adopt the strategic contracting model are accountable to their local communities through making annual procurement and disposal plans available for public inspection and reporting on their performance against these plans in their Annual Reports;
  - support improved flexibility and autonomy in contracting by requiring all councils to prepare purchasing and disposal procedures manuals;
  - provide local governments with discretion to declare special entertainment precincts within their local government area using their local laws and an amendment to their planning scheme prepared under the *Integrated Planning Act 1997* (IPA).
- Amendment of the *Local Government (Community Government Areas) Act 2004* (LGCGAA) to provide a process for Aboriginal councils to change their name. The process will reflect that the process that currently applies to councils under the LGA.

## **Reasons for the Bill**

### *Local Government Contracting*

In 2003 the State Government conducted a review of the framework for local government contracting as contained in the LGA and the CoBA. The purpose of the review was to determine whether or not the local government contracting frameworks should be amended to reflect the approach to procurement activities undertaken by State Government departments and agencies. The State Purchasing Policy is a risk management approach to procurement and has applied to State Government agencies since 1 July 2001.

A Discussion Paper was released in August 2003 and responses from councils and key stakeholders supported amendments to legislation that

would improve local government procurement practices and recognise the diversity of local government size and capacity.

### *Special Entertainment Precincts*

Recent trends towards inner city living have seen increased conflict due to the proximity of residential apartments to live music venues. This has been observed in Brisbane's Fortitude Valley, which prompted Brisbane City Council (BCC) to approach the State Government about amending legislation to give BCC the power to declare the Valley a 'special entertainment precinct'. The State Government has identified that this trend also applies in regional centres across Queensland as people make a lifestyle choice to live in their inner city or town area.

The proposed legislative framework will assist councils balance the needs of closely located residents and live music venues and provide a means to deal with conflicts regarding noise. Under the new framework, councils will have the power to declare an area a 'special entertainment precinct' and use local laws to allow venues more flexibility to play music at different volumes, and planning schemes to ensure buildings constructed in these precincts have better noise attenuation to deal with the new music volumes.

### **Alternatives to the Bill**

There are no alternatives considered appropriate for achieving these policy objectives.

### **Administrative cost to Government**

The costs to Government of implementing the provisions of the Bill will be administrative in nature and will not be significant. Costs will be met within existing budgetary allocations.

### **Consistency with Fundamental Legislative Principles**

The Bill does not infringe any Fundamental Legislative Principles.

## **Consultation**

### *Local Government Contracting*

In 2003, the State Government released a discussion paper seeking comment on the future direction for local government contracting. The response from councils and key stakeholders supported amendments to legislation that will benefit local government procurement practices.

The draft Bill for local government contracting was released by the Minister on 19 May 2005 together with a discussion paper and invitation for interested parties to make submissions. Consultation kits incorporating the discussion paper and the draft Bill were forwarded to MPs, Mayors, councils and other key stakeholders inviting submissions. The closing date for submissions was 22 July 2005. Twenty-five submissions were received by the Department of Local Government, Planning, Sport and Recreation.

### *Special Entertainment Precincts*

On 7 July 2005, the Minister for Tourism, Fair Trading and Wine Industry Development and Deputy Mayor of BCC launched the discussion paper of the proposed special entertainment precinct framework. The closing date for submissions was 12 August 2005. Forty-four submissions were received.

Brisbane City Council also engaged in extensive consultation with licensed venues, Valley residents, the music industry and other interested parties. Further consultation was undertaken by the Minister for Tourism, Fair Trading and Wine Industry Development who hosted stakeholder forums on 20 September 2005 and 11 October 2005.

Consultations on the draft Bill have also been held with representatives of the key stakeholders in Government including:

Department of the Premier and Cabinet;

Queensland Treasury;

Department of Tourism, Fair Trading and Wine Industry Development;

Department of Public Works;

Department of State Development, Trade and Innovation;

Department of Industrial Relations;

Environment Protection Authority;

Queensland Police Service;  
Arts Queensland;  
Department of Aboriginal and Torres Strait Islander Policy.

## **Notes on the Provisions**

This section provides explanatory notes for each clause of the draft Bill. The clause numbers refer to the numbers of the clauses in the Bill. The ‘clauses’ of a Bill become ‘sections’ of an Act after the Bill is passed by Parliament and assented to by the Governor.

The clauses contain provisions that either amend existing provisions (sections) of the *City of Brisbane Act 1924* (CoBA), the *Liquor Act 1992* (Liquor Act), the *Local Government Act 1993* (LGA) and the *Local Government (Community Government Areas) Act 2004* (LGCGAA) or insert new sections in these Acts.

### **Part 1 – Preliminary**

#### **Clause 1 – Short title**

Clause 1 provides the short title, the *Local Government and Other Legislation Amendment Act 2005*.

#### **Clause 2 - Commencement**

Clause 2 provides that generally the amendments in Part 2 to the CoBA will apply from 1 July 2006. This provision needs to be considered in conjunction with the transitional provisions set out in clause 7 section 137A. The amendments in clause 7 section 137A allow BCC to prepare a procurement plan and an asset disposal plan prior to the adoption of the Council’s 2006-07 budget.

All other provisions will automatically commence on Royal Assent.

## **Part 2 Amendment of City of Brisbane Act 1924**

### **Clause 3 – Act amended in pt 2**

Clause 3 provides that this part 2 amends the CoBA.

### **Clause 4 – Replacement of pt 2, div 12, hdg (Contracts and tendering)**

Clause 4 changes the current heading of Division 12 of the CoBA from Contracts and tendering to Contracts and related activities, because the new provisions in Division 12 will apply to disposal activities as well as procurement activities.

- **Subdivision 1 Preliminary**

- 39E Principles governing the making of contracts
- 39F What are procurement activities of the council
- 39G What are designated disposal activities of the council

New section 39E, subsection 1 sets out principles to guide BCC in making contracts in relation to both its procurement and disposal activities. Subsection 2 provides a definition for *procurement principles*. Subsection 3 allows the Minister to make a regulation about the application of the procurement principles.

New sections 39F and 39G under this subdivision provide definitions for procurement activities and designated disposal activities. The definition for designated disposal activities means that the strategic contracting model requirements for disposals apply to the designated assets which are non-current assets, other than land, that have a value which would requires them to be included in a register under the LGSF.

### **Clause 5 – Replacement of ss 42 to 46**

Clause 5 inserts the requirements for BCC to implement a strategic contracting model and deletes existing provisions in the CoBA that apply a prescriptive approach to contracting.

- **Subdivision 2 Requirements relating to procurement activities**

- 42 Annual procurement plans
- 43 Amendment of procurement plan
- 44 Inspection of procurement plan

- 45 Significant procurement activity plans
- 46 Procurement manual

This new subdivision establishes the planning and documentation requirements underpinning implementation of the strategic contracting model that will apply to BCC. The purpose of these requirements is to provide the means by which BCC can demonstrate it is implementing the strategic contracting model to achieve the procurement principles established under new section 39E. The requirements established in sections 42 through 46 have a similar intent to requirements for State agencies under the SPP.

New section 42 requires BCC to adopt by resolution an annual procurement plan ahead of the budget being finalised for the financial year to which it will apply. The annual procurement plan will set out how BCC's procurement activities will be carried out in that financial year to achieve its overall corporate goals. This section outlines specific information BCC will need to include in each annual procurement plan, including identifying significant procurement activities planned for that financial year for inclusion in separate plans under new section 45.

New section 43 provides that an annual procurement plan can be amended by resolution at any time during the financial year to which it applies, to allow BCC to respond to emerging procurement priorities consistent with achieving their corporate plan goals.

New section 44 provides that BCC must keep its procurement plan open for inspection, and provide copies upon request at the cost of production. This requirement is aimed at ensuring BCC is accountable and transparent in regard to the development of its purchasing arrangements under the new strategic contracting model.

New section 45 requires BCC to make a specific plan for all significant procurement activities identified in its annual procurement plan, and establishes the specific information BCC will be required to provide in relation to each significant purchase plan. A significant procurement activity is defined as the purchase of a particular good or service deemed to be difficult to supply and/or of high relative expenditure (for example, a building project or major piece of equipment). The legislative requirement for additional specific planning for significant procurement activities is intended to ensure local governments have a comprehensive understanding of the market dynamics and risks impacting on such a purchase. Plans for

significant procurement activities may be amended at any time before the end of the relevant financial year.

New section 46 requires BCC to prepare a procedures manual articulating how it will undertake its procurement activities. The procurement manual must be consistent with the objectives of the most recent annual procurement plan and apply the procurement principles.

- **Subdivision 3 Requirements relating to designated disposal activities**

46A	Annual asset disposal plan
46B	Requirements for asset disposal plan
46C	Amendment of asset disposal plan
46D	Inspection of asset disposal plan
46E	Plans for significant designated disposal activities
46F	Asset disposal manual

New subdivision 3 establishes planning and documentation requirements that will apply to BCC's disposal of assets under the strategic contracting framework. These requirements are in most regards similar to those for procurement activities outlined in the preceding subdivision 2, in regard to the preparation, amendment and inspection of annual asset disposal plans (new sections 46A, 46B, 46C and 46D) and plans for significant designated disposal activities (new section 46E).

New section 46F requires BCC to prepare an asset disposal manual that outlines procedures for disposal of its non-current assets. The manual will also include a policy of how BCC deals with the disposal of non-current assets that are not dealt with under the provisions set out in sections 46A to 46E.

- **Subdivision 4 Requirements for disposal of particular land**

46G	Meaning of land for sdiv 4
46H	General requirement for auction or tenders
46I	Exemptions
46J	Changes to tenders
46K	Acceptance of tender



The new strategic contracting framework that BCC will implement does not apply to disposal of land. This new subdivision maintains the existing legislative requirements for disposal of land, with land defined to include an interest in land. BCC will only be able to dispose of land by way of an auction, or by using a tender process. The existing exemptions from using an auction or tender process are retained. These include:

- disposal to designated entities;
- the land would not be rateable land after its disposal;
- has previously been offered unsuccessfully for sale (though it could not be sold for an amount less than previously offered); or
- council resolves is in the public interest to dispose of by means other than open competition.

New section 46J allows BCC to request changes to tenders it has received for the disposal of land prior to making a final decision about the tender outcomes (should, for example, tender specifications change mid-process), though BCC would need to have advised in its original tender documentation that it might invite changes.

New section 46K maintains the provision requiring BCC to accept the tender most advantageous to it if it decides to accept a tender for the contract for the disposal of land. This section also allows BCC not to accept any tender available to it.

### **Clause 6 – Amendment of s 119 (Annual Report)**

Clause 6 is a consequential amendment to the annual report requirement to address the insertion of the new contracting system.

### **Clause 7 – Replacement of pt 6, hdg (Transitional provision)**

Clause 7 divides the current Part 6 of the CoBA into two new divisions. Current transitional provisions outlined in section 137 of the CoBA, which arose from a previous amendment to the CoBA, are placed in the new Division 1 (Transitional provisions for Local Government Legislation Amendment Act 2003).

### **Clause 8 – Insertion of new pt 6, div 2**

Clause 8 establishes a new Division 2 under Part 6 of the CoBA, to be titled Division 2 (Transitional provisions for Local Government and Other Legislation Amendment Act 2005).

New section 137A makes it clear that in order for the strategic contracting model to commence and be operational from 1 July 2006, BCC may prepare and approve the required procurement and asset disposal plans prior to adopting its 2006-07 budget.

New section 137B clarifies BCC's obligations in dealing with existing contracts, and tender/quotation processes that have commenced, at the time BCC commences applying the new strategic contracting model. BCC will be required to fulfil its obligations in relation to an existing contract, or a tender/quotation process already commenced (even if no decision has been taken about submitted tenders or quotations), in accordance with the contracting arrangements in the CoBA in force prior to the commencement of the new contracting arrangements.

### **Clause 9 – Amendment of sch 2 (Dictionary)**

Clause 9 inserts or signposts the following definitions into the Dictionary currently contained within Schedule 2 of the CoBA:

- asset disposal plan
- corporate plan
- designated disposal activities
- land
- non-current assets
- procurement activities
- procurement plan
- procurement principles
- significant procurement activity plan
- significant designated disposal activity
- significant procurement activity

## **Part 3 Amendment of Liquor Act 1992**

### **Clause 10 – Act amended in pt 3**

Clause 10 provides that this part amends the Liquor Act.

### **Clause 11 – Insertion of new s 112B**

Clause 11 inserts a new section 112B (Variation of condition about noise – licensed premises in special entertainment precinct) to provide that, where a license is subject to a condition about noise coming from the licensed premises, that condition does not apply to noise from amplified music played at a licensed premises that is in the core area of a special entertainment precinct established under new section 956G of the LGA. The effect of this provision is that noise from amplified music coming from licensed premises in the core area of a special entertainment precinct will instead be regulated by councils under a local law.

The exemption to the noise condition under the Liquor Act will apply to licensed premises with amplified music from live performances, DJs and pre-recorded music. The noise condition will continue to apply, after the establishment of a special entertainment precinct, until the local government issues a permit, license or other authority under a local law to ensure there is no gap in the regulation of noise from amplified music during the transition period.

New section 112B no longer applies if a local government revokes the special entertainment precinct or alters the boundaries of the precinct so that the premises are no longer within the core area of the precinct.

### **Clause 12 Amendment of s 187 (Abatement of nuisance or dangerous activity)**

Clause 12 amends section 187 of the Liquor Act by inserting a new subsection 1A to provide that, the issue of abatement notices by an investigator as defined in the Liquor Act, does not apply if the noise is from amplified music played at licensed premises in a special entertainment precinct, for which, the local government has issued a license, permit or other authority under a local law. This includes an authority that has expired or been revoked or cancelled by the local government.

The effect of subsection 1A is to make local government responsible for investigating complaints relating to noise from music played at relevant

licensed premises in the core area of a special entertainment precinct under the provisions of a local law.

## **Part 4—Amendment Of Local Government Act 1993**

### **Clause 13—Act amended in pt 4**

Clause 13 provides that this part amends the LGA and includes a schedule of minor amendments to make minor corrections.

### **Clause 14 – Replacement of ch 6, pt 3 hdg (Contracts and tendering)**

Clause 14 amends current heading of Chapter 6, Part 3 of the LGA from Contracts and tendering to Contracts and related activities, because the new provisions that will apply under Chapter 6, Part 3 cover disposal activities as well as procurement activities.

### **Clause 15 – Amendment of s 481 (Principles governing the making of contracts)**

Clause 15 amends section 481 to apply the principles governing the making of contracts to the disposal of assets in the same way these principles currently apply to procurement activities. All councils will be required to apply these principles in the development of their contracting arrangements for both procurement and disposal activities.

Clause 15 also rewords procurement principle (c) that deals with local business and industry objectives to clarify that the focus for local governments is encourage local business and industry to be competitive when registering interest in council contracts and to remove any suggestion that preference should be given to local suppliers without regard to value for money principles or investment.

This clause also amends section 481 to establish that the term procurement principles refers to the principles concerning contracts for the carrying out of work or the supply of good or services.

### **Clause 16 – Insertion of new ss 481A and 481B**

Clause 16 inserts new sections 481A and 481B to provide definitions for procurement activities and designated disposal activities. The definition for designated disposal activities means that the strategic contracting model requirements for disposals apply to designated assets which are non-current assets, other than land, that have a value which requires them to be included in a register under the LGFS.

### **Clause 17 – Replacement of ch 6, pt 3, div 2, hdg (Purchasing)**

Clause 17 establishes the framework by which local governments can choose the contracting model to apply that best suits their specific circumstances. Local governments will have a choice between the strategic contracting model based on the new State Purchasing Policy (SPP) (as described under a new Division 2 in Part 3, Chapter 6 of the LGA), or the procedural contracting model (as described under new Division 3 in Part 3, Chapter 6 of the LGA) which is based on the current prescriptive provisions specifying tender and quotation processes.

This clause replaces the existing heading of Purchasing for Chapter 6, Part 3, Division with the heading Strategic Contracting Model.

- **Division 2 Strategic Contracting Model**

New division 2 establishes the requirements a local government will need to comply with in choosing to adopt the strategic contracting model for procurement and disposal activities.

- **Subdivision 1 Preliminary**

483A Purpose of div 2

New section 483A under this subdivision explains the purpose for Division 2, which is to provide local governments with an option to adopt a strategic approach to their procurement and disposal activities (strategic contracting model). The definition of a strategic approach provided in this section is closely aligned with the goals underpinning the State Purchasing Policy.

- **Subdivision 2 Choice of strategic contracting model**

483B Power to choose strategic contracting model

483C Effect of choice

New subdivision 2 provides local governments with the power to choose to adopt a strategic contracting model for their procurement and disposal

activities, as an alternative to the existing contracting requirements specifying tendering and quotation processes. Local governments may adopt the strategic contracting model by resolution following a specified public notification period and cost/benefit assessment of adopting the strategic contracting model.

New section 483C is intended to ensure transparency in a council's decision-making to adopt new contracting arrangements. The local government can implement the strategic contracting model from the day on which the resolution is made, but the model must be implemented within one year of having passed the resolution.

New section 483C also clarifies the local government's obligations in dealing with existing contracts, and tender/quotation processes that have commenced, at the time it adopts the new strategic contracting model. The local government will be required to fulfil its obligations in relation to an existing contract, or a tender/quotation process already commenced (even if no decision has been taken about submitted tenders or quotations), in accordance with the existing contracting arrangements in the LGA, and as if the new legislation had not been enacted.

New section 483C also provides for a local government to revert at any time to the procedural contracting model provided in subdivision 3. This division would no longer apply to the local government once it decided to revert to the procedural contracting model, except in relation to any contract entered into by the local government while operating under the strategic contracting model.

- **Subdivision 3 Requirements relating to procurement activities**

- 483D Annual procurement plans
- 483E Amendment of procurement plan
- 483F Inspection of procurement plan
- 483G Significant procurement activity plans
- 483H Procurement manual

New subdivision 3 establishes the planning and documentation requirements underpinning a local government's implementation of the strategic contracting model. The purpose of these requirements is to ensure the strategic contracting model is implemented to achieve the procurement principles established under section 481.

New section 483D requires a local government to adopt by resolution an annual procurement plan for the financial year to which it will apply. The annual procurement plan will set out how the local government's procurement activities will be carried out in that financial year to achieve its overall corporate goals. This section establishes specific information that the local government will need to include in each annual procurement plan, including identifying significant procurement activities planned for that financial year.

New section 483E provides that an annual procurement plan can be amended by resolution at any time during the financial year to which it applies, to allow local governments to respond to emerging procurement priorities consistent with achieving their corporate plan goals.

New section 483F provides that the local government must keep its procurement plan open to inspection, and provide copies upon request at the cost of production. This requirement is aimed at ensuring the local government is accountable and transparent in developing its purchasing arrangements under the strategic contracting model.

New section 483G requires the local government to make a specific plan for each of the significant procurement activities identified in its annual procurement plan, and sets out the specific information required for inclusion in each plan for significant procurement activities.

A significant procurement activity is defined as the purchase of a particular good or service deemed to be difficult to supply and/or of high relative expenditure (for example, a building project or major piece of equipment). The legislative requirement for additional specific planning for significant procurement activities is intended to ensure local governments have a comprehensive understanding of the market dynamics and risks impacting on such a purpose.

New section 483H requires the local government to prepare a procurement manual detailing how its procurement activities are to be conducted, including the procedures developed to achieve the contracting principles provided for in section 481. The procedures must be consistent with the procurement objectives outlined in the local government's annual procurement plan.

- **Subdivision 4 Requirements relating to designated disposal activities**

483I Annual asset disposal plan

483J Requirements for asset disposal plan

483K	Amendment of disposal plan
483L	Inspection of asset disposal plan
483M	Plans for significant designated disposal activities
483N	Asset disposal manual

New subdivision 4 establishes planning and documentation requirements that will apply to the disposal of assets by a local government that has adopted the strategic contracting framework. The requirements are similar to those for procurement activities outlined in the preceding subdivision 3, in regard to the preparation, amendment and inspection of annual asset disposal plans (new sections 483I, 483J, 483K, 483L) and the preparation of plans for significant designated disposal activities (new section 483M).

New section 483N requires the local government to prepare an asset disposal manual, similar in most respects to the procurement manual required under section 483H. The asset disposal manual is to be consistent with the council's asset disposal plan and will also include a policy about how the local government will deal with non-current assets that have a value less than the threshold amount established under the LGA. A council may decide to present the requirements for the procurement and asset disposal manuals in one document.

- **Subdivision 5 Requirements for disposal of particular land**

New subdivision 5 provides that, for councils using the strategic contracting model, disposal of land is to be dealt with under the newly created Division 3, subdivision 3 (Disposal of land or particular non-current assets).

- **Division 3 Procedural contracting model**

New Division 3 sets out the requirements relating to the procedural contracting model, which provides a local government contracting framework based on current provisions of the LGA.

- **Subdivision 1 Preliminary**

New subdivision 1 provides that Division 3 (Procedural contracting model) applies to a local government unless it adopts the strategic contracting model under Division 2, Subdivision 2.

- **Subdivision 2 Purchasing**

New subdivision 2 outlines the requirements for purchasing under the procedural contracting model. Minor amendments have been made to



various existing LGA provisions that will now be included under subdivision 2, as outlined below in clauses 18 to 25.

### **Clause 18 – Amendment of s 484 (When tenders are required)**

Clause 18 amends section 484 to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 19 – Amendment of s 485 (When quotations are required)**

Clause 19 amends section 485 to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 20 – Amendment of s 486 (Exemptions to the requirement to seek tenders or quotations)**

Clause 20 amends a number of provisions in section 486.

Sub clause 20 (1) amends section 486 to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

Sub clauses 20 (2) and (3) delete the requirement for a council resolution for exemptions to the requirement to seek tenders and quotations (sections 484 and 485) for entering contracts in the following circumstances:

- in the event of a genuine emergency,
- obtaining second hand goods,
- purchasing goods at an auction.

Sub clause 20 (4) inserts the term “local government owned corporation” into subsection 486(1)(f)(i). This will allow councils to make procurement contracts with local government owned corporations without being subject to open competition provisions in sections 484 and 485, similar to current provisions for State Government Owned Corporations.

Sub clauses 20 (5) and (7) allow councils using the procedural contracting model to exempt the application of provisions in sections 484 and 485 where the council has resolved that a plan be prepared for a significant procurement activity and that plan has been made in accordance with new section 486(2). Together these provisions will allow councils to use an alternate approach for one-off significant purchases that it may need to make from time to time.

Sub clause 20 (6) renumbers section 486.

### **Clause 21 – Amendment of s 487 (Panel of suitable providers)**

Clause 21 amends section 487(1) to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 22 – Amendment of s 488 (Changes to tenders)**

Clause 22 amends section 488(1)(a) to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 23 – Amendment of s 489 (Short listing after calling for expressions of interest)**

Clause 23 amends section 489(1) and 489(5) to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 24 – Amendment of s 490 (Acceptance of tender or quotation)**

Clause 24 amends section 490(2) to refer to the procurement principles in line with the definition provided for in Clause 15. Clause 24 also amends section 490(1) to refer to ‘the local government’, rather than ‘a local government’, in recognition that individual councils will now make decisions about whether the procedural contracting model applies to them.

### **Clause 25 – Replacement of ch 6, pt 3, div 3, hdg (Disposal of land or goods)**

Clause 25 removes the existing heading of Chapter 6, Part 3, Division 3 – Disposal of land or goods and inserts a new subdivision 3 (Disposal of land or particular non-current assets). Existing legislative provisions now included under new subdivision 3 have been amended as outlined in Clause 27 and 28.

### **Clause 26 – Amendment of s 491 (When tenders or auctions are required)**

Clause 26 amends section 491 to set the threshold levels at which local governments are required to seek tenders or proceed to auction in relation to the disposal of non-current assets, with revised requirements under the LGFS. Under the LGFS, each local government is to register its non-current assets. This provides the basis for determining which non-current assets are subject to disposal provisions in the LGA.

In order to decide which non-current assets should be registered, a local government will be able to set a maximum threshold amount up to \$5,000 for plant and equipment, and up to a maximum of \$10,000 for another type of asset other than land. A local government will only need to seek tenders or conduct auctions for the disposal of an asset where the value of the asset exceeds the revised threshold levels. This section also aligns the terminology in this provision with that in the LGFS regarding non-current assets.

### **Clause 27 – Amendment of s 492 (Exemptions)**

Clause 27 amends a number of provisions in section 492.

Sub clauses 27 (1) and (4) amends section 492 to align its terminology with that used in the LGFS regarding non-current assets.

Sub clauses 27 (2), (5), (7), (9) (10) and (11) renumber various subsections in section 492.

Sub clause 27 (3) inserts the term “local government owned corporation” into subsection 492(1)(a). This will allow councils to dispose of designated non-current assets to local government owned corporations without being subject to open competition provisions in section 491, similar to current provisions for State Government Owned Corporations.

Sub clause 27 (6) clarifies that councils are exempt from the tender and auction requirements of section 491 if the disposal is a trade-in component of a contract for the supply of goods.

Sub clauses 27 (8) and (12) allow councils using the procedural contracting model to exempt the application of these provisions in section 491 where the council has resolved that a plan be prepared for a significant designated disposal activity and that plan has been made in accordance with new section 486(2). Together these provisions allow councils to use an alternate approach for one-off significant disposals that it may need to make from time to time.

### **Clause 28 – Insertion of new ch 6, pt 3, div 3, sdivs 4 and 5**

Clause 28 inserts requirements for procurement and disposal manuals to local governments using the procedural contracting model consistent with provisions that will apply to councils using the strategic contracting model.

- **Subdivision 4 Required manuals**

New section 492A under subdivision 4 requires local governments using the existing procedural contracting model to prepare procurement and asset disposal manuals. This provision is aimed at ensuring all local governments develop efficient and effective procurement procedures that support consistency, accountability and transparency in a local government's approach to procurement and disposal activities.

The procurement and disposal manuals are to be developed in the same way as those developed by local governments adopting the strategic contracting model under sections 483H and 483N.

### **Clause 29 – Amendment of s 502 (Issue of standards)**

Clause 29 amends section 502 to enable the Minister for Local Government and Planning to make standards about the application of the procurement principles.

### **Clause 30 – Insertion of new ch 13, pt 8**

Clause 30 inserts a new Part 8 under Chapter 13 of the LGA (Part 8 Special entertainment precincts). New Part 8 inserts a new section 956G which provides a statutory head of power for the establishment of special entertainment precincts in local government areas.

New section 956G provides that the effect of establishing a special entertainment precinct is that noise from amplified music played in licensed premises in the precinct's core area is regulated by local law instead of under the Liquor Act. Section 956G also provides that requirements imposed under a planning scheme or development approval made or given under the IPA about noise attenuation apply in relation to particular kinds of development in the precinct.

New section 956G requires that a local government must do each of the following to establish a special entertainment precinct –

1. amend its planning scheme to identify the special entertainment precinct. The local government must also identify the part of the special entertainment precinct that is to be the precinct's core area.
2. make a local law that regulates noise from amplified music played at relevant premises in the core area and provides for the issue of licences, permits or other authorities to those premises in relation to the playing of amplified music.

New section 956G allows local governments to regulate by local law noise from amplified music from live performances, DJs and pre-recorded music emanating from venues within the core area of the special entertainment precinct. The local government will determine which premises emanating amplified music will be regulated under its local law made under the new section 956G. For example, a council may exempt a liquor-licensed restaurant playing background music from the new noise regulations.

Inside a special entertainment precinct, a council will impose noise attenuation measures on new development by its planning scheme and development approvals. The core area of the special entertainment precinct will contain the amplified music venues that will be subject to noise regulation by local law instead of the Liquor Act.

New section 956G stipulates that a special entertainment precinct must not include a major sports facility under the *Major Sports Facilities Act 2001*.

New section 956G provides that a local law regulating noise from amplified music in the core area of a special entertainment precinct does not apply to an activity for a motor racing event under the *Gold Coast Racing Events Act 1990* carried on by or with the permission of the promoter.

New section 956G defines “relevant licensed premises” to mean licensed premises under the Liquor Act that are in the precinct's core area and from which amplified music emanates.

### **Clause 31 – Amendment of schedule (Dictionary)**

Clause 31 inserts the following definitions into the Dictionary currently contained within the schedule of the LGA:

- asset disposal plan
- designated disposal activities
- non-current assets
- procurement activities
- procurement plan
- procurement principles
- significant procurement activity plan
- significant designated disposal activity
- significant procurement activity
- threshold amount

## **Part 5—Amendment Of Local Government (Community Government Areas) Act 2004**

### **Clause 32—Act amended in pt 5**

Clause 32 provides that this part amends the LGCGAA.

### **Clause 33 – Amendment of s 11(Provisions of Local Government Act 1993 that apply)**

Clause 33 amends section 11 so that changing the name of a community government may be treated as a reviewable local government matter and addressed as such by a Local Government Electoral and Boundaries Review Commission.