

Section	What does it do?	AHC Submission
S6 Principal role of council	<p><b>New provisions</b></p> <p>“6(b) to make decisions about the provision of various public services and facilities that will benefit the community in the context of the capacity and willingness of ratepayers to pay for those services and facilities.”</p>	<p><b>Supported with qualifications</b></p> <p>The notion of ‘willingness’ to pay is nebulous and not generally a feature of the design of a system of taxation.</p>
S7 Functions of a Council	<p><b>New provisions</b></p> <p>(ba) to determine the appropriate financial contribution to be made by ratepayers to the resources of the council.</p>	<p><b>Supported</b></p>
S8 Principles to be observed by a council	<p><b>New provisions</b></p> <p>(ea) Seek to collaborate, form partnerships and <i>share resources</i> with other councils...</p> <p>(h) seek to ensure that council resources are used fairly, effectively and efficiently <i>and council services, facilities and programs are provided effectively and efficiently.</i></p> <p>(ia) seek to balance the provision of services facilities and programs with the financial impact of the provision of those services, facilities and programs on ratepayers.</p>	<p><b>Supported</b></p>
S11A Number of elected members	<p><b>New section</b></p> <p>The number of members of a council (including the Mayor) will be capped at no more than 12.</p> <p>If a council conducts a review by 2022, they can implement this change for 2022 council elections. If not, then must implement by the 2026 elections.</p>	<p><b>Supported with qualifications</b></p> <p>With a capping of Council Members to 13 for the larger councils. Further consideration could be given to setting caps by the band of councils (as used by the Remuneration Tribunal).</p> <p>For example</p> <ul style="list-style-type: none"> <li>Group 1A – max 13</li> <li>Group 1B – max 13</li> <li>Group 2 – max 13</li> <li>Group 3 – max10</li> <li>Group 4 – max 8</li> <li>Group 5 – max 8</li> </ul>

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<p>S12</p> <p>Rep review process - deleted</p>	<p><b>Revised provisions</b></p> <p>Councils must consult with the public re the representation report. The resulting report must include public submissions (i.e. no requirement for the Representation Options Paper).</p>	<p><b>Supported with qualifications</b></p> <p>While AHC supports the proposed changes to s12 it holds the view that allocating this role to either ECSA or the Boundaries Commission would enable a more objective, evidence-based and strategic approach to the process. Councils would be a stakeholder in the process and make submissions (as appropriate).</p>
<p>S44</p> <p>Delegations</p>	<p><b>New provisions</b></p> <p>Amendment to include Joint Planning Boards as a possible delegate.</p>	<p><b>Supported</b></p>
<p>S50</p> <p>Current public consultation sections deleted</p>	<p><b>Revised and new provisions</b></p> <p>Introduces one Community Engagement Charter for the whole local government sector.</p> <p>This will replace many individual sections requiring councils to report info, consult, publish in newspapers, keep hard copy at principal office, etc</p> <p>The Charter will be decided by the Minister and Gazetted and will apply across all councils.</p> <p>Some parts will be mandatory, others will be up to council policy (See 50A).</p> <p>The Minister approves and varies the Charter, after consultation with the LGA.</p>	<p><b>Supported.</b></p> <p>The proposal has merit particularly in light of the issues arising from the Coast Parks case.</p>
<p>S50A</p> <p>Council community engagement policy</p>	<p><b>New section</b></p> <p>Each council must have its own policy on how to implement the Community Engagement Charter.</p>	<p><b>Supported.</b></p>

Section	What does it do?	AHC Submission
<p>S51</p> <p>Principal member of council – removal of chairperson</p>	<p><b>Revised provisions</b></p> <p>Removal of the option for the principal member to be a chairperson chosen by the members of the council from amongst their own number.</p>	<p><b>Not Supported</b></p> <p>Council believes that the chairperson structure can be beneficial for those communities who choose to adopt it and, as such, should remain an option within the Act. Retention of the chairperson system does not compromise the operation of any of the other principal member roles within the Act.</p>
<p>S54</p> <p>Casual vacancy</p>	<p><b>Revised provisions</b></p> <p>If a council member resigns to take up another position (e.g. Mayor) their position as member becomes vacant unless they are standing for the office of the Mayor or another office AND a general election is within 12 months.</p>	<p><b>Supported.</b></p> <p>This is a practical and cost-effective approach to managing casual vacancies in the office of the Mayor and those that occur in the year leading up to a periodic election.</p> <p>Allied with the proposed changes to s6(2) of the <i>Local Government (Elections ) Act 1999</i> to fill vacancies within 12 months following a periodic election with the penultimate candidate, these measures will reduce the cost impost of supplementary elections.</p>

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<p>S55A</p> <p>Elected Members running for Parliament</p>	<p><b>New provisions</b></p> <p>If a council member runs for State Parliament, they are automatically granted a ‘leave of absence’.</p> <p>The leave commences at the close of nominations –even if the member/candidate is campaigning earlier.</p> <p>The provision applies to any council office - including council committees and subsidiaries.</p> <p>If a candidate withdraws their nomination, - they are automatically reinstated to their council position.</p> <p>Members will not receive remuneration/ allowances during the leave period.</p> <p>In subsection 5, candidates can’t use council facilities in this leave period.</p>	<p><b>Not Supported</b></p> <p>Section 62 of the <i>Local Government Act 1999</i> contains sufficient provisions to prevent a Member from deriving personal benefit of their position or information obtained in their position (at any time).</p> <p>Further it is erroneous to suggest that a Member’s dedication of time and effort to a State or Federal election campaign is any more deleterious to the discharge of their Council duties as are other life events such as a serious illness, parenthood, a new job, none of which are suggested to require suspension.</p> <p>If however a Member chooses to voluntarily take a leave of absence with or without their allowance, this is welcomed.</p>
<p>S58</p> <p>Role of Principal Member (usually called Mayor)</p>	<p><b>New provisions</b></p> <p>New sections clarifying the role of a principal member of council. This includes:</p> <ul style="list-style-type: none"> <li>• “Providing leadership and guidance to the council.</li> <li>• To lead the promotion of positive and constructive working relationships amongst members of the council</li> <li>• To provide guidance to council members on the performance of their role; and</li> <li>• To support council members understanding on the separation of responsibilities between elected representatives and employees of the council.”</li> </ul>	<p><b>Supported</b></p> <p>The additional subsections are largely aspirational but nonetheless important to set the expectation of the role for both the community and intending candidates.</p> <p>As per the commentary for s51, the chairperson structure has a greater likelihood of achieving the aspiration of these subsections due to the inherently higher level of regard by the fellow Members for the Member selected as chair.</p>
<p>S59</p> <p>Role of members of council</p>	<p><b>New provisions</b></p> <p>It will be a role of council members to act with integrity.</p>	<p><b>Supported</b></p> <p>The additional subsection is largely aspirational but nonetheless important to set the expectation of the role for both the community and intending candidates.</p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>

<p>S62</p> <p>General Council Member duties</p>	<p><b>New provisions</b></p> <p>The prohibitions on disclosure of confidential council information are extended to documents that the council member “knows or ought reasonably to have known is ...required to be treated confidentially”.</p>	<p><b>Supported</b></p>
<p>S68</p> <p>Council Member Register of Interests</p>	<p><b>New provisions</b></p> <p>(1a) If a council member fails to return their Register after a defined period (in most cases 12 months) the member will be suspended.</p> <p>(1b) If a member is suspended under this section, so are their member allowances.</p> <p>(3a) If the member subsequently submits a return, to the satisfaction of the CEO, the CEO will publish a notice on website to this effect.</p> <p>(3a)(b) The suspension is revoked upon publication of this notice.</p> <p>(3b) If the failure to submit a return continues, the CEO may refer to SACAT.</p>	<p><b>Supported with qualifications</b></p> <p>Notwithstanding that the proposal is supported and that there is both timeliness and practicality in the suspension being determined by the CEO, Council holds concerns regarding the working relationship impact of a CEO suspending a Member.</p>
<p>S70</p> <p>Inspection of a Register</p>	<p><b>Revised provisions</b></p> <p>The Register will now no longer publish the home address of a councillor.</p> <p>Additional information can be suppressed for personal safety.</p>	<p><b>Supported</b></p>
<p>S73</p> <p>Register of gifts and benefits</p>	<p><b>Revised provisions</b></p> <p>The Minister will declare the threshold amount for the purpose of this clause.</p> <p>The Minister must consult the LGA prior to making this declaration.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S74-75C</p> <p>Conflicts of Interest</p>	<p><b>Revised provisions</b></p> <p>The three categories of Conflict of Interest are reduced to two: ‘General Conflicts of Interest’ and ‘Material Conflicts of Interest’.</p> <p>A member of a council will not be regarded as having a conflict of interest in a matter if the interest is held in common with a ‘substantial proportion’ of the ratepayers, electors or residents of the council area (if that interest is equal).</p> <p>Onus is on the council member to declare/decide whether they have a conflict. Failure to declare a conflict can result in penalties.</p>	<p><b>Supported with qualifications</b></p> <p>Proposed subsection 75(j) should only deal with current or potential future agreements but not those that have ended. As currently drafted, an agreement that concluded many years in the past would still be captured for the purposes of this subsection.</p> <p>Areas where further clarification is required include:</p> <ul style="list-style-type: none"> <li>• circumstances where the council has nominated an elected member to the board of another legal entity, and</li> <li>• the ‘substantial proportion’ test.</li> </ul>
<p>S75E</p> <p>Member ‘Behaviour Standards’</p>	<p><b>New provisions</b></p> <p>The Minister may publish and vary ‘Member Behaviour Standards’. These Standards are not set out in the Bill.</p> <p>They apply State-wide.</p> <p>The Minister must consult the LGA first.</p> <p>Minister’s decision will be published in the <i>Government Gazette</i>.</p>	<p><b>Supported with qualifications</b></p> <p>While principle-based conduct guidance is usually preferable, given the experiences of poor conduct in the sector, specificity will be more effective for clearly defining unacceptable conduct.</p>
<p>75F</p> <p>Council Behavioural Support Policies.</p>	<p><b>New provisions</b></p> <p>Council may implement their own policies on how to support “appropriate behaviour by members of the council”. These can’t be inconsistent with the Behavioural Standards.</p> <p>Council must review these within 6 months of general elections.</p> <p>Council must consult the public on these.</p> <p>Council members must comply with their CBSPs.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S75G</p> <p>Council member health and safety obligations</p>	<p><b>New provisions</b></p> <p>Council members are not ‘workers’ for the purpose of the WHS Act. But they will now have specific WH&amp;S obligations.</p> <p>Council members must not adversely affect the health and safety of other members of council or employees.</p> <p>Could include a direction that a member of a council not attend a meeting of the council. A member subject to such a direction will be taken to have been granted a leave of absence from council meetings.</p> <p>Council members must follow the reasonable directions of a responsible person (usually the CEO) in this respect.</p>	<p><b>Supported with qualifications</b></p> <p>During a leave of absence under s75G(3), the member should not be entitled to the payment of an allowance.</p>
<p>S76</p> <p>Member Allowances</p>	<p><b>Remaining</b></p> <p>Member Allowances set by Remuneration Tribunal.</p> <p>LGA to pay Remuneration Tribunal their “reasonable costs”.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S80A</p> <p>Training &amp; Development</p>	<p><b>Revised and new provisions</b></p> <p>‘LGA Training Standards’ will still be specified in the Regs.</p> <p>Each council must adopt their own policy for conduct and completion of training and development by their members.</p> <p>If a council member has not completed the training, the CEO must suspend the council member unless the council member satisfies the CEO that good reasons exist.</p> <p>(See s262 for referral to Behavioural Standards Panel and penalties.)</p>	<p><b>Supported with qualifications</b></p> <p>Notwithstanding that the proposal to suspend a non-compliant member is supported and that there is both timeliness and practicality in the suspension being determined by the CEO, Council holds concerns regarding the working relationship impact of a CEO suspending a Member.</p> <p>In relation to mandatory training, the four mandatory modules cover the key ‘common’ areas of knowledge for all councils although the minimum duration of the mandatory modules is insufficient. An example in point is the Legal Responsibilities module which is inadequate for Members to gain an understanding of all of their obligations under the LG Act and associated legislation such as the ICAC Act and PID Act.</p> <p>Allied to this, a requirement for competency-based assessment (potentially using on-line software) could be used to facilitate Members demonstrating an understanding of, and competency in, the mandatory subject matter rather than the current attendance-only model.</p>
<p>S80B</p> <p>Suspension of Council Member subject to an intervention order</p>	<p><b>New provisions</b></p> <p>Suspend a council member who is the subject of an intervention order.</p> <p>The CEO will have a discretion to suspend a member</p>	<p><b>Supported with qualifications</b></p> <p>This support is contingent on the intervention order relating specifically to the Members or Officers who would be present at the Council when the offending Member was to attend.</p>



Section	What does it do?	AHC Submission
S85 Quorums	<p><b>Revised provisions</b></p> <p>Changes to the determination of the prescribed number.</p>	<p><b>Supported</b></p>
S86 Procedure at meetings	<p><b>New provisions</b></p> <p>Exclusion of 15 minutes from meeting</p>	<p><b>Supported with qualifications</b></p> <p>While the principle of removing disruptive Members from the Chamber is strongly supported, the prohibition on the council voting on a matter (subsection 6d) during the period of exclusion effectively ‘rewards’ the disruptive Member and further hampers the council’s ability to conduct the meeting effectively.</p>
S90(3)(o) Meetings held in public	<p><b>New provision</b></p> <p>New exemption, allowing councils to discuss potential award recipients in confidence.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S90A</p> <p>Information or briefing sessions</p>	<p><b>New provisions</b></p> <p>The Bill replaces 'informal gatherings or discussions' with a similar but less flexible scheme of 'information and briefing sessions'.</p>	<p><b>Not supported.</b></p> <p>The provisions of s90(8), which predated the informal gathering provisions of s90(8a)-(8e), were sufficient to set the expectation regarding conduct in gatherings that are not formal Council and Committee meetings. This is a clear example where the most effective way to achieve the aims of 'Simpler Regulation' would be to remove the additional regulation that has already been created and to enforce the provisions of s90(8) with those councils that transgress rather than creating an onerous requirement on all councils for marginal (if any) benefit.</p> <p>The provision of proposed s90A(1) that a session to which one or more Members is invited effectively means that a meeting between a CEO and a Member regarding a matter of council business that could come to a council meeting would be an 'information or briefing session' and therefore open to the public. This is an unworkable proposal as these types of meeting happen multiple times a week.</p> <p>The provisions of s90A(4) (i.e. that a session can only be closed for a purpose consistent with s90(3)) would indicate that the 'planning session of a strategic or general nature' provision of Regulation 8AB(1)(b)(ii)(B) will also be removed. This is disappointing as it provides some ability for the Council Members to discuss policy options in confidence before determining a position at a council meeting.</p>
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<p>S92</p> <p>Access to meetings and documents</p>	<p><b>New provisions</b></p> <p>Councils must already have a Code of Practice about meetings and access to documents. The new obligation requires councils to consult with the public before adopting, altering or substituting this Code.</p> <p>Council reporting obligations are taken out of the various sections of the Act and will be replaced by a schedule, making it easier for councils and the public to understand what needs to be reported (and how).</p>	<p><b>Supported with qualifications</b></p> <p>Given that the Code is effectively an amalgam of legislative requirements it is not anticipated that there would be much response to the consultation or the ability to alter the provisions of the Code in response to any feedback.</p>
<p>S97(3)(a)</p> <p>Terminate a CEO</p>	<p><b>New provisions</b></p> <p>Before council can terminate a CEO’s employment, they must have regard to advice from a “qualified independent person”.</p> <p>Definition: “a legal practitioner OR someone determined by the council to have appropriate qualifications or experience in human resource management”.</p>	<p><b>Supported</b></p> <p>Consideration of the termination of a CEO selection is a highly complex undertaking and the level of acumen of most Council Members does not extend to these matters. On this basis, independent professional advice is highly desirable.</p>
<p>S98</p> <p>Fill CEO Vacancy</p>	<p><b>Revised and new provisions</b></p> <p>Councils no longer need to advertise in a newspaper -instead, can use a website.</p> <p>Selection Panel: At least one is not a council member or member of staff.</p> <p>Before the CEO appointment, council must obtain and consider independent advice on the assessment of applications and recommendation on appointment</p>	<p><b>Supported with qualifications</b></p> <p>The proposed provisions of s98(4a) for (a) ‘independent selection panel member’ and (b) ‘independent advice on the assessment of the applications and recommendation for appointment’ would benefit from both being required (i.e. remove the ‘either’ provision).</p> <p>Further consideration could be given to the independent advice contemplated in proposed s98(4a)(b) to be from the ‘qualified independent person’ as per s97(6).</p>
<p>S99 (ia) and (ib)</p> <p>Role of CEO</p>	<p><b>New provisions</b></p> <p>A CEO must:</p> <ul style="list-style-type: none"> <li>- ensure council has effective polices systems procedures, etc</li> <li>- report annually to the relevant audit and risk committee on the council’s internal audit process.</li> </ul>	<p><b>Supported with qualifications</b></p> <p>Proposed provision s98(1)(ib) is predicated on a council having an internal audit function. While internal audit is a valuable assurance function, it remains cost-prohibitive for smaller councils.</p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>

<p>S99A</p> <p>Remuneration Tribunal extends to CEOs</p>	<p><b>New provisions</b></p> <p>The Remuneration Tribunal will determine minimum and maximum remuneration for CEOs.</p> <p>The Remuneration Tribunal may have regard to any matter set out in the Regulations.</p> <p>ss(4) remuneration may differ based on geographical factors or other factors.</p> <p>Amounts may be indexed.</p> <p>The LGA will pay for the Remuneration Tribunals' reasonable costs.</p> <p>Councils must ensure the remuneration they pay is within the range set by the Remuneration Tribunal.</p>	<p><b>Supported with qualifications</b></p> <p>Such a process would need to be cognisant that the job market for CEOs is truly national and that remuneration levels that were nationally non-competitive could result in sub-optimal candidate pools.</p> <p>Alternately the Tribunal could publish indicative, non-binding salary ranges based on the above factors and individual councils retain the final discretion in the negotiated salary.</p>
<p>S102A</p> <p>CEO Performance review</p>	<p><b>New provisions</b></p> <p>A CEO Performance Review must occur at least once a year <u>and</u> "if relevant" before reappointment.</p> <p>Council must obtain independent advice by "qualified independent person" who is not a member of council and determined by the council (same as the requirements for CEO termination but a legal practitioner is not listed as an option. see 97(3), above).</p>	<p><b>Supported</b></p> <p>The requirement for the inclusion of advice from a qualified independent person on an annual basis could be cost-prohibitive for smaller councils, as such biennially may be more appropriate.</p>
<p>S110 Code of conduct for employees</p>	<p><b>Revised provisions</b></p> <p>This is replaced by s119A</p>	<p><b>Supported</b></p>
<p>S110A</p> <p>Duty to protect confidential information</p>	<p><b>New provision</b></p> <p>Duty of employees to protect confidential information.</p> <p>Adds a new limb "employee knew or ought to have known that the information is to be treated confidentially".</p>	<p><b>Supported</b></p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>

<p>S119A</p> <p>Register of Gifts and Benefits for Employees</p>	<p><b>New section</b></p> <p>Employee gifts and benefits was previously dealt with by Code of Conduct.</p> <p>The Minister must consult with the LGA on setting the limit for the value of gifts that must be included on the register.</p>	<p><b>Supported with qualifications</b></p> <p>The current Code of Conduct for Council Employees is problematic due to the inclusion of gifts received by a person related to the employee. As such there is considerable confusion as to what should be recorded in the register (i.e. a child's birthday presents).</p> <p>The terms 'designated person or entity' for the purposes of proposed s119A(6) are not defined in the Bill and would not be supported if they again refer to relatives.</p>
<p>S120 Conflict of Interest</p>	<p><b>Revised provisions</b></p> <p>Changes to the provisions of closely associated persons.</p>	<p><b>Supported with qualifications</b></p> <p>Proposed subsection 120(6)(f) should only deal with current or potential future agreements but not those that have ended. As currently drafted, an agreement that concluded many years in the past would still be captured for the purposes of this subsection.</p>
<p>S120A</p> <p>Employee Behavioural standards</p>	<p><b>New section</b></p> <p>Council must prepare and adopt standards.</p> <p>An employee must comply with these standards.</p> <p>These standards will set out the grounds for suspending or dismissing, disciplinary action against the employee.</p> <p>Before a council adopts or alters these standards, they must consult with relevant industrial association re the Employee Behavioural standards and any subsequent variation.</p> <p>Within 6 months of periodic election, council must review these standards.</p>	<p><b>Not supported</b></p> <p>Behavioural standards for employees should be sector-wide (similar to the proposed council member behavioural Standards as per proposed s75E) to ensure consistency across the sector.</p> <p>From a practical perspective, 68 councils trying to consult with multiple industrial associations in the 6 months following an election is completely unrealistic.</p> <p>Further Council Members, in general, lack the expertise to determine behavioural standards which will have significant industrial relations implications.</p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>

<p>S122</p> <p>Strategic Management Plan</p>	<p><b>New provisions</b></p> <p>A Council's Long-Term Financial Plan -must be for a 10yr period.</p> <p>The LTFP must:</p> <p><b>(New)</b></p> <ul style="list-style-type: none"> <li>- outline council's approach to funding services and infrastructure</li> <li>- Set out council total revenue for the period</li> <li>- Outline the sources of revenue including fees, grants, rates and charges.</li> </ul> <p>(3a) Regulations may require the inclusion of other information.</p>	<p><b>Supported with qualifications</b></p> <p>The Long Term Financial Plan maps out the intended revenue sources and projections over the 10 year period. Nonetheless, additional details [as per proposed s122((1a)] while requiring additional bureaucracy to prepare, may be useful although the reliability of the information will become marginal in the outer years.</p> <p>The provision for additional strategic plan requirements to be contained in regulation [as per proposed s122(3a)], while logical, is concerning if those additional requirements are onerous.</p>
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S123

Annual  
Business Plan

### New provisions

An Annual Business Plan (ABP) must include:

- **New:** a statement on the proposed change in total revenue from general rates for the financial year and if ABP sets out a growth component in relation to general rates it may only relate to growth in the number of rateable properties and must not relate to the growth in the value of rateable properties.
- an explanation of how the proposed change is consistent with the council's LTFP.
- A summary of other reasons for the proposed change.
- Details of impact of the proposed change on average rates for each land use category.
- The advice received from the 'Designated Authority' (which looks like being the Essential Services Commission of SA); and
- The council's response to the advice which must set out whether the proposed change in total revenue from general rates is consistent with the advice and if not the reasons for the inconsistency.

(3a) The **draft** ABP must be provided to the Designated Authority by 31 Dec in the FY preceding and must include:

- The proposed change in total revenue from general rates.
- The council's view of the impact of the change.
- Information about consideration given by council to alternatives to the proposed change including total revenue resulting from such alternative measures.

(d) information as to how the proposal is consistent with the Council's LTFP.

- Any other matter set out in the in Regs.

The Designated Authority must provide its advice back to the council by 31 March of each year.

The Designated Authority must have regard to:

- Information provided by, AND any matter directed by the Minister; and
- Any other matter considered relevant by the Designated Authority.

The Designated Authority must publish a copy of any direction given by the Minister as soon as practicable.

If the Designated Authority considers a council has failed to respond to its advice - it **May** provide a report to the Minister.

### Not supported

Council takes exception to the proposal to develop and provide this information to the Designated Authority by 31 December of the preceding year, thereby introducing another layer of bureaucracy that gives a significant role to an unelected body that has no relationship with or accountability to the local community and their aspirations.

Regardless of whether the Designated Authority concept is adopted, the information requirements of proposed s122(3a) could be incorporated in the draft ABP for public consultation.

If the Designated Authority is progressed, they could review the required information post ABP adoption (i.e. July-October) and provide advice to the council for consideration in the following year's ABP development.

<p>S125</p> <p>Internal Control policies</p>	<p><b>New provisions</b></p> <p>New Regulation making powers. Councils must ensure their policies, practices and procedures comply with these Regulations.</p>	<p><b>Supported with qualifications</b></p> <p>The provision for internal controls to comply with standards or other documents to be contained in regulation [as per proposed s125(2)], while logical, is concerning if those additional requirements are onerous while not materially improving internal control in a cost-effective manner.</p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>
<p>S125A</p> <p>Internal Audit Function</p>	<p><b>New section</b></p> <p>CEO must consult with audit &amp; risk committee before appointing chief internal auditor.</p> <p>Chief internal auditor must provide reports and matters related to the function directly to audit &amp; risk committee.</p>	<p><b>Supported with qualifications</b></p> <p>Council support consultation on the appointment of the chief internal auditor with the audit &amp; risk committee.</p> <p>The requirement to report directly to the committee needs to be considerate that audit report preparation inherently involves working with management on responses to findings prior to providing the report to the committee.</p> <p>It should also be clear that the committee is not to direct the chief internal auditor in the conduct of their duties.</p>



<p>S126</p> <p>Audit and Risk Committee</p>	<p><b>Revised and new provisions</b></p> <p>A majority of members of council Audit and Risk Committees must not be members of the council and may not be an employee of the council.</p> <p>The role of these committees is expanded to include 'risk'.</p> <p>'Functions' of Audit and Risk Committees expanded:</p> <p><b>New functions include:</b></p> <ul style="list-style-type: none"> <li>- To make recommendations for improvements based on previous audit/risk assessments.</li> <li>- Liaise with council auditor in accordance with the Regulations</li> <li>- Review the effectiveness of policies, systems, etc. to manage risk.</li> </ul> <p>(g) if a council has an internal audit function -to oversee internal audit planning and reporting</p> <p>The must be one meeting of the audit and risk committee each quarter.</p> <p>Audit and risk committee must provide a report to council every 3 months.</p>	<p><b>Supported.</b></p> <p>Audit committees consisting of a majority of independent, professionally-qualified members are almost the default model in both the profit and not-for-profit sectors.</p> <p>The additional functions [as per proposed s126(4)] effectively mirror the good practice already in the sector.</p>
Section	What does it do?	AHC Submission
<p>S126A</p> <p>Regional audit &amp; risk committees</p>	<p><b>New section</b></p> <p>Regional audits permitted, where 2 or more councils share audit resources. This is optional.</p>	<p><b>Supported with qualifications</b></p> <p>The formation of regional audit committees is appealing in its potential to partially mitigate cost and skills shortage impacts. In practice, a committee's ability to concurrently oversee the financial reporting, external audit, internal audit, risk management system and associated functions of a number of councils is considered to be problematic.</p>
<p>S128</p> <p>Auditor</p>	<p><b>Revised provisions</b></p> <p>Councils must use a different audit firm at least every 5 years.</p> <p>Then a council must wait five years before re-engaging that same auditor.</p>	<p><b>Supported</b></p>

<p>S129</p> <p>Conduct of Audit</p>	<p><b>Revised provisions</b></p> <p>If the SA Auditor-General exercises (existing) powers to perform the council financial and/or internal control audit, then a normal audit is not required.</p> <p>If the Auditor -General conducts the audit, the council must pay for the reasonable costs incurred.</p>	<p><b>Not supported</b></p> <p>There are broad powers that are already available to the Auditor General to review or audit a council's financial management and, as such, the ability to undertake the financial statement and/or internal control audit is considered unnecessary and unwarranted.</p> <p>If this proposed provision remains, an Auditor-General exercising the power under proposed s129(1a) to conduct the financial statement or internal control audit would be likely to result in a contractual dispute with the council's auditor (who will expect to be paid for the contracted audit).</p>
<p>S151</p> <p>Basis of rating</p>	<p><b>Revised provisions</b></p> <p>Delete council power to use 'site value' as a means of rating. All councils will use 'capital value' method.</p>	<p><b>Supported</b></p> <p>The transition provisions for the Act should provide for an appropriate period for councils to transition their basis of rating.</p>
<p><b>Section</b></p>	<p><b>What does it do?</b></p>	<p><b>AHC Submission</b></p>
<p>S170</p> <p>Notice of declaration of rates</p>	<p><b>Revised provisions</b></p> <p>Requirements to give the public notice of the declaration of rates within 21 days after the date of the declaration.</p>	<p><b>Supported</b></p>
<p>S194</p> <p>Revocation of community land</p>	<p><b>Revised provisions</b></p> <p>Simplification of current unwieldy process to revoke community lands. Cases where the Minister will be required to make the decision is clarified.</p> <p>More situations where councils can make the decision to revoke uncontroversial community land (e.g. unmade roads).</p> <p>Does not apply to Adelaide Parklands.</p>	<p><b>Supported</b></p>

<p>S222 (1a) – permits for mobile food vending business</p>	<p><b>Revised provisions</b> Removal of automatic granting of permits to mobile food vendors (food trucks).</p>	<p><b>Supported</b></p>
<p>S246 Power to make by-laws</p>	<p><b>Revised provisions</b> Increase in penalties for the breach of a by-law</p>	<p><b>Supported</b> In alignment with the increase in the maximum penalty, Council encourages consideration of an increase in the per day penalty.</p>
<p>S262A &amp; B Council Member Behaviour</p>	<p><b>New sections</b> First step requires the council deal with issue in accordance with their (new) behaviour management policy (similar in process to the current Council member Complaint Handling Procedure). Council has powers to insert consequences/ penalties into their policy for breaches of their Council policy.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S262C</p> <p>Member Behaviour - Action</p>	<p><b>New section</b></p> <p>Councils may:</p> <ul style="list-style-type: none"> <li>(a) censure</li> <li>(b) Require a public apology.</li> <li>(c) Require the councillor to undertake a specified course of training or instruction.</li> <li>(d) remove or suspend the member from 1 or more offices held by the member</li> </ul> <p>In dealing with these, council must proceed with as little as possible formality and technicality</p> <p>The clause has been designed in an attempt to enable councils to operate without requiring lawyers.</p> <p>Councils are not bound by the rules of evidence but must provide procedural fairness</p> <p>Council can refuse to deal with a matter because it is frivolous, vexatious, trivial. Council can also decide to take a matter no further.</p>	<p><b>Supported</b></p>
<p>S262D - Member Behaviour - Reasons</p>	<p><b>New section</b></p> <p>If a council refuses to deal with a complaint or determines to take no further action, then the council must provide written reasons.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
S262E Behaviour Panel	<p><b>New section</b></p> <p>Creates a definition of misbehaviour as:</p> <ul style="list-style-type: none"> <li>- A failure by a member of council to comply with a requirement under 262C(1) (i.e. the council determination about the complaint)</li> <li>- Failure to comply with a council behaviour management policy.</li> <li>- A failure to comply with an agreement reached following mediation, conciliation arbitration, dispute resolution process (i.e. a councillor has agreed and reneged).</li> </ul> <p>Misbehaviour, repeated behaviour and serious misbehaviour are defined.</p> <p>'Serious misbehaviour' means bullying or harassment of another member or employee of council (as per proposed s75G).</p>	<b>Supported</b>
S262F Panel composition	<p><b>New section</b></p> <p>Local Government Behaviour Panel will have 3 members:</p> <ol style="list-style-type: none"> <li>1. a member jointly nominated by Minister and LGA</li> <li>2. a member nominated by Minister</li> <li>3. a member nominated by LGA</li> </ol>	<b>Supported with qualifications</b>  While supporting the concept of the Panel, Council does not support the prohibition of a Member or employee of a council being a Panel member [s262F(4)] as they may well satisfy the knowledge, skills and expertise requirements of s262F(5) and any potential conflict would be relatively unlikely and manageable with a pool of Panel members.
262J Panel remuneration	<p><b>New section</b></p> <p>Remuneration and expenses of the Panel will be determined by Governor.</p>	<b>Supported</b>  It is proposed that the LGA pay these fixed costs with councils paying on a fee for service basis when their matters come before the Panel.

Section	What does it do?	AHC Submission
<p>S262N</p> <p>Functions of the Panel</p>	<p><b>New section</b></p> <p>Primary function of the Panel is to assess and deal with complaints referred to the Panel.</p> <p>In addition, the Panel may:</p> <ul style="list-style-type: none"> <li>- publish guidelines</li> <li>- publish model behavioural management policies</li> <li>- publish practice directions</li> <li>- perform any other functions assigned to it.</li> </ul>	<p><b>Supported with qualifications</b></p> <p>Council is cautious about its support for other functions to be conferred upon the Panel given that the councils will need to bear the costs of these additional functions.</p> <p>Any additional functions should be by agreement with the LGA.</p>
<p>S262Q</p> <p>Referrals to the Panel</p>	<p><b>New section</b></p> <p>Matters can be referred to the Panel by</p> <ul style="list-style-type: none"> <li>- Resolution of council</li> <li>- CEO of council</li> <li>- at least 3 members of council</li> <li>- the Minister</li> <li>- any person dissatisfied with a council member conduct decision.</li> </ul>	<p><b>Supported with qualifications</b></p> <p>Council is supportive of the referral pathways in proposed s262Q(1) but does not support complaints from members of the public dissatisfied with a council's handling of a behavioural standards complaint to be dealt with by the Panel as per proposed s262Q(2). These complaints should be dealt with by the Ombudsman under s263.</p>
<p>S262U</p> <p>Powers relating to inquiries</p>	<p><b>New section</b></p> <p>In relation to an investigation, the Panel may:</p> <ul style="list-style-type: none"> <li>- Require a person's attendance</li> <li>- Require a person to answer questions</li> <li>- Require production of records, etc.</li> </ul> <p>Person not required to comply if doing so may incriminate them.</p> <p>Panel to operate with as little formal and technicality and as much expedition as possible. Not bound by rules of evidence.</p>	<p><b>Supported</b></p>

Section	What does it do?	AHC Submission
<p>S262W</p> <p>Actions of the Panel</p>	<p><b>New section</b></p> <p>The Panel may:</p> <ul style="list-style-type: none"> <li>- Reprimand</li> <li>- Direct a council to censure</li> <li>- Require a public apology</li> <li>- Require a councillor to undertake a course of training or development.</li> <li>- Require a councillor to reimburse an amount of money.</li> <li>- Remove or suspend an office in capacity as member of another body</li> <li>- Suspend for up to 3 months</li> <li>- Direct council to lodge complaint with SACAT (SACAT can suspend for longer or remove a person from council).</li> </ul> <p>If a councillor fails to comply with an order, this is defined as an integrity issue and goes to SACAT (not OPI) and the Panel must make a report to the Minister.</p>	<p><b>Supported</b></p>
<p>S262Y</p> <p>Referral of complaint to OPI</p>	<p><b>New section</b></p> <p>If corruption or integrity issue - it goes to Office of Public Integrity.</p> <p>Council or Panel can refer a matter to OPI.</p>	<p><b>Supported</b></p>
<p>S270</p> <p>Procedures for the review of council decisions</p>	<p><b>Revised section</b></p> <p>An application for review must be accompanied by the prescribed fee.</p>	<p><b>Supported with qualifications</b></p> <p>Council does not believe that this fee should be waived for concession card holders given that a council under proposed s270(3a) will have the power to reduce, waive or refund the fee.</p> <p>Regulations could prescribe that a fee must be refunded when the decision being reviewed is not upheld.</p>

Section	What does it do?	AHC Submission
<p>Ch 13 s273 Reviews Initiated by Minister</p>	<p>Minister may ask the council to report.</p> <p>If the council has “failed to adequately respond” to the Minister / Designated Authority advice, then....</p> <p>The Minister can give directions to the council to “rectify the matter” or to prevent recurrence of the “act, failure or irregularity”.</p> <p>This is not limited to situations where there has been a breach or failure by a council. It could relate to any council budgetary decision -e.g. where the Minister and council merely have different financial priorities.</p>	<p><b>Supported with qualifications</b></p> <p>Council supports the triggers for which the Minister may take action with the exclusion of the provisions applying to s273(1)(d) given that Council does not agree with the creation of the Designated Authority or its role proposed in s123.</p>