

Brisbane Olympic and Paralympic Games Arrangements Amendment Bill 2024

Explanatory Notes

Short title

The short title of the Bill is the Brisbane Olympic and Paralympic Games Arrangements Amendment Bill 2024.

Policy objectives and the reasons for them

The primary objectives of the Bill are to:

- establish the Games Venue and Legacy Delivery Authority (authority) to ensure Queensland is ready to host a successful Brisbane 2032 Olympic and Paralympic Games and that the benefits of the Games are maximised;
- establish a board of the authority to ensure that it performs its functions in a proper, effective and efficient way.

Brisbane was elected as host of the 2032 Olympic and Paralympic Games by the International Olympic Committee (IOC) on 21 July 2021. Under the Olympic Host Contract (host contract), the IOC entrusts the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (corporation), the State of Queensland, Brisbane City Council, and the Australian Olympic Committee with the planning, organising, financing, and staging of the Brisbane 2032 Olympic and Paralympic Games, in accordance with the terms of the host contract and the IOC's Olympic Charter.

The final response to the IOC's Future Host Questionnaire, which forms part of the host contract, proposed that two entities be established for the development and execution of the Games:

- the corporation – a statutory body with primary responsibility for organising and staging the event; and
- an 'Olympic Coordination Authority' to coordinate all non-organising committee government responsibilities, including venues, athlete villages, transport, legacy initiatives, and front-line government services.

The *Brisbane Olympic and Paralympic Games Arrangements Act 2021* (BOPGA Act) established the corporation and its board on 20 December 2021 to undertake and facilitate the organisation, conduct, promotion and commercial and financial management of the Brisbane 2032 Olympic and Paralympic Games.

In May 2022, following consideration of the recommendations of a report about governance arrangements for the Brisbane 2032 Olympic and Paralympic Games, and with support of the IOC and endorsement from the majority of games delivery partners, the Brisbane 2032 Coordination Office was established within the Department of the Premier and Cabinet to coordinate and integrate essential programs of work for the Games. The Brisbane 2032 Coordination Office has been progressing preparations for the Brisbane 2032 Olympic and Paralympic Games, with other parts of government supporting activities including venue development, legacy planning and sustainability. The Brisbane 2032 Coordination Office function currently sits within the portfolio of the Department of State Development and Infrastructure.

On 15 December 2023, the Premier announced that a delivery authority would be established for the Brisbane 2032 Olympic and Paralympic Games. This model more closely aligns with stakeholder expectations, previous approaches employed for other Olympic and Paralympic Games (e.g. Sydney 2000 and London 2012) and the response to the IOC's Future Host Questionnaire in May 2021.

Achievement of policy objectives

The Bill will achieve its policy objectives by establishing the authority as a statutory body and establishing a board with independent directors to oversee the operations of the authority.

The Bill provides that the authority will be a statutory body for the purposes of the *Statutory Bodies Financial Arrangements Act 1982* and the *Financial Accountability Act 2009*, and a unit of public administration under the *Crime and Corruption Act 2001*. Establishing the authority as a statutory body under Queensland legislation will:

- enable it to operate at arms-length from the State with control over its own funds, providing the necessary operational independence to support the successful delivery of the Brisbane 2032 Olympic and Paralympic Games;
- allow it to operate within a flexible structure while having defined functions with a focus on prioritising Games-related projects in its enabling legislation and the suite of necessary powers and functions for that purpose;
- subject it to the public sector accountability regime rather than the *Corporations Act 2001* (Cwlth), which is considered appropriate given the public money and public interest involved in successfully delivering the Brisbane 2032 Olympic and Paralympic Games; and
- allow for the establishment of the board.

The Bill provides that the main functions of the authority are to:

- deliver venues in time for the Brisbane 2032 Olympic and Paralympic Games and within budget allocations, including managing effects on users of venues during their development;
- monitor and ensure the delivery of villages in time for the games; and
- co-ordinate and integrate the planning and delivery of State, Commonwealth and local government obligations under, or related to, the host contract.

It is intended that the authority will be able to effectively evaluate and critique the operations and delivery of Brisbane 2032 Olympic and Paralympic Games plans, with a focus on the activities that are needed to successfully host the Games and deliver significant legacy outcomes and other benefits for Queensland, Australia and the Oceania region.

The Bill will establish the board which will be responsible for ensuring the authority performs its functions in a proper, effective and efficient way and will have the power to do anything necessary or convenient to be done to achieve this.

A board is considered the most appropriate decision-making body to govern the authority for the following key reasons:

- a board can add value to the operations of the authority by including among its membership subject matter experts and those with high standing within the community;
- a board can prioritise engagement with games delivery partners and local, national, and community stakeholders to maximise beneficial outcomes from investment; and
- board sub-committees and commissions can be used to ensure greater levels of representation and diversity.

Alternative ways of achieving policy objectives

Legislation is the only way to establish the authority as a statutory body. In deciding to establish the authority as a statutory body, the Queensland Government considered previous governance models adopted by former and future Games hosts (including the models adopted for the Sydney 2000, London 2012 and Paris 2024 Olympic and Paralympic Games).

To the extent possible, the establishment and operations of the authority are proposed to be consistent with the corporation, already established under the BOPGA Act.

Estimated cost for government implementation

The State Government will initially incur an additional cost to establish and support the authority. In the first year, such establishment activities include setting up the organisation (including establishing corporate services, secretariat support for the Board and new or expanded functions such as government liaison and coordinated communications), recruiting Board members and the interim CEO, and transitioning existing functions from government departments to the authority. These additional costs will be met by a reallocation of existing government funding for the Brisbane 2032 Olympic and Paralympic Games.

Existing capital and operating funding will be utilised to the extent possible. It is proposed the authority be required to review its lifetime budget (operations, capital and projects) and report back to government on identified risks and mitigations to address those risks.

The Bill provides that the authority will enter into a funding agreement with the State. This funding agreement will be drafted to deliver transparency of financial risks to the State and provide the State with mechanisms to seek revisions of operational plans so that cost management strategies can be implemented if required.

The Bill provides that if the authority has any outstanding liabilities at the time of its dissolution, these liabilities will be transferred to the State. To minimise the risk of outstanding liabilities being transferred to the State, the Bill also provides that the authority should use its best endeavours to avoid creating liabilities that will not be, or are likely not to be, satisfied before the authority is wound up.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Delegations of power

Board appointment process

Subsection (1) of proposed new section 53BF provides for the relevant Minister to nominate persons for appointment to the board. Persons nominated may only be chosen for nomination for appointment as a director if they are deemed to be preferred/suitable by a majority of votes of the members of the selection panel (which comprises the chief executive officers of those entities specified in 53BH). The same processes apply to nominate a chairperson (section 53BG). These clauses are effectively a delegation of administrative power to the Minister and a further sub-delegation to the selection panel, and could breach the fundamental legislative principle that the delegation of administrative power is only allowed in appropriate cases and to appropriate persons (*Legislative Standards Act 1992* (LSA), section 4(3)(c)).

The primary reason for allowing the Minister to nominate who will become directors of the board, on the recommendation of a selection panel, is to ensure that suitable appointees can be recommended depending on the emerging needs of the authority over its life and with the endorsement of games delivery partners, thereby helping to achieve the intended level of independence. For example, the expertise required of board directors may be different in the early years of the authority's life compared to the years immediately preceding the staging of the Brisbane 2032 Olympic and Paralympic Games. There needs to be a level of discretion granted to ensure that the board has the appropriate mix of skills and experience.

The Minister is the appropriate person to exercise discretion about the appointment of independent directors and the chairperson, given the State is a signatory to the host contract and is responsible for covering any potential financial shortfall of the authority. Utilising a selection panel ensures a rigorous selection process and it is appropriate that each games delivery partner who is represented on the selection panel is included given the commitments those entities, or their members, have made to deliver the games. Subsection (4) includes appropriate limitations, such as the Minister and the selection panel being required to have regard to persons being appropriately qualified, diversity of skills and experience, the Queensland Government's gender equity policy for boards and diversity of the board's directors.

Delegations to officers and others

Clause 27 effectively amends existing section 60 to give the authority a similar power to the corporation to delegate its functions under the BOPGA Act to the chief executive officer or a board committee. With the written approval of the board, the chief executive officer may also subdelegate functions delegated to them to an appropriately qualified member of the authority's staff. It is also proposed the authority may delegate its functions and power to any other appropriately qualified person.

This clause is effectively a delegation of administrative power and could breach the fundamental legislative principle that the delegation of administrative power is only allowed in appropriate cases and to appropriate persons (LSA, section 4(3)(c)).

The scope of this power is broad and enables the delegation of any function or power of the authority (including that which may be prescribed under regulation in the future). This is necessary given the wide range of functions that the authority will be required to undertake and that some tasks may be more effectively delivered if they can be given close attention by a committee of the board or the chief executive officer. Giving the authority the flexibility to use its discretion to delegate its functions or powers will empower the authority to successfully perform its functions in the manner it considers most efficient and effective. It is appropriate for the chief executive officer or committee of the board to exercise a function or power of the authority, given the chief executive officer is responsible for the day-to-day administration of the authority's operations, and committees (which comprise of directors of the board) will have the expertise and decision-making power to efficiently undertake functions relevant to the authority.

The ability for the authority to delegate its functions to any appropriately qualified person is required as the authority may rely on the expertise of, for example, local government or a government department to carry out particular functions.

Powers to direct

A power to direct persons and bodies that are otherwise required to act with independence in the exercise of their powers and functions is potentially inconsistent with that independence. Legislation should make rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined— *Legislative Standards Act 1992*, section 4(3)(a)(first limb).

Proposed new clause 53AL provides a power for the authority to give a government agency (other than a Commonwealth government agency) or a local government a direction to take stated actions to provide or maintain critical transport infrastructure that has been identified in the transport and mobility strategy to be made under proposed new section 53AI.

The relevant government agency or local government would have been consulted about the identification of critical transport infrastructure in the strategy and would understand that it is imperative that infrastructure be available to provide transport for the Brisbane 2032 Olympic and Paralympic Games. In addition, before giving a direction, the authority must first seek to reach agreement with the government agency or local government and be satisfied the actions are necessary to ensure the State's readiness for the Brisbane 2032 Olympic and Paralympic

Games before giving a direction. If a direction is proposed, the relevant entity must be given 30 business days to provide a written submission about the proposed direction, which the authority must consider. In this way, a balance will be struck between the need for the transport infrastructure to be available and any prejudice to the independence of the government agency or local government.

The written notice must state the actions required to be taken in relation to critical transport infrastructure and any relevant conditions, so the power is considered to be sufficiently defined.

Clause 23 proposes to extend the existing Ministerial power of direction in section 55 of the BOPGA Act to the authority. The Minister may only give such a direction if the Minister is satisfied it is reasonably necessary to give the direction and the Minister has considered the obligations under the host contract, which is considered to be an appropriate limitation on this power. Further, given that the State (and others) have continuing obligations under the host contract, it is appropriate and reasonable that the Minister have a direction power.

Power to obtain criminal history

Proposed new section 53BN provides the Minister with the power to obtain criminal history information about prospective and current directors. Proposed new section 53BO imposes an obligation on nominated directors to, unless they have a reasonable excuse, immediately give notice to the Minister if they are convicted of an indictable offence.

The power to obtain a person's criminal history potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). However, the power for the Minister to obtain criminal history information is necessary to ensure the suitability of individuals appointed to the authority. Similarly, the obligation imposed on directors to disclose if they are convicted of an indictable offence is necessary to ensure the integrity of the authority.

The Bill includes safeguards to protect an individual's criminal history information. The Bill provides that the Minister may only exercise the power under new section 53BN(2) with the written consent of the individual.

In addition, new section 53BP of the Bill provides safeguards to protect an individual's criminal history information by preventing further disclosure, and limiting the purpose for which the criminal history information may be used.

Offences

Legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). Any new offence must be appropriate and reasonable in light of the conduct that constitutes the offence.

Offence – failure to disclose a conviction

Proposed new section 53BM provides that a person is disqualified from becoming or continuing in office as director of the board of the authority if they have been convicted of an indictable offence, are an insolvent under administration, or disqualified from managing corporations under the Corporations Act 2001 (Cwlth), part 2D.6.

Proposed new section 53BO imposes an obligation on directors of the board of the authority to, unless they have a reasonable excuse, immediately give notice to the Minister if they are convicted of an indictable offence. Failure to comply with this obligation is an offence with a maximum penalty of 100 penalty units.

The proposed provision (new section 53BO(2)) reverses the onus of proof, placing it on the board member to prove the existence of a reasonable excuse for the failure to give notice of their conviction. Reversing the onus of proof in these circumstances is appropriate as only the person subject to the offence would be in a position to provide the relevant information that would support the reasonable excuse defence.

Requiring the notice to be given ‘immediately’ is also an appropriate timeframe. While ‘immediately’ is a subjective term, it is a stronger expression than ‘as soon as practicable’. This is an appropriate timeframe for compliance with this requirement, particularly given that proposed new section 53BL(c) operates to automatically end the person’s term of appointment, should such circumstances arise.

The obligation for directors to disclose if they are convicted of an indictable offence reinforces the expectation that directors are to behave ethically and legally and ensures that the Minister is aware of matters that may impact on the integrity of the authority. Imposing such an obligation on directors is reasonable and there is a strong public interest in ensuring that there is appropriate oversight and accountability imposed on people who seek appointment, or are appointed, to the board of the authority. These provisions also mirror those which apply to nominated directors of the corporation under the BOPGA Act.

As such, including this offence in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.

Offence – Confidentiality of criminal history information

Proposed new section 53BP creates a new offence for a person who possesses criminal history information because the person is (or has been) a director of the authority or another person involved in administering the BOPGA Act to disclose another person’s criminal history information other than as provided for under the provision. The maximum penalty for breach of this provision is 100 penalty units.

This offence is included in the Bill to protect the rights of the person to whom the information relates and provides an important safeguard against the unnecessary disclosure of sensitive personal information. The penalty is set at a level to provide the appropriate deterrence. Similar provisions also apply to directors of the corporation. On this basis, the inclusion of the offence in the Bill is considered appropriate and reasonable and not a breach of the fundamental legislative principles.

Offence – Duty to act honestly

Clause 24 which proposes to amend section 56 provides that directors of the board and the chief executive officer of the authority must act honestly in the performance of their functions and the exercise of their powers. Failure to comply with this obligation is an offence with a maximum penalty of 100 penalty units.

The proposed amendments have the effect of mirroring the obligations already imposed on directors of the board of the corporation and the chief executive officer of the corporation.

Given the public importance of successfully delivering the Brisbane 2032 Olympic and Paralympic Games and the significant amount of money the authority will be responsible for, the implications of any wrongdoing on behalf of the directors or the chief executive officer could be significant. Furthermore, given that the State has guaranteed to meet any financial shortfall of the authority when it is wound up, any dishonest actions by directors or the chief executive officer that result in increased financial costs for the authority could ultimately be transferred to the State as a liability upon the authority's dissolution. As such, the creation of this offence is justified and will ensure that directors and the chief executive officer honestly discharge their duties.

Offence – Use or disclosure of confidential information

Clause 25 which proposes to amend section 57 provides for the protection of information acquired by a person involved in administering the BOPGA Act. A person must not directly or indirectly disclose the confidential information unless the use or disclosure is permitted under subsection (3). For the purpose of this clause, confidential information means information that could identify an individual; is about a person's current financial position or financial background; or would be likely to damage the commercial activities of a person to whom the information relates. The maximum penalty for failing to comply with this requirement is 100 penalty units.

The proposed amendments have the effect of mirroring the obligations already imposed in relation to the corporation.

Given the breadth of information to which the authority and the board will have access that could identify an individual or concern a person's financial circumstances or commercial activities (including those of games delivery partners), the creation of this offence is justified to ensure that this information is only used for proper and lawful purposes and therefore is not a breach of the fundamental legislative principles.

Powers relating to planning decisions

Proposed new section 53AR permits the authority to give a person a written notice requiring them to give the authority information, documents or assistance the authority reasonably requires in relation to planning decisions about venues or villages. The power to direct a person (which could include an individual, corporation, or decision-maker, for instance), may be a breach of fundamental legislative principles that legislation must have sufficient regard to the rights and liberties of individuals (and also be considered a delegation of administrative power).

The authority is tasked with delivering venues and monitoring and ensuring the delivery of villages in time for the Brisbane 2032 Olympic and Paralympic Games. There is a comprehensive planning framework in Queensland through which to assess and decide development applications and it is intended that those existing processes be followed where possible for the development of venues and villages. However, as timely decision-making to facilitate development of venues and villages is critical to ensuring timely delivery in accordance with the requirements of the host contract, the powers given to the authority are intended to support determining whether an alternative pathway is required for facilitating development in a particular case, should the need arise.

Given the authority's functions, it is the appropriate entity to be empowered to seek information about relevant planning approval processes. Before directing a person to provide information, the authority must firstly be satisfied that exercising the directions power is necessary to facilitate efficient and timely decision making.

Proposed new section 53AS provides that a regulation may declare development for a venue or village to be accepted development under the *Planning Act 2016* (Planning Act) or Priority Development Area (PDA) accepted development under the *Economic Development Act 2012* (ED Act).

This clause is effectively a delegation of legislative power and could breach fundamental legislative principles (LSA, section 4(4)).

The State has binding obligations under the host contract in relation to the delivery of venues and villages. The authority is tasked with delivering venues, monitoring and ensuring villages are delivered in time for the Games, and coordinating and integrating the planning and delivery of the obligations of governments under, or related to, the host contract. It is essential that infrastructure is delivered on time for the hosting of a successful games and in order to comply with the host contract. This imperative may make it necessary for the authority to be able to use streamlined development processes where an existing process would threaten the timely delivery of a venue or village.

The power is appropriately qualified, requiring the Minister to first be satisfied that the relevant Planning Act (or other Act regulating development) may have an adverse effect on timely delivery of a venue or village, that a declaration is necessary to facilitate the timely delivery of a venue or village and that the authority has made reasonable endeavours to consult with the relevant planning decision-makers and local government before making a recommendation to make the regulation. This is therefore not a breach of the fundamental legislative principles.

Review rights

The proposed legislation is also potentially inconsistent with the fundamental legislative principle that legislation should make rights and liberties, or obligations, dependent on administrative power only if subject to appropriate review (*Legislative Standards Act 1992*, section 4(3)(a)(second limb)).

The proposed legislation provides that a part 4 decision of the Minister or authority (for development of the venues and villages) to be final and conclusive and not subject to challenge or appeal, under the *Judicial Review Act 1991* or otherwise.

There is an imperative for the State to be able to deliver venues for the Brisbane 2032 Olympic and Paralympic Games, and ensure the delivery of villages for the Games, in order to fulfil the binding legal obligations in the host contract. Delays caused by review processes or legal challenges could have a profound negative impact on the ability to comply with the host contract and stage a successful Games. It is necessary that there be certainty about whether development of a venue or village is able to proceed and limiting review rights is the only way to ensure that the relevant decisions are final and will allow venues and villages to be delivered in time for the Brisbane 2032 Olympic and Paralympic Games.

In this situation, it is considered the balance favours the interest of the Queensland community in staging a successful Brisbane 2032 Olympic and Paralympic Games and complying with the host contract over an individual's right to be heard. Most of the venues are existing facilities and the powers will apply to quite defined areas that have and will come under public scrutiny.

The process for the making of objections to the taking of land, and the requirement to have regard to the objections that are made will still apply in accordance with *Acquisition of Land Act 1967* processes.

In view of the decision in *Kirk v Industrial Relations Commission* [2010] HCA 1, the court may still determine what factors are within ambit for review if assessing whether the relevant decision-maker has acted outside of the prescribed power. The Bill expressly recognises the ability to apply to the Supreme Court on the ground of jurisdictional error.

Safeguards exist for the exercise of the powers that are provided under part 4 of the Bill. Statutory provisions limit the decision making in relation to planning and acquisition of land. The use of existing processes must be explored as a first step. The Minister must be satisfied that it is necessary for the timely delivery of venues or villages before the powers are triggered. As such, the limitations on review rights are justified.

Compulsory acquisition

Proposed new section 53AU provides that a regulation may declare land to be acquisition land for the Games – land that can be compulsorily acquired by the authority. This clause is effectively a delegation of legislative power and could breach fundamental legislative principles (LSA, section 4(4)).

The State has binding obligations under the host contract in relation to the delivery of venues and villages. The authority is tasked with delivering venues, monitoring and ensuring the delivery of villages in time for the games, and coordinating and integrating the planning and delivery of the obligations of governments under, or related to, the host contract. It is essential that infrastructure is delivered on time for the hosting of a successful Games and in order to comply with the host contract. This imperative may make it necessary for the authority to use statutory mechanisms to acquire land where is not able to achieve that purpose by agreement or under existing legislative powers.

The power is appropriately qualified, requiring the Minister to first be satisfied that the land is required for a venue or village, that it is necessary to enable the authority to take land to facilitate the timely delivery of a venue or village, and that the authority has consulted with the Coordinator-General before making a recommendation to make the regulation and is therefore not a breach of the fundamental legislative principles.

Dealing with assets and liabilities on dissolution

New section 53CK provides that upon dissolution of the authority, all directors of the board go out of office and the appointment of the chief executive officer and other staff employed by the authority ends. This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals given that the provision brings to an end their employment (LSA, section 4(2)(a)), without compensation. However, this is justifiable given that directors and appointees will enter into arrangements knowing that the authority has a limited life and that no compensation is payable upon dissolution of the authority.

Protection from liability

Clause 28 which is proposed to amend section 61 (Protection from liability) provides for the protection of a director of the board, the chief executive officer and any other employee of the authority (officials) from civil liability for acts done, or omissions made, honestly and without negligence. This amendment extends the protection already available to directors and staff of the corporation.

This clause potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the rights and liberties of individuals (LSA, section 4(2)(a)). However, the clause includes appropriate limitations on the protection from civil liability, such as the protection not extending to officials who have been dishonest and negligent, and allowing for an avenue of redress for any affected individuals by providing that liability attaches to the authority instead. It is therefore not considered to be a breach of the fundamental legislative principles.

'Elevate 2042 - Brisbane 2032 Olympic and Paralympic Games Legacy Strategy'

Proposed new section 53AE(b)(iii) is potentially inconsistent with the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament (LSA, section 4(4)(a)) because it refers to a non-legislative document to which the authority must have regard to when performing its functions.

The relevant document is a legacy strategy document developed by the Queensland Government and the games delivery partners. Leaving a positive legacy for the citizens of Queensland and Australia is one of the key concepts underpinning the host contract and it is intended that the authority plan legacy projects that align with the agreed principles reflected in the document. The clause includes appropriate limitations in that it refers to a fixed version of the document and it will remain readily accessible to readers on a Queensland Government website and is therefore not considered to be a breach of the fundamental legislative principles.

Regulation making power

New section 53AD(2)(b) provides that the authority may have any other function prescribed by regulation. The power to prescribe additional functions under regulation potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament (LSA, section 4(2)(b) and 4(4)). However, this provision is justified as it includes an appropriate limitation, being that the prescription of additional

functions must be related to the authority's main functions. The main functions of the Authority are:

- (a) to deliver venues in time for the Brisbane 2032 Olympic and Paralympic Games and within budget allocations, including managing effects on users of venues during their development;
- (b) to monitor and ensure the delivery of villages in time for the Games; and
- (c) to co-ordinate and integrate the planning and delivery of State, Commonwealth and local government obligations under, or related to, the host contract.

New section 5A provides that the venues and villages to which the BOPGA Act will apply will be prescribed in a regulation. The effect is to delegate the legislative power to change the application or effect of the Bill. However, it is impracticable at this time to list the venues and villages in the BOPGA Act when they have not been definitively identified. Until the IOC determines the sports for the Brisbane 2032 Olympic and Paralympic Games in 2025, the final venues and villages cannot be formally finalised and changes to the list may need to be made at that time. The scope for prescribing venues and villages is limited by their nature as sites or facilities that are for the Brisbane 2032 Olympic and Paralympic Games.

New section 53CJ provides that a regulation may prescribe a day as the dissolution day. This clause also potentially breaches the fundamental legislative principle that legislation should have sufficient regard to the institution of Parliament (LSA, section 4(2)(b) and 4(4)). However, it is necessary to have the flexibility to prescribe the dissolution day under a regulation given that the Brisbane 2032 Olympic and Paralympic Games are a number of years away and it is not yet clear how long the authority will need to meet its remaining obligations, particularly in relation to benefits realisation, after the Games and order its affairs prior to dissolution. The amount of time needed prior to dissolution will also depend on the magnitude of the authority's assets and liabilities and the administrative processes it has in place. Given these uncertainties, providing flexibility to prescribe a dissolution day under regulation is justified.

Consultation

A consultation draft of the Bill was shared with the corporation, Australian Government, Brisbane City Council, City of Gold Coast, Sunshine Coast Council, Council of Mayors (SEQ) Pty Ltd, Australian Olympic Committee, Paralympics Australia, the Local Government Association of Queensland and Stadiums Queensland in March 2024. These stakeholders were invited to provide written comment on the draft Bill and several meetings were held to discuss feedback received with the relevant stakeholders. Additionally, each organisation was consulted in early 2024, prior to receiving a consultation draft of the Bill, on key matters being considered as part of drafting of the Bill.

Key change requests made during consultation that have been incorporated into the Bill include:

- ensuring the authority's legal name does not create confusion between the role of the authority and the role of the corporation
- including "Brisbane" in any references to the "2032 Olympic and Paralympic Games"

- allowing for the definition of venues and villages to be sufficiently broad so that the authority's ability to carry out its functions is not limited
- providing that legacy is specifically accounted for and that benefits for Oceania are sought in addition to Queensland and Australia
- requiring the authority to have regard to the financial resources of the corporation, local governments, the host contract and associated agreements entered into by the State with games delivery partners
- outlining that in preparing the transport and mobility strategy, the authority must consult with specific entities
- requiring that the Authority obtain approval from games delivery partners before publishing the transport and mobility strategy
- ensuring the authority's power to give a direction to entities on critical transport infrastructure is reasonable and that the resources and jurisdictional boundaries of governments are considered when giving directions
- ensuring that venues and villages can be delivered in a timely manner
- maintaining the proposed small size of the authority's board
- ensuring that a selection panel for the Board is enshrined in legislation
- enabling the authority's board to invite relevant observers to its meetings as desired
- granting the President of the corporation a non-voting role on the authority's board
- making both the President and Honorary Life President of the Australian Olympic Committee ex-officio directors and vice presidents on the corporation's board.

Key change requests made during consultation on the draft Bill that have not been incorporated into the Bill include:

- specifying particular observers on the authority's board in the legislation
- requiring that all games delivery partners approve the 'Games Coordination Plan'
- listing multiple contractual documents and commitments contained or already referenced within the host contract
- exempting the authority from the Queensland Government's policy on procurement
- prescribing how the authority must undertake consultation processes
- exempting the authority from being subject to Ministerial direction
- removing coordination of State, Commonwealth and local government obligations under the host contract from the authority's main functions.

A draft of the Bill was also provided to the International Olympic Committee for endorsement, as required under the host contract.

Consistency with legislation of other jurisdictions

The Bill amends the BOPGA Act, is specific to the State of Queensland and is not uniform with any current legislation of the Commonwealth or another State or Territory. However, approaches in other jurisdictions for previous and current editions of the Olympic and Paralympic Games, including the Sydney 2000, London 2012 and Paris 2024 Olympic and Paralympic Games, were taken into consideration when drafting the Bill.

Notes on provisions

Short title

Clause 1 states that, when enacted, the Bill will be cited as the *Brisbane Olympic and Paralympic Games Arrangements Amendment Act 2024*.

Act amended

Clause 2 states that the BOPGA Act amends the Brisbane Olympic and Paralympic Games Arrangements Act 2021 (BOPGA Act).

Clause 3 amends the long title of the BOPGA Act to ‘An Act to establish an organising committee, and a games venue and legacy delivery authority, for the Brisbane 2032 Olympic and Paralympic Games and for related purposes’.

Renumbering of pt 1 (Preliminary)

Clause 4 renumbers Part 1 of the BOPGA Act as Chapter 1.

Replacement of s 3 (Main purpose of Act)

Clause 5 replaces section 3 (Main purpose of Act) to broaden the main purposes of the BOPGA Act. In addition to establishing the Brisbane Organising Committee for the 2032 Olympic and Paralympic Games (corporation) to plan, organise and deliver the Brisbane 2032 Olympic and Paralympic Games in accordance with the host contract, a main purpose of the BOPGA Act is now to establish the Games Venue and Legacy Delivery Authority (authority) to ensure Queensland’s readiness to successfully host, and maximise the legacy and benefits from, the Games.

Establishing the authority in the same BOPGA Act as the corporation will aid delineation and understanding of the complementary roles of the two side-by-side statutory bodies that are delivering different aspects of the global mega event. One piece of legislation will provide a comprehensive framework for managing various areas of governance for the Brisbane 2032 Olympic and Paralympic Games.

Insertion of new s 5A

Clause 6 inserts definitions of the terms venue and village (section 5A). A venue is a site or facility, prescribed by regulation, that is to or may fulfil operational or sports-related needs for the Brisbane 2032 Olympic and Paralympic Games. A village is a site or facility that is to provide accommodation and related facilities for competitors, team officials and other team personnel for the Brisbane 2032 Olympic and Paralympic Games that is prescribed by regulation.

Renumbering and amendment of pt 2 (Establishment, functions and powers of corporation)

Clause 7 renumbers part 2 of the BOPGA Act to chapter 2 and amends the heading of new chapter 2. *Clauses 8 and 9* renumber part 2, division 1 and part 2, division 2 as chapter 2, part 1 and chapter 2, part 2 respectively.

Clause 10 amends section 9 to refer to the *Brisbane 2032 Olympic and Paralympic Games*.

Clause 11 inserts a new subsection 10(1)(e) to require that the corporation must, in performing its functions, cooperate with the authority in good faith. To facilitate effective and equal cooperation between the corporation and the authority, a reciprocal obligation is imposed on the authority (in new section 53E) in its dealings with the corporation. Section 10(1)(a) is also amended to refer to the *Brisbane 2032 Olympic and Paralympic Games*.

Clause 12 amends section 17 to adjust the composition of the board of the corporation to include any honorary life president of the Australian Olympic Committee as an ex officio director in addition to the president of the Australian Olympic Committee. These directors are no longer nominated directors under section 17(4).

Amendment of s 18 (Nomination of independent directors)

Clause 13 amends section 18 to provide that a director of the authority is not permitted to be nominated as an independent director of the corporation.

Clauses 14 and 15 amend section 22 and section 23 to the extent necessary to reflect that the directors appointed under s 17(1) are not regarded as nominated directors.

Clause 16 amends section 25 to broaden the scope of the president of the corporation's role to include performing any other function given to the president under the BOPGA Act. This enables performance of the president of the corporation's role (in new section 53BI) in helping the board of the authority perform its functions.

Clause 17 amends section 26 to clarify which directors are vice presidents of the board of the corporation.

Clauses 18 and 19 amend section 48 and 51 to clarify that the chief executive officer is appointed, and staff of the corporation are employed, under the BOPGA Act and not the *Public Sector Act 2022*.

Insertion of new Chapter 3 of the BOPGA Act

Clause 20 inserts a new chapter 3 Games Venue and Legacy Delivery Authority.

Part 1 Establishment

New section 53AA establishes the authority.

New section 53AB provides that the authority is a body corporate, has a seal and may sue and be sued in its corporate name, and does not represent the State. This will enable the authority to perform its functions with autonomy in its day-to-day decisions, including entering into contracts, employing staff and engaging consultants.

New section 53AC states that the authority is a statutory body under the *Financial Accountability Act 2009* and the *Statutory Bodies Financial Arrangement Act 1982* and is a unit of public administration under the *Crime and Corruption Act 2001*. It is appropriate for the authority to be subject to the public sector accountability regime, given the public money and the public interest involved in ensuring that Queensland is ready to host a successful Brisbane 2032 Olympic and Paralympic Games and benefits are maximised.

Part 2 Functions and powers

New section 53AD set outs the functions of the authority. Subsection (1) provides that the authority's main functions are to deliver venues in time for the Brisbane 2032 Olympic and Paralympic Games and within budget allocations, including managing the effects on users of venues during their development, and to monitor and ensure the delivery of villages in time for the games. The authority's other main function is to coordinate and integrate the planning and delivery of State, Commonwealth and local government obligations under, or related to, the host contract. Subsection (2) provides that the authority also has other functions given to it under the BOPGA Act, another Act, or a regulation.

New section 53AE imposes requirements on the authority in the performance of its functions. Subsection (1)(a) requires that the authority must seek to maximise the legacy and benefits, for Queensland, Australia and the Oceania region, of the Brisbane 2032 Olympic and Paralympic Games. Under subsection (1)(b), the authority must have regard to its financial resources, and the financial resources of the corporation, the State and the Commonwealth that are available for the 2032 Olympic and Paralympic Games, and the financial resources of local governments involved in the delivery of the games. The authority must also have regard to the legacy strategy – Elevate 2042: Brisbane 2032 Olympic and Paralympic Games Legacy Strategy – prepared by games delivery partners and published by the Queensland Government in 2023, requirements under the host contract, requirements under agreements entered into by the State to enable it to enter into the host contract, and requirements under agreements entered into by the Commonwealth and the State for the primary purpose of supporting the delivery of the games.

Subsection (1)(c) requires the authority to use its best endeavours to avoid creating liabilities that will not be satisfied before the authority is dissolved under the Act. Subsection (1)(d) requires the authority to ensure goods and services are procured in accordance with the

Queensland Government's policy about procurement (to the extent the policy applies to the authority), including procurement from Indigenous businesses. Subsection (1)(e) requires the authority to cooperate with the corporation in good faith.

New clause 53AF provides that the authority has all the powers of an individual and has any other power given to it under the BOPGA Act or another Act.

New clause 53AG states that the authority may perform its functions, and exercise its powers, inside or outside Queensland.

New clause 53AH provides that a document can be considered executed by the authority if it is signed by the chief executive officer, the chairperson or another person authorised by the board of directors of the authority (board). A document executed by the authority under seal will be sufficiently executed if it is sealed in the way authorised by the board and signed by the chief executive officer, the chairperson or another person authorised by the board.

Part 3 Games governance and planning documents

Division 1 Transport and mobility strategy

New section 53AI requires the authority to prepare and make a transport and mobility strategy within 18 months of the commencement. Under subsection (2), the transport and mobility strategy must identify transport infrastructure projects that are critical for delivery in time for the Brisbane 2032 Olympic and Paralympic Games and describe measures to ensure those transport infrastructure projects are prioritised and integrated with other transport infrastructure projects. For the purposes of section 53AI, a transport infrastructure project means a project involving works relating to infrastructure, including for any busways, rail or light rail, roads, pedestrian or bicycle paths or ferries.

The strategy may include other matters the authority considers necessary for ensuring readiness to host the games and the authority must publish the transport and mobility strategy on the authority's website, subject to obtaining the approvals of games delivery partners.

Without limiting the new section 53AE(b), in preparing the strategy, the authority must have regard to the host contract.

New section 53AJ provides that in preparing the transport and mobility strategy, the authority must consult with the CEOs of each relevant local government and the corporation, the chief executives of the departments responsible for administering each of the BOPGA Act and the *Transport Infrastructure Act 1994*, Stadiums Queensland, the police commissioner, the Secretary of the Commonwealth Government department that is responsible for administering the *National Land Transport Act 2014* (Cwlth), and any other games delivery partner.

New section 53AK provides that the authority may amend the transport and mobility strategy in accordance with the same consultation and approval requirements in new sections 53AI and 53AJ.

New section 53AL empowers the authority to give a written direction to a government agency (other than a Commonwealth government agency) or any local government, to take stated

actions to provide or maintain critical transport infrastructure identified in the transport and mobility strategy. This direction power may only be used if the authority has made reasonable endeavours to reach agreement with the relevant entity about the actions to be taken by the entity to provide or maintain the critical transport infrastructure, but has been unable to reach agreement, the authority is satisfied the actions are necessary to ensure readiness to host the Brisbane 2032 Olympic and Paralympic Games, and the strategy has been published under the new section 53AI(5). The authority must give the entity an opportunity to provide submissions in relation to a proposed direction and must consider those submissions prior to making a direction. If the authority gives a direction after an entity has provided a submission on a proposed direction, the authority must publish the direction and the authority's response to the entity's submission on its website. A direction given by the authority under this section may state conditions on which the critical transport infrastructure must be provided or maintained. An entity that is given a direction to take stated actions to provide or maintain critical transport infrastructure identified in the transport and mobility strategy must comply with the direction and may publish a copy of the direction on its website.

Division 2 Other documents

New section 53AM requires the authority to make a 'Games Coordination Plan' (the coordination plan) within 12 months of the commencement. It is intended that the coordination plan will outline how the authority intends to deliver on its functions, including the proposed allocation of responsibilities between games delivery partners. The purpose of the coordination plan is to provide assurance for games delivery partners in relation to the authority's function to coordinate and integrate the planning and delivery of State, Commonwealth and local government obligations under, or related to, the host contract.

In making the coordination plan, the authority must consult Stadiums Queensland and other games delivery partners, and must take reasonable steps to ensure the coordination plan does not impose an obligation on a games delivery partner that is materially different to a commitment made by the partner under a relevant agreement or materially limit or adversely affect a right of a games delivery partner under a relevant agreement. Relevant agreements, for the purpose of making the coordination plan, are the host contract or an agreement entered into by the State to enable it to enter into the host contract.

As another measure to provide assurance for games delivery partners in relation to the authority's functions, including the function to coordinate and integrate the planning and delivery of State, Commonwealth and local government obligations under, or related to, the host contract, *new section 53AN* requires the chairperson of the authority to enter into a memorandum of understanding with games delivery partners that outlines governance principles to support collaboration in the performance of this function. The memorandum of understanding must be entered into within 12 months.

Part 4 Provisions facilitating development for venues and villages

Division 1 Preliminary

New section 53AO provides that the purpose of Part 4 is to facilitate the timely delivery of development for venues and villages in accordance with the host contract.

New section 53AP provides the relevant definitions for Part 4.

New section 53AQ provides that in Part 4, a reference to development for a venue or village includes a reference to development that provides infrastructure (including land, roads, railways, facilities, services and works, including building, operational, plumbing and drainage work) for the purpose of a venue or village, whether or not the infrastructure is located within, or wholly or partly outside, the venue or village or also has another purpose.

Division 2 Facilitating planning decisions

Division 2 establishes a mechanism to enable the authority to facilitate the making of timely and efficient decisions under the Planning Act or the ED Act and provides a process to declare development of a venue or village to be accepted development under the Planning Act or PDA accepted development under the ED Act.

Given the existing comprehensive framework available in Queensland through which to assess and decide development applications for venues and villages, there are likely to be existing pathways available for approval of that development. However, should a planning issue arise that would threaten timely delivery of venues or villages in accordance with the requirements of the host contract, the Bill provides an alternative pathway that can expedite such development.

Subdivision 1

New section 53AR empowers the authority to give a person a written notice requiring that person to give the authority information, documents or assistance the authority reasonably requires in relation to a relevant planning decision. This applies if the authority is satisfied it is necessary to do so to facilitate efficient and timely decision-making in relation to an application for a relevant planning approval (whether under the Planning Act or the ED Act) for development for a venue or village or the making or amendment by the Minister of a designation for premises under the Planning Act. A person to whom the notice is given must take all reasonable steps to comply with the direction within the period stated in the notice.

It is intended that the authority would use this power in the first instance to seek a solution if a planning delay were to arise in relation to the development of a venue or village.

Subdivision 2

New section 53AS provides that a regulation may declare development for a venue or village to be one of the following categories of development: accepted development under the Planning Act or PDA accepted development under the ED Act. The making of a recommendation by the Minister to the Governor in Council to make the regulation may be made only if the Minister is satisfied that a relevant Act regulating the development may have an adverse effect on the timely delivery, the making of the declaration is necessary to facilitate timely delivery of the venue or village, and the authority has made reasonable endeavours to consult the chief executive of the department responsible for administering the Planning Act, the Minister for Economic Development Queensland, the Coordinator-General and the chief executive of a local government in whose area the development is or will be located.

The Minister must have regard to relevant Acts, including the *State Development and Public Works Organisation Act 1971*, before recommending the making of a declaration.

It is intended that state planning policy including state interest requirements in relation to bushfire and other natural hazards, are taken into account.

New section 53AT provides that when a regulation under section 53AS(1) is in effect, the development is the declared category of development.

Division 3 Acquisition of land for venues and villages

As part of the suite of powers necessary to facilitate timely delivery of venues and villages, this division provides a process for declaring land to be acquisition land which the authority may compulsorily acquire for the purpose of delivering the relevant venue or village, subject to the processes established in the BOPGA Act.

New section 53AU applies if the Minister is satisfied that land is required for a venue or village, and it is necessary to enable the authority to take land to facilitate the timely delivery of the venue or village. A regulation may declare the land to be acquisition land for the venue or village, however, before recommending to the Governor in Council that the regulation be made, the Minister must be satisfied that the authority has made reasonable endeavours to consult the Coordinator-General in relation to the proposed recommendation. Neither the Minister nor the authority is required to consult any other person, including any landowner, before the Minister recommends the making of the regulation.

Where a regulation declares land to be acquisition land for a venue or village, the authority has the power under *new section 53AV* to take that land for the purpose of delivering the venue or village. This power applies even though the taking of the land is for conferring rights or interest in the land on another entity, and an entity may derive a measurable benefit from any action taken on the land to facilitate the delivery of the venue or village. However, in such a case, the authority must first take reasonable steps to obtain the agreement of the owner of the land to actions on the land that would facilitate the purpose of delivering the venue or village to which the acquisition land relates.

The power to take acquisition land for the purpose of delivering the venue or village expressly includes the power to take the land for another purpose incidental to the purpose of delivering the venue or village, for example, if the land is needed to provide infrastructure associated with a venue or village.

The processes for the taking of land and the payment of compensation for taking of land, applies to the taking of acquisition land as if that land were being taken under the *Acquisition of Land Act 1967* by the authority as a constructing authority under that Act and the Minister were the relevant Minister under that Act. This process provides a landowner (and other persons whose interests are proposed to be compulsorily acquired), the opportunity to object to the proposed acquisition.

New section 53AW confirms that the authority's power to take land includes the power to take an easement (including a public utility easement), or another interest in land above or beneath the surface (without acquiring rights in the surface), and the power to take a lease of State land

or another interest in State land. Where the authority issues a notice of intention to resume a lease of State land, or some other interest in State land that is less than freehold, the authority must file a copy of that notice in the appropriate land register kept under the *Land Act 1994*. Any amendment or discontinuance of the process must also be filed in that register. The relevant Acquisition of *Land Act 1967* processes for taking land and payment of compensation in relation to any easement or other interest apply as if the easement or other interest were land.

New section 53AX provides that the process for taking land and payment of compensation must be carried out in a way that is consistent with the relevant native title legislation. If any native title legislation states a process in relation to the taking or payment that is in addition to the process stated in the *Acquisition of Land Act 1967*, the additional process applies. The Land Court is the independent body to hear objections to compulsory acquisition of native title rights and interests for the *Native Title Act 1993 (Cwlth)*, section 24MD(6B). The acquisition process established in the Bill is declared to be compulsory acquisition under the *Native Title (Queensland) Act 1993*.

New section 53AY provides for the vesting of land in the entity stated in the gazette resumption notice for the taking of land. Where the land taken is a lease of State land (or another interest in State land that is less than freehold), the land vests in the entity as an estate in fee simple, subject to the reservations and conditions that are authorised or required under the *Land Act 1994*.

New section 53AZ provides that in giving effect to the delivery of a venue or village, the authority may deal with land, which has been taken (or proposed to be taken) under section 53AV. The authority may lease, or agree to lease, the land to any person, sign an agreement with any person in relation to works or development for the land or to carry out, own, operate and maintain any works or development on land, and sell or agree to sell, the land.

New section 53BA provides that s 36 (powers of entry) and s 37 (temporary occupation of land) provisions under the *Acquisition of Land Act 1967* apply in relation to exercising a power to take land under the division as if the authority were exercising its power to take land as a constructing authority, under the *Acquisition of Land Act 1967*. This will enable the authority to, for instance, enter upon any land (whether or not acquisition land) with equipment, material and vehicles to undertake inspections, surveys and soil testing. The temporary occupation powers enable the authority to temporarily occupy and use any land (whether or not acquisition land) for the purpose of constructing, maintaining and repairing any works, and the authority may take earth and other materials from that land, form and use temporary roads and erect temporary building on that land, for instance. Notice and compensation provisions apply.

Division 4 Miscellaneous provisions

New section 53BB provides that unless the Supreme Court decides a relevant decision by the authority or Minister under part 4 is affected by jurisdictional error, the decision:

- is final and conclusive;
- cannot be challenged, appealed against, reviewed, quashed, set aside, or called into question (whether by any court, tribunal, or other entity) under the *Judicial Review Act 1991* or otherwise; and

- is not subject to any declaratory, injunctive, or other order of any court, tribunal or other entity on any ground.

To the extent a decision is affected by jurisdictional error, the *Judicial Review Act 1991*, part 5, will apply.

This section does not limit the Land Court's ability to decide a claim of compensation for the taking of land under division 3.

Part 5 Board of directors

Division 1 Establishment, functions and powers

New section 53BC establishes the board.

New section 53BD provides the functions of the board are to ensure the authority performs its functions in a proper, effective and efficient way; and any other functions given to the board under the BOPGA Act.

New section 53BE provides that the board can do anything necessary or convenient to be done in performing its functions. Subsection (2) states that anything done in the name of, or for, or with the authority of, the board is taken to have been done by the authority.

Division 2 Composition

Division 2 facilitates the appointment of an independent board.

New section 53BF provides that the board consists of not more than 7 appropriately qualified persons (each a director) nominated by the Minister and appointed by the Governor in Council. The Minister may only nominate a person to be a director if they are:

- (a) stated to be preferred as, or suitable to be, a director by the selection panel;
- (b) appropriately qualified; and
- (c) not a person disqualified from appointment under subsection (3).

Subsection (3) excludes certain persons from appointment to the board in order to reflect the intention of establishing an independent board: an elected office holder; a public service employee; an employee of a local government; an employee under the *Public Service Act 1999* (Cwlth); a director of the corporation, a member of the governing body or any employee, of any of the Australia Olympic Committee, Paralympics Australia, the International Olympic Committee; or the International Paralympic Committee.

Subsection (4) provides that in considering any proposed nomination, the Minister and each member of the selection panel must have regard to:

- (a) the person's skills, knowledge and experience in areas relevant to the performance of the board's functions;
- (b) the diversity of the skills, knowledge and experience of the board's directors relevant to the board's functions;

- (c) the Queensland Government's policy about gender equity on boards;
- (d) the diversity of the board's directors.

Having regard to the diversity of the board's directors is intended to include regard to the representation of Aboriginal and Torres Strait Islander peoples, people with disability, people from culturally and linguistically diverse backgrounds and other diverse groups on the board.

New section 53BG provides for appointment, by the Governor in Council on the recommendation of the Minister, of a director as chairperson of the board. The Minister may only nominate a person to be a director if they are stated to be preferred as, or suitable to be, a chairperson by the selection panel. The person appointed holds office as chairperson for the term stated in their instrument of appointment as chairperson, however their appointment will end if the person stops being a director.

New section 53BH sets out the composition of the selection panel and the process for its establishment. It also provides that a person chosen for nomination for appointment as a director or chairperson must be chosen by a majority of the panel and that the chief executive of the department responsible for administering the BOPGA Act has a casting vote in the case of a tie.

New section 53BI provides that the president of the board of the corporation is responsible for helping the board of the authority to perform its functions and has a non-voting role on the authority's board. The president of the board of the corporation will attend meetings of the authority's board and participate in discussions, but may not vote when the board is deciding on matters. Subsection (3) and (4) ensures that the president of the board of the corporation is subject to similar disclosure of interest requirements as directors of the authority's board. The president of the board of the corporation will not be entitled to be paid any additional remuneration or allowances for helping the board of the authority to perform its functions.

New section 53BJ provides that a director holds office on the terms and conditions, not provided for by the BOPGA Act, that are decided by the Governor in Council.

New section 53BK provides that the term of office of a director must not be longer than 4 years. However, there is no limit on the reappointment of directors.

New section 53BL provides for when the office of a director becomes vacant.

A person will become disqualified under *new section 53BM* from becoming or continuing as a director if the person:

- has a conviction, other than a spent conviction for an indictable offence;
- is an insolvent under administration;
- is disqualified from managing corporations because of the *Corporations Act 2001* (Cwlth), part 2D.6.

A person is also disqualified if the person does not consent to the Minister requesting a report about the person's criminal history.

Subsections (3) and (4) provide a mechanism whereby the Minister may consider the circumstances of an offence or insolvency and give approval for the person to become a director despite the conviction or insolvency.

Division 3 Criminal History

New section 53BN provides the Minister with the power to ask the commissioner of the police service for a written report about the criminal history of a person and a brief description of the circumstances of a conviction mentioned in the criminal history, to decide whether the person is disqualified from becoming or continuing as a director of the board. The use of this power is limited to circumstances where the person has given the Minister written consent for the request.

New section 53BO requires that a director of the board must, unless they have a reasonable excuse, immediately notify the Minister, stating the required information, if they are convicted of an indictable offence. Failure to give notice is an offence with a maximum penalty of 100 penalty units.

New section 53BP provides that the criminal history information is confidential. Disclosure, except as permitted under subsection (3), is an offence with a maximum penalty of 100 penalty units.

Division 4 Board meetings

Subdivision 1 General Provisions

New section 53BQ provides that the board may conduct its business in the way it considers appropriate, including inviting observers from time to time.

New section 53BR provides that the board may convene a meeting at a time and place decided by the board.

New Section 53BS provides that the chairperson is to preside at all board meetings at which the chairperson is present and if the chairperson is absent, a director chosen by the directors present may preside at the meeting.

New section 53BT prescribes that a quorum for meetings of the board is one-half of the number of directors holding office.

The procedure for deciding questions at a meeting of the board is set out in *new section 53BU*. The provision allows for directors to participate in meetings using modern communication technology, such as teleconferencing. Subsection (6) provides that a resolution is taken to be validly made by the board, even if not passed at a board meeting, if notice of the resolution is given under the board's approved procedures, and the majority of directors agree in writing to the resolution.

New section 53BV provides that the board must keep minutes of its meetings and a record of its decisions and resolutions.

Subdivision 2 Disclosure of interests

New section 53BW states the subdivision applies if a director has an interest in a matter about to be considered at a board meeting that could conflict with the performance of their duties.

New section 53BX provides that a director must disclose a conflict of interest to the board, as soon as practicable after the relevant facts come to the director's knowledge.

New section 53BY provides that unless the board otherwise directs, that director must not be present when the board considers a matter relevant to the director's interest nor take part in making any decision about the matter. The director must also not be present when the board considers whether to give a direction under subsection (1). The directors present at the meeting to decide whether the director can take part in a decision of the board under subsection (1)(b) constitute a quorum.

New section 53BZ provides that the board must keep a register of interests recording the disclosure of interests.

New section 53CA provides that contravention of the subdivision does not invalidate a decision of the board, however, the board must reconsider a decision in which a director took part, if the board becomes aware of a contravention.

Division 5 Committees and commissions

New section 53CB states that the board may establish one or more committees to assist in the performance of the board's functions. The members of a committee are the directors decided by the board.

New section 53CC states that the board may establish one or more commissions to advise on matters referred to the commission by the board. Members of commissions are the directors or other appropriately qualified persons decided by the board. The establishment of commissions is one way for the board to ensure greater levels of representation and diversity in the performance of its functions.

Part 6 Staff of authority

Division 1 Chief executive officer

New section 53CD provides that the board may, with the Minister's consent and after consulting games delivery partners, appoint a chief executive officer. The chief executive officer is an employee of the authority under the BOPGA Act and not the *Public Sector Act 2022*. The chief executive officer is responsible for the day-to-day administration of the authority's operations and is accountable to the board.

New section 53CE provides that the term of the chief executive officer must not be longer than four years. There is however, no limit on the chief executive officer's reappointment.

New section 53CF states that the chief executive officer is to be paid the remuneration and allowances decided by the board with the written approval of the Minister. The chief executive

officer otherwise holds office on the terms and conditions, not provided for by the BOPGA Act, that are decided by the board with the written approval of the Minister.

Division 2 Other staff

New section 53CG provides that staff employed by the authority are employed under the BOPGA Act and not the *Public Sector Act 2022*.

New section 53CH facilitates the making available of the services of officers or employees of another government agency to the authority, with the agreement of the chief executive of the relevant government agency. Subsection (2) provides that when the services of an officer or employee are made available to the authority, that person continues to be an officer or employee of the government agency on the same terms and conditions applying immediately before the services were made available. That officer or employee is taken to be a member of the authority's staff for the period the services are made available and for the performance of the authority's functions.

Permitting alternative staffing arrangements will mean that the authority will be able to benefit from the specialist skills of State and Commonwealth Government and local government employees at critical times during preparations for the Brisbane 2032 Olympic and Paralympic Games.

New section 53CI provides that certain public sector employees who become an employee of the authority within 15 months after the day of commencement, are entitled to retain all accrued and accruing rights (such as leave entitlements) as a public sector employee as if service as an employee of the authority were a continuation of the person's service as a public sector employee. To qualify, a person must have been a public sector employee immediately before the commencement and must be a person whose services have been made available to the authority under an arrangement under section 53CH within three months of commencement.

Part 7 Dissolution of Authority

New section 53CJ provides that a regulation may prescribe a day as dissolution day.

New section 53CK provides that on dissolution day, the authority is dissolved, directors go out of office and the appointments of the chief executive and the other staff employed by the authority end. On dissolution date, the State is the successor in law of the authority. All assets, rights, duties and liabilities of the authority will vest in the State. The State is also substituted as a party to any contract, lease or other instrument or any current legal proceeding to which the authority was a party immediately before dissolution day. This clause does not affect the State's obligations under the host contract.

Part 8 Miscellaneous

New section 53CL requires certain entities to give the authority the information, documents or assistance, on request, the authority reasonably requires to perform its functions, except where to do so would contravene a duty of secrecy or confidentiality imposed on a person under an BOPGA Act or law. Entities subject to this requirement are a chief executive, a rail government

entity under the *Transport Infrastructure Act 1994*, a local government, any statutory body under the *Statutory Bodies Financial Arrangements Act 1982* (other than the corporation, which has a separate obligation to cooperate with the authority in good faith) and a government owned corporation.

Renumbering of pt 6 (Miscellaneous)

Clause 21 renumbers Part 6 of the BOPGA Act to chapter 4.

Replacement of s 54 (Corporation to enter into funding agreement)

Clause 22 replaces existing section 54 by:

- including a new clause defining ‘games entities’, being the corporation and the authority; and
- inserting a new clause 54A which requires each of the corporation and the authority to enter into a funding agreement with the Minister. The agreement must provide for the financial monitoring of the relevant games entity by the Minister, including the reporting requirements.

This provision has the effect of requiring the authority to enter into a funding agreement with the State in a similar way to the existing obligation of the corporation.

Amendment of s 55 (Ministerial directions)

Clause 23 amends section 55 to provide for the Minister’s existing directions power to apply to each of corporation and the authority. The Minister may give a games entity a written direction about the performance of the games entity’s functions or the exercise of its powers. In deciding whether to give a direction, the Minister must first consider the games entity’s obligations under the host contract. The Minister must be satisfied that it is reasonably necessary to give the direction. The Minister is to notify the Commonwealth Government before providing a direction to a games entity. Ministerial directions to the authority could include, for example, giving the Minister information held or controlled by the authority or a report about the authority’s functions.

Amendment of s 56 (Duty to act honestly)

Clause 24 amends section 56 to extend the existing duty imposed on directors and the chief executive of the corporation to any director of the authority and the chief executive officer of the authority. Failure by a director or chief executive to comply with the duty to act honestly in the performance of their functions or exercise of powers under the BOPGA Act is an offence with a maximum penalty of 100 penalty units.

Amendment of s 57 (Use or disclosure of confidential information)

Clause 25 amends section 57(1)(a) to extend the existing obligations concerning the protection of confidential information to directors of the authority, the chief executive officer of the authority, and members of an authority commission. The maximum penalty for failing to comply with this requirement is 100 penalty units.

Amendment of s 59 (Authorisation for competition legislation)

Clause 26 has the effect of amending section 59(1)(a) so that both the corporation and the authority have the benefit of section 59 by providing that in entering into an agreement, arrangement or understanding in the performance of a function under the BOPGA Act, the relevant games authority will not contravene Part IV of the *Competition and Consumer Act 2010* (Cwlth) or the Competition Code of Queensland. This authorisation could apply, for example, where the authority might be required by the IOC to enter into arrangements with sponsors (such as venue signage arrangements).

Replacement of s 60 (Delegations)

Clause 27 replaces existing section 60 and reinserts a delegation provision in similar form to permit a games entity to delegate its functions or powers under the BOPGA Act to the chief executive officer of the entity or a committee of an entity's board. The authority may also delegate its functions or powers to any other appropriately qualified person.

Under subsection (2), the chief executive officer of a games entity may, with the written approval of the board, subdelegate a function or power delegated to them by the board to an appropriately qualified member of the corporation's staff.

Amendment of s 61 (Protection from liability)

Clause 28 amends section 61 of the BOPGA Act so that the protection from liability available to directors and employees of the corporation is also available to directors and employees of the authority. Specifically, the section provides that a board director, the chief executive officer or any employee of the relevant games entity is not civilly liable for an act done, or omission made, honestly and without negligence under the BOPGA Act, with liability instead attaching to the games entity (the corporation or the authority, as relevant). Subsection (2) updates the BOPGA Act to replace reference to the repealed *Public Service Act 2008* with reference to the *Public Sector Act 2022*, and ensure that that the term 'official' applies to both the corporation and authority.

Insertion of new Chapter 5 of the BOPGA Act

Clause 29 inserts transitional provisions in a new chapter 5 of the BOPGA Act.

Chapter 5 Transitional provisions

New section 63 provides for the appointment, by the Minister, of an interim chief executive officer of the authority. This will facilitate the day-to-day management of the authority during the establishment phase and while recruitment processes are being undertaken.

The Minister must first consult with games delivery partners about the appointment of the interim chief executive officer. The interim chief executive officer is an employee of the authority under the BOPGA Act and not the *Public Sector Act 2022* and is appointed for a maximum term of 12 months. The appointment ends sooner than 12 months if a chief executive officer is appointed by the board of the authority (as provided in Chapter 3, Part 6, Division 1), removed from the role by the Minister, or resigns by written notice to the Minister.

The interim chief executive officer has the power to do anything necessary or convenient to be done to ensure the authority can start performing its functions properly and efficiently and operate from day-to-day. The chief executive officer otherwise holds office on the terms and conditions, not provided for by the BOPGA Act, that are decided by the Minister.

New section 64 requires the authority to enter in a funding agreement under section 54A within six months after the commencement of the section.

Amendment of sch 1 (Dictionary)

Clause 30 provides an amended dictionary which defines key terms used in the BOPGA Act.