



Queensland

City of Brisbane (Finance, Plans and Reporting) Regulation 2010

Subordinate Legislation 2010 No. 171

made under the

City of Brisbane Act 2010
Fire and Rescue Service Act 1990

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Chapter 1 Preliminary

1 Short title

This regulation may be cited as the *City of Brisbane (Finance, Plans and Reporting) Regulation 2010*.

2 Commencement

This regulation commences on 1 July 2010.

3 Definitions

The dictionary in the schedule defines particular words used in this regulation.

4 What this regulation is about

This regulation is about community planning and financial management for the council, including—

- (a) engaging the community; and
- (b) planning community growth and development; and
- (c) rates and charges of the council; and
- (d) the financial accounts, documents, policies, records and reports of the council; and
- (e) contracts of the council; and
- (f) allocating funds received by the State from the Commonwealth for purposes related to the council.

Chapter 2 Rates and charges

Part 1 Preliminary

5 What is the *value* of land

The *value*, of land for a financial year, is the unimproved value of the land under the Valuation of Land Act when a liability for payment of rates or charges for the land arises for the financial year.

Part 2 Land exempt from rating

6 Land that is exempt from rating—Act, s 95

For section 95(3)(f)(i) of the Act, land owned or held by the council is exempted from rating unless the land is leased by the council to someone other than another local government.

Part 3 Value of land used for rates

7 Rateable value of land

- (1) The council must calculate the rates for land by using the rateable value of the land.
- (2) The *rateable value* of land for a financial year is the value of the land—
 - (a) for the financial year; or
 - (b) as averaged over a number of financial years.

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- (3) The council may use the value of the land averaged over a number of financial years only if the council decides, by resolution, to do so.
- (4) The resolution must state whether the council will use, for deciding the rateable value of the land—
 - (a) the 2-year averaged value of the land; or
 - (b) the 3-year averaged value of the land.
- (5) However, if the value of the land averaged over a number of financial years is more than the value of the land for the financial year, the rates must be calculated using the value of the land for the financial year.

8 Working out the 2-year averaged value

- (1) The **2-year averaged value** of land for a financial year is the amount that equals—
 - (a) if the land had a value for the previous financial year—
 - the value of the land for the previous financial year
 - plus the value of the land for the financial year
 - divided by 2; or
 - (b) if the land did not have a value for the previous financial year—
 - the value of the land for the financial year
 - divided by 2
 - multiplied by the 2-year averaging number.
- (2) The **2-year averaging number**, for a financial year, is the number calculated to 2 decimal places by using the formula—

$$\frac{T}{2V}$$

where—

T is the total of the values of all rateable land in Brisbane for the financial year and the previous financial year.

V is the value of all rateable land in Brisbane for the financial year.

9 Working out the *3-year averaged value*

- (1) The *3-year averaged value* of land for a financial year is the amount that equals—
 - (a) if the land had a value for the 2 previous financial years—
 - the sum of the value of the land for each of the 2 previous years
 - plus the value of the land for the financial year
 - divided by 3; or
 - (b) if the land did not have a value for the 2 previous financial years—
 - the value of the land for the financial year
 - divided by 3
 - multiplied by the 3-year averaging number.
- (2) The *3-year averaging number*, for a financial year, is the number calculated to 2 decimal places by using the formula—

$$\frac{T}{3V}$$

where—

T is the total of the values of all rateable land in Brisbane for the financial year and the previous 2 financial years.

V is the value of all rateable land in Brisbane for the financial year.

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Part 4 Minimum general rates

10 Minimum general rates for land generally

- (1) The council may fix a minimum amount of general rates.
- (2) The council may identify parcels of rateable land to which a minimum amount of general rates applies in any way that the council considers appropriate.
- (3) However, the council must not levy minimum general rates for a parcel of land if—
 - (a) the Valuation of Land Act, section 25, applies to the parcel of land; and
 - (b) the discounted valuation period for the parcel of land has not ended under that section.
- (4) Generally, the same minimum amount of general rates must apply to all rateable land in Brisbane.
- (5) However, the council may fix a different minimum amount of general rates only for—
 - (a) if there are different rating categories for rateable land for Brisbane, each different rating category; or
 - (b) timeshare property; or
 - (c) any of the following—
 - (i) a mining lease granted for mining for minerals over land that is not larger than 2ha;
 - (ii) a mining lease granted for a purpose that is associated with mining for minerals over land that is not larger than 4ha; or
 - (d) land that is subject to a mining claim, subject to section 12.
- (6) For subsection (5)(a), if the council fixes a different minimum amount of general rates for different rating categories, the

same minimum amount of general rates must apply to all rateable land belonging to a particular rating category.

11 Minimum general rates on timeshare property

- (1) This section applies to the council for fixing a minimum amount of general rates on—
 - (a) land where there is a structure wholly or partially subject to a timeshare scheme; or
 - (b) a lot included in a community titles scheme under the *Body Corporate and Community Management Act 1997* where there is a structure wholly or partially subject to a timeshare scheme; or
 - (c) a lot within the meaning of a community titles Act other than the *Body Corporate and Community Management Act 1997* where there is a structure wholly or partially subject to a timeshare scheme.
- (2) The council may decide the minimum amount of general rates is to be worked out using the formula—

$$L \times RU$$

where—

L is the minimum amount of general rates that would, other than for this section, be payable for the land or lot.

RU is the number of units of the structure that are subject to the timeshare scheme and are available at any time for separate exclusive occupation.

12 Value of mining claim for fixing minimum general rates

For fixing a minimum amount of general rates for land subject to a mining claim, the value of the mining claim is—

- (a) for a mining claim over land that is 900m² or less—\$150; or

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- (b) for a mining claim over land that is larger than 900m²—\$450.

Part 5 Differential general rates

Division 1 Introduction

13 Differential general rates

- (1) The council may levy general rates that differ for different categories of rateable land in Brisbane.
- (2) These rates are called *differential general rates*.
- (3) For example, the council may decide the amount of the general rates on a parcel of residential land will be more than the general rates on the same size parcel of rural land.
- (4) However, the differential general rates for a category of rateable land may be the same as the differential general rates for another category of rateable land.
- (5) If the council makes and levies a differential general rate for rateable land for a financial year, the council must not make and levy a general rate for the land for the year.
- (6) A differential general rate may be made and levied on a lot under a community titles Act as if it were a parcel of rateable land.

14 Categorisation of land for differential general rates

- (1) Before the council levies differential general rates, it must decide the different categories (each a *rating category*) of rateable land in Brisbane.
- (2) The council must, by resolution, make the decision at the council's budget meeting.

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- (3) The resolution must state—
- (a) the rating categories of rateable land in Brisbane; and
 - (b) a description of each of the rating categories.

Example—

A resolution may state that the rating categories, and a description of each of the rating categories, are as follows—

- (a) residential land—land that is used for residential purposes in particular urban centres, rural localities, park residential estates and coastal villages;
 - (b) commercial and industrial land—land that is used solely for commerce or industry in particular urban centres and rural localities, other than land used for manufacturing sugar or another rural production industry;
 - (c) grazing and livestock land—land that is used, for commercial purposes, for grazing and livestock;
 - (d) rural land—
 - (i) land that is not in an urban centre or locality; or
 - (ii) land that is not used for grazing and livestock; or
 - (iii) land that is not sugar cane land or sugar milling land;
 - (e) other land—any other type of land.
- (4) After the rating categories and descriptions have been decided, the council must identify the rating category to which each parcel of rateable land in Brisbane belongs.
- (5) The council may do so in any way it considers appropriate.
- (6) The fact that some parcels of rateable land are inadvertently not categorised does not stop differential general rates being levied on rateable land that has been categorised.

15 Later categorisation

- (1) This section applies if—
- (a) the council discovers that land has inadvertently not been categorised; or
 - (b) land becomes rateable land; or

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- (c) the council considers that the rating category of a parcel of land should be changed, in view of the description of each rating category; or
 - (d) 2 or more parcels of rateable land are amalgamated into a single parcel of rateable land.
- (2) The council must decide what rating category the land should be in.
- (3) The decision takes effect—
- (a) for a decision because of subsection (1)(a)—from the start of the relevant financial year; or
 - (b) for a decision because of subsection (1)(b)—from the day when the land became rateable land; or
 - (c) for a decision because of subsection (1)(c)—from the day when the decision is made; or
 - (d) for a decision because of subsection (1)(d)—from the day when the survey plan of amalgamation is registered by the registrar of titles.

Division 2 Entering land to categorise land

16 What div 2 is about

This division is about—

- (a) appointing categorisation officers; and
- (b) the officers' powers to enter land to enable any of the following—
 - (i) the rating categories into which rateable land in Brisbane is to be categorised to be decided;
 - (ii) a description for each of the rating categories to be decided;
 - (iii) the rating category for a parcel of rateable land to be identified;

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- (iv) an objection or appeal against the categorisation of rateable land to be decided.

17 Appointing categorisation officer

- (1) The chief executive officer may appoint a qualified person as a categorisation officer for this division.
- (2) For subsection (1), a person is qualified if the person—
 - (a) has the competencies the chief executive officer considers are necessary to perform the functions that are required to be performed by the person under this division; and
 - (b) is any of the following—
 - (i) a person who is authorised by the council for this division;
 - (ii) a member of the Land Court;
 - (iii) a person who is authorised by a member of the Land Court for this division.
- (3) A categorisation officer's appointment is subject to—
 - (a) section 19; and
 - (b) the conditions stated in the document that appoints the categorisation officer.

18 Identity card for categorisation officer

- (1) The chief executive officer must give each categorisation officer an identity card.
- (2) A person who stops being a categorisation officer must return the person's identity card to the chief executive officer, within 21 days after stopping being a categorisation officer, unless the person has a reasonable excuse.

Maximum penalty for subsection (2)—10 penalty units.

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19 Exercise of power of entry

- (1) A categorisation officer may enter private property under this division only—
 - (a) with the permission of the occupier of the property; or
 - (b) to ask the occupier of the property for permission to stay on the property to exercise the powers under this division; or
 - (c) with, and in accordance with, a warrant.
- (2) Subject to subsection (6), section 118, other than subsections (2)(b) and (4)(a)(ii), of the Act (the *applied provision*) applies to a categorisation officer for entering private property under subsection (1)(a) or (b).
- (3) Subject to subsections (4) and (6), sections 119, other than subsections (5) and (6)(a), and 120 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under subsection (1)(c).
- (4) However, a magistrate may issue a warrant for entering private property under this division only if—
 - (a) the magistrate is satisfied—
 - (i) the warrant is sought for entering the property under section 16(b); and
 - (ii) the occupier of the property has unreasonably refused a request for permission to enter the property under section 118(2) of the Act as applied under subsection (2); and
 - (b) the warrant states the purpose for which it is issued.
- (5) Subject to subsection (6), sections 115, 125 and 126 of the Act (also the *applied provisions*) apply to a categorisation officer for entering private property under this division.
- (6) The applied provisions apply as if—
 - (a) a reference in the applied provisions to an authorised person were a reference to the categorisation officer; and

- (b) a reference in the applied provisions, other than section 126 of the Act, to a local government related law were a reference to this division; and
- (c) a reference in the applied provisions to the powers under the Act were a reference to the powers under this division; and
- (d) a reference in the applied provisions to the powers or action under chapter 5, part 2, division 1 of the Act were a reference to the powers or action under this division.

Editor's note—

Sections 115 (Producing authorised person's identity card), 118 (Entering private property with, and in accordance with, the occupier's permission), 119 (Entering private property with, and in accordance with, a warrant), 120 (Warrants—applications made electronically), 125 (Authorised person to give notice of damage) and 126 (Compensation for damage or loss caused after entry) of the Act

20 End of appointment of categorisation officer

- (1) A person stops being a categorisation officer—
 - (a) at the end of the term of appointment stated in the document that appointed the person; or
 - (b) if the person gives the council a signed notice of resignation; or
 - (c) if it is a condition of the person's appointment that the person hold another position at the same time—if the person stops holding the other position.
- (2) This section does not limit the ways in which a categorisation officer's appointment ends.

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Division 3 Notice of categorisation of land

21 Notice to owner of categorisation

- (1) This section applies if the council decides to levy differential general rates on rateable land for a financial year.
- (2) The council must ensure each of the following rate notices (a *relevant rate notice*) is accompanied by, or contains, a rating category statement—
 - (a) the first rate notice for the financial year given to the owner of the land;
 - (b) a later rate notice for the financial year if—
 - (i) the owner of the land has changed since the first rate notice for the financial year was issued; or
 - (ii) the rating category for the land has changed since the first rate notice for the financial year was issued.
- (3) However, a rating category statement may also accompany, or be contained in, a rate notice, other than a relevant rate notice.
- (4) The *rating category statement* is a document stating—
 - (a) the rating categories for land in Brisbane, and a description of each of the rating categories; and
 - (b) the rating category for the land (the *owner's land*) described in the rate notice accompanying or containing the rating category statement; and
 - (c) that the owner may object to the categorisation of the owner's land only on the ground that the rating category is wrong in reference to the council's descriptions of the rating categories; and
 - (d) that the owner may object by giving the council an objection notice, in the form that the council approves, within—

- (i) 30 days after the date when the first rate notice was issued; or
- (ii) a longer period that the council allows; and
- (e) that the owner is liable to pay the amount in the rate notice even if the owner gives an objection notice; and
- (f) that, if the rating category of the owner's land is changed because of the objection, the rates will be adjusted at that time.

Division 4 Objecting to rates category

22 What div 4 is about

- (1) This division is about an owner of land making an objection, or starting an appeal, relating to the rating category for the land.
- (2) However, the making of an objection, or the starting of an appeal, does not stop the levying and recovery of rates on the land.

23 Land owner's objection to rates category

- (1) This section applies if an owner of rateable land wants to object to the rating category for the land that is stated in a rate notice for the land.
- (2) The only ground for objecting is that the owner considers the land should belong to a different rating category.
- (3) The owner may object by giving the council an objection notice.
- (4) An ***objection notice*** is a document, in a form approved by the council, stating—
 - (a) the rating category that the owner claims the land should belong to; and

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- (b) the facts and circumstances on which the owner makes that claim.
- (5) The owner must give the objection notice within—
 - (a) 30 days after the day when the rate notice was issued; or
 - (b) a longer period that the council allows.

24 Decision on a land owner's objection

- (1) This section applies if the owner of rateable land properly objects to the rating category for the land.
- (2) The chief executive officer must consider the objection and decide—
 - (a) to change the rating category for the land—
 - (i) to the rating category to which the owner claims in the objection notice the land should belong; or
 - (ii) to another rating category; or
 - (b) not to allow the objection.
- (3) The chief executive officer must give the owner notice of—
 - (a) the decision; and
 - (b) the reasons for the decision.
- (4) The chief executive officer must give the notice within 60 days after the objection was made.
- (5) If the chief executive officer decides to change the rating category of the land, the rating category is taken to have been changed from the start of the period of the rate notice.

25 Land owner's appeal against decision

- (1) This section applies if the owner of rateable land wants to appeal against a decision of—
 - (a) the council not to allow a longer period for giving an objection notice; or

-
- (b) the chief executive officer on the owner's objection to the rating category for the land.
 - (2) The owner may appeal by filing an appeal notice in the Land Court registry, within 42 days after the day when the owner received notice of the decision.
 - (3) The appeal notice must be in the form approved by the Land Court.
 - (4) The owner must give a copy of the filed appeal notice to the council, within 7 days after the appeal notice was filed.
 - (5) If the owner fails to do so, it does not affect the making of the appeal, or the jurisdiction of the Land Court to decide the appeal, but the court may award costs against the owner for any adjournment that is caused by the owner's failure.

26 Decision on a land owner's appeal

- (1) For an appeal under this division, the Land Court is constituted by 1 member.
- (2) The Land Court—
 - (a) must conduct the appeal with a view to its prompt disposal; and
 - (b) must observe natural justice; and
 - (c) is not bound by the rules of evidence.
- (3) The Land Court may decide to—
 - (a) if the appeal is against the decision of the council not to allow a longer period for giving an objection notice—
 - (i) allow a longer period for giving an objection notice; or
 - (ii) not allow the appeal.
 - (b) if the appeal is against the decision of the chief executive officer on the owner's objection to the rating category for the land—

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- (i) change the rating category for the land; or
 - (ii) not allow the appeal.
- (4) If the Land Court decides to change the rating category for the land, the rating category is taken to have been changed from the start of the period of the rate notice.

Part 6 Special rates and charges

27 Levying special rates or charges

- (1) This section applies if the council decides to levy special rates or charges.
- (2) For levying rates under subsection (1), the council may fix a minimum amount of the rates.
- (3) The council's resolution to levy special rates or charges must identify—
 - (a) the rateable land to which the special rates or charges apply; and
 - (b) the overall plan for the service, facility or activity to which the special rates or charges apply.
- (4) The *overall plan* is a document that—
 - (a) describes the service, facility or activity; and
 - (b) identifies the rateable land to which the special rates or charges apply; and
 - (c) states the estimated cost of carrying out the overall plan; and
 - (d) states the estimated time for carrying out the overall plan.

-
- (5) The council must adopt the overall plan before, or at the same time as, the council first resolves to levy the special rates or charges.
 - (6) Under an overall plan, special rates or charges may be levied for 1 or more years before any of the special rates or charges are spent in carrying out the overall plan.
 - (7) If an overall plan is for more than 1 year, the council must also adopt an annual implementation plan for each year.
 - (8) An *annual implementation plan* for a financial year is a document setting out the actions or processes that are to be carried out in the financial year for the service, facility or activity to which the special rates or charges apply.
 - (9) The council must adopt the annual implementation plan before or at the budget meeting for each year of the period for carrying out the overall plan.
 - (10) The council may at any time, by resolution, amend—
 - (a) an overall plan; or
 - (b) an annual implementation plan.
 - (11) To remove any doubt, it is declared that the council may make and levy a special rate or charge for a service, facility or activity whether or not supplied or undertaken by the council itself, including a service, facility or activity supplied or undertaken by another local government—
 - (a) in the other local government’s local government area; and
 - (b) conducted as a joint government activity by the council and the other local government.

28 Carrying special rates or charges forward to a later financial year

- (1) This section applies if the council does not spend all of the special rates or charges that are raised in a financial year in carrying out an annual implementation plan.

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- (2) The council may carry the unspent special rates or charges forward for spending under an annual implementation plan in a later financial year.

29 Surplus special rates or charges after plan is carried out

- (1) This section applies if—
 - (a) the council implements an overall plan; and
 - (b) the council has not spent all the special rates or charges.
- (2) The council must, as soon as practicable, pay the unspent special rates or charges to the current owners of the land on which the special rates or charges were levied.
- (3) The payments to the current owners must be in the same proportions as the special rates or charges were last levied.

30 Surplus special rates or charges after plan is cancelled

- (1) This section applies if—
 - (a) the council decides to cancel an overall plan before it is carried out; and
 - (b) the council has not spent all the special rates or charges.
- (2) The council must, as soon as practicable, pay the unspent special rates or charges to the current owners of the land on which the special rates or charges were levied.
- (3) The council must pay the current owners—
 - (a) if the overall plan identifies the beneficiaries of the plan—in the proportions that the council, by resolution, decides; or
 - (b) if the overall plan does not identify the beneficiaries of the plan—in the same proportions as the special rates or charges were last levied.
- (4) The council must decide the proportions having regard to—

-
- (a) the proportions in which the special rates or charges were last levied; and
 - (b) the extent to which the rateable land, or the owners of the rateable land, will benefit from or have access to the service, facility or activity.
- (5) The *beneficiaries* of the plan are the owners of the rateable land that will benefit from or have access to the service, facility or activity.

31 Returning special rates or charges incorrectly levied

- (1) This section applies if a rate notice includes special rates or charges that were levied on land to which the special rates or charges do not apply.
- (2) The rate notice is not invalid, but the council must, as soon as practicable, return the special rates or charges to the person who paid the special rates or charges.

Part 7 Utility charges

32 Utility charges

- (1) The council may levy utility charges on any basis the council considers appropriate.
- (2) For example, utility charges may be levied on the basis of any, or any combination, of the following—
 - (a) the rateable value of land;
 - (b) the use made of—
 - (i) a particular parcel of land; or
 - (ii) a particular structure; or
 - (iii) a class of land or structure;

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- (c) any circumstances that are peculiar to the supply of a service to—
 - (i) a particular parcel of land; or
 - (ii) a particular structure; or
 - (iii) a class of land or structure.
- (3) The council may do 1 or both of the following—
 - (a) levy utility charges for services that have been supplied or are to be supplied during part of the financial year and part of another financial year;
 - (b) levy differing utility charges for services that have been supplied or are to be supplied during various periods in 1 or more financial years, and decide the way the charges are to be apportioned.
- (4) However, the council may only levy utility charges for services—
 - (a) supplied in the last financial year; or
 - (b) supplied, or to be supplied, in the current financial year; or
 - (c) to be supplied in the next financial year.

33 Utility charges before facilities are constructed

- (1) The council may, in a financial year (the *current financial year*), levy utility charges for supplying a service before the facilities for supplying the service have been constructed if—
 - (a) the council reasonably believes the service will be supplied in the next financial year; and
 - (b) the council—
 - (i) has started constructing the facilities; or
 - (ii) intends to start constructing the facilities during the next financial year, and has included the funds that

are necessary for construction in its annual budget for the current financial year.

- (2) The utility charges are not invalid only because the service is not supplied in the next financial year for reasons beyond the council's control.

34 Reading meters for utility charges

- (1) This section is about the reading of meters for utility charges.
- (2) The council may, by resolution, decide a meter is taken to have been read during the period that starts 2 weeks before, and ends 2 weeks after, the day on which the meter is actually read.

Example—

In calculating utility charges for a period ending on 30 April, if a meter is read on 10 May, the meter reading is taken to be the meter reading on 30 April.

- (3) This section does not limit the council's power to make local laws about other aspects of the administration of the metered consumption of a utility service.
- (4) In this section—
meter includes any measuring device.

Part 8 Separate rates and charges

35 Levying separate rates or charges

- (1) This section applies if the council decides to levy separate rates or charges.
- (2) For levying rates under subsection (1), the council may fix a minimum amount of the rates.

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- (3) To remove any doubt, it is declared that the council may levy separate rates or charges for a service, facility or activity, whether or not the service, facility or activity is supplied by the council.

Part 9 Levying and adjusting rates and charges

Division 1 Rate notices

36 Rate notice for rates or charges

- (1) The council may levy rates or charges only by a rate notice.
- (2) A *rate notice* is a document stating—
- (a) the date when the rate notice is issued; and
 - (b) the due date for payment of the rates or charges; and
 - (c) if the council has decided a discount applies to the rates or charges—
 - (i) the terms of the discount; and
 - (ii) the last day of the discount period; and
 - (d) if the council has decided rates or charges may be paid by instalments—the requirements for paying by instalments; and
 - (e) the ways in which the rates or charges may be paid.

37 Other amounts under rate notice

- (1) A rate notice may also include an amount, other than an amount for rates or charges, payable to the council.

Example—

a licence fee payable to the council

- (2) However, the rate notice must make it clear that—
- (a) the amount is not for rates or charges; and
 - (b) payment of the amount, whether before or after the end of any discount period, does not affect any discount that applies to the rates or charges.

38 Entities to whom rate notice must be given

A rate notice must be given—

- (a) for services supplied to a structure, or to land that is not rateable land—to the entity who asked for the service to be supplied; and
- (b) in any other case—to the entity who is recorded in the council's land record as the owner of the land on which the rates are levied.

Note—

See part 13 for more information on the land record.

39 Issue of and period covered by rate notice

- (1) A rate notice may only be issued—
- (a) for utility charges, for a period of at least 1 month, that the council considers appropriate; and
 - (b) for other rates or charges, for the whole or part of a financial year as the council considers appropriate.
- (2) However, the rate notice for the rates mentioned in subsection (1)(b) must be issued for the same period for all rate payers.
- (3) If a person who is liable to pay rates or charges for a period pays the rates or charges before the council gives the person a rate notice for the period, the council is not required to give the person a rate notice for the period.

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- (4) However, the council must, at least once each year, issue a rate notice for each parcel of rateable land for a period of no longer than a financial year.

40 Electronic issue of rate notice

A rate notice, including a rating category statement contained in or accompanying the notice, may be given electronically to a person if—

- (a) the person has given consent to the notice being given electronically; and
- (b) at the time the notice was given, it was reasonable for the council to expect the notice would be readily accessible so as to be useable for subsequent reference by the person.

Division 2 Adjusting rates or charges

41 What div 2 is about

This division is about the council adjusting the amount of rates or charges that have already been levied on land because particular changes happen.

42 Land stops being rateable land

If the land becomes, or stops being, rateable land, the council must adjust the rates so that the rates are calculated only on the period when the land was rateable land.

43 Change in unimproved value

If the unimproved value of the land changes under the Valuation of Land Act, the council must adjust the rates so that the rates are calculated on the new value of the land for

the period that starts on the day the change takes effect under that Act.

44 Change in rating category

If the land is given a rating category, including a change of rating category, the council must adjust the general rates so that the rates are calculated on the new or changed rating category for the period that starts on the day the land was given the new or changed rating category.

45 Special rates become or stop being payable

If the land becomes, or stops being, land on which the council may levy special rates or charges, the council must adjust the rates or charges so that the rates or charges are calculated on the period when the land was land on which the council could levy special rates or charges.

46 Loss of entitlement to occupy land from State

- (1) This section applies if—
 - (a) a person is entitled to occupy land under a lease, licence or permission given by the State; and
 - (b) the person loses the entitlement, including, for example, because the lease, licence or permission expires or is surrendered or forfeited.
- (2) The council must adjust the rates or charges so that the rates or charges are calculated only for the period when the person was entitled to occupy the land.

47 Rates or charges paid before adjustment

If the rates or charges are paid before they are adjusted, the council—

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- (a) if the rates or charges are reduced—must refund the overpaid amount of rates or charges; or
- (b) if the rates or charges are increased—may recover the amount of rates or charges owing.

Division 3 Other matters about levying rates or charges

48 Limitation of increase in rates or charges levied

- (1) When the council resolves to levy rates or charges, it also may resolve to limit the increase in the rates or charges.
- (2) The rates or charges may be limited to not more than—
 - (a) if the rates or charges for the last financial year were for a full year—
 - (i) the rates or charges for the last financial year; or
 - (ii) the rates or charges for the last financial year, increased by a stated percentage; or
 - (b) if the rates or charges levied for the last financial year were not for a full year—
 - (i) the corresponding annual amount for the rates or charges for the last financial year; or
 - (ii) the corresponding annual amount for the rates or charges for the last financial year, increased by a stated percentage.
- (3) The *corresponding annual amount* is the amount worked out by—
 - (a) converting the amount of the rates or charges levied for the last financial year to a daily amount; and
 - (b) multiplying the daily amount by 365.
- (4) The resolution may specify different percentages for—

- (a) different land or classes of land; or
- (b) different rates or charges.

49 Rates or charges may be levied or adjusted after end of financial year

The council may levy rates or charges, or adjust a rates or charges levy in a financial year, even though the resolution for making the rates or charges was made for a previous financial year.

50 When rates or charges must be paid

- (1) The council must decide the date by which, or the period within which, rates or charges must be paid.
- (2) The date by which, or the period within which, the rates or charges must be paid must be—
 - (a) at least 30 days after the rate notice for the rates or charges is issued; and
 - (b) subject to part 10, the same date or period for each person liable to pay the rates or charges.
- (3) The council must, by resolution, make the decision at its budget meeting.

Part 10 Concessions

51 Concession for rates or charges

The council may grant a rate payer a concession for rates or charges for land only under this part.

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52 Criteria for granting concession

- (1) The council may grant the concession only if it is satisfied—
 - (a) the land is owned or occupied by a pensioner; or
 - (b) the land is owned by—
 - (i) an entity whose objects do not include making a profit; or
 - (ii) an entity that provides assistance or encouragement for arts or cultural development; or
 - (c) the payment of the rates or charges will cause hardship to the land owner; or
 - (d) the concession will encourage the economic development of Brisbane or a part of Brisbane; or
 - (e) the concession will encourage land that is of cultural, environmental, historic, heritage or scientific significance to Brisbane to be preserved, restored or maintained; or
 - (f) the land is used exclusively for the purpose of a single dwelling house or farming and could be used for another purpose, including, for example, a commercial or industrial purpose; or
 - (g) the land is subject to a GHG tenure, mining tenement or petroleum tenure; or
 - (h) the land is part of a parcel of land (a *parcel*) that has been subdivided and—
 - (i) the person who subdivided the parcel is the owner of the land; and
 - (ii) the land is not developed land.
- (2) In this section—

GHG tenure see the *Greenhouse Gas Storage Act 2009*, section 18(2).

mining tenement see the *Mineral Resources Act 1989*, schedule.

petroleum tenure means—

- (a) a petroleum tenure under the *Petroleum and Gas (Production and Safety) Act 2004*, section 18(3); or
- (b) an authority to prospect or lease under the *Petroleum Act 1923*.

53 Types of concession

The concession may only be of the following types—

- (a) a rebate of all or part of the rates or charges;
- (b) an agreement to defer payment of the rates or charges;
- (c) an agreement to accept a transfer of unencumbered land in full or part payment of the rates or charges.

54 Resolutions for granting concession

- (1) The council may grant the concession only by—
 - (a) a resolution granting the concession to a stated rate payer; or
 - (b) if the resolution is of a type mentioned in section 53(a) or (b)—a resolution granting the concession to a rate payer who is a member of a stated class of rate payers.
- (2) The council may make the resolution before it levies the rates or charges.
- (3) The council may make a resolution under subsection (1)(a) only if the rate payer has applied for the concession in a way accepted by the council.
- (4) If the council grants a concession by making a resolution under subsection (1)(b), the concession may be granted only to the rate payers whom the council is satisfied are eligible for the concession.
- (5) The resolution may include conditions for granting the concession to the rate payer.

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(6) Without limiting subsection (5), the conditions may include the following—

(a) a condition requiring the rate payer to show the council particular information or documents or follow a procedure to be eligible for the concession;

Examples—

- a condition requiring the rate payer to produce a health care card or pensioner concession card to show the rate payer's eligibility for the concession for the rates or charges
- a condition requiring the rate payer to enter an agreement to defer payment of rates or charges in a form required by the council

(b) a condition limiting the period for which the rate payer is granted the concession.

Example—

for a concession on the basis of the rate payer's receipt of a disability support pension, a condition limiting the concession to the period for which the rate payer receives the pension

55 Special provision for rebate for land occupied by pensioners

(1) The council may grant a rebate of rates or charges for land occupied only by pensioners only if the land owner agrees to pass the benefit of the rebate on to the pensioners.

(2) The council may grant a rebate of rates or charges for land that is occupied by pensioners and other persons, only—

- (a) for that part of the rates or charges that the council considers is fairly attributable to the part of the land where pensioners have a right to exclusive occupancy; and
- (b) if the land owner agrees to pass the benefit of the rebate on to the pensioners.

56 Refund of rebated rates or charges already paid

- (1) This section applies if—
 - (a) the council grants a rebate of the rates or charges to a rate payer or a rate payer who is a member of a class of rate payers; and
 - (b) the ratepayer has already paid the rates or charges;
- (2) The council must refund the amount of the rebated rates or charges to the rate payer.

57 Special provision for agreement to defer rates or charges

- (1) This section applies if a concession to a rate payer for rates or charges includes an agreement to defer the payment of the rates or charges.
- (2) The agreement must state either—
 - (a) for an agreement under which the rates or charges become payable on a particular day—the due date for payment of the rates or charges; or
 - (b) for an agreement under which the rates or charges become payable when an event happens—a description of the event and the due date for payment of the rates or charges in reference to the event.

Example—

An agreement provides for general rates for land to be paid at the end of a stated period after the land is transmitted to the rate payer's personal representative or sold.

- (3) The agreement may also include a condition that the rate payer must pay an additional charge in return for the council agreeing to defer payment of the rates or charges.

58 Special provision for agreement to accept land transfer

- (1) This section applies if a concession to a rate payer for rates or charges includes an agreement to accept a transfer of

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unencumbered land in full or part payment of the rates or charges.

- (2) The agreement must state the due date for payment of the rates or charges.

Part 11 Paying rates and charges

59 Who must pay rates and charges

- (1) Subject to section 94, the following persons are liable to pay rates and charges—
 - (a) for rateable land—the current owner of the land, even if that owner did not own the land during the period to which the rates or charges relate;
 - (b) for a service that is supplied to a structure, or to land that is not rateable land—the entity who asked for the service to be supplied;
 - (c) for previously rateable land—the owner of the land immediately before it stopped being rateable land.
- (2) ***Previously rateable land*** is land that was, but has stopped being, rateable land because—
 - (a) the tenure of a holding is terminated; or
 - (b) the land is surrendered or forfeited to the State; or
 - (c) the land is acquired by the State or the Commonwealth; or
 - (d) the land is exempted from rating; or
 - (e) the property description of the land no longer exists.
- (3) If more than 1 person is liable to pay rates or charges, all the persons are jointly and severally liable to pay the rates or charges.

60 Paying part of rates and charges

- (1) This section applies if a person—
 - (a) pays the council an amount that is less than the total of all amounts mentioned in a rate notice; and
 - (b) does not specify which of the amounts that the person is paying.
- (2) The council must use the amount to pay the amounts mentioned in the rate notice in the following order—
 - (a) overdue rates or charges, starting with the rates or charges that have been overdue the longest;
 - (b) rates or charges stated in the rate notice;
 - (c) amounts, other than rates or charges, that are payable to the council.

61 Paying rates or charges by instalments

- (1) The council may decide to allow rate payers to pay rates or charges by instalments.
- (2) The council must, by resolution, make the decision at its budget meeting.
- (3) The resolution must state—
 - (a) the periods for payment of each instalment of the rates or charges; and
 - (b) any other requirements for paying the rates or charges by instalments.
- (4) The requirements may include a requirement for the rate payer to pay an additional charge in return for paying the rates or charges by instalments.
- (5) The resolution may state a discount for paying an instalment of the rates or charges within the period for paying the instalment.

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62 Discount for prompt payment of rates or charges

- (1) The council may decide to allow a discount for payment of rates or charges before the end of the discount period.
- (2) The *discount period* is a period that ends on or before the due date for payment.

Examples of discount period—

- 1 month before the due date for payment
 - a period of 1 month ending 2 weeks before the due date for payment
- (3) The council must, by resolution, make the decision at its budget meeting.
 - (4) The resolution must state—
 - (a) whether the discount is to be—
 - (i) a fixed amount; or
 - (ii) a percentage of the rates or charges; and
 - (b) if the discount is to be a fixed amount—the amount; and
 - (c) if the discount is to be a percentage of the rates or charges—the percentage; and
 - (d) whether the discount applies only if—
 - (i) other rates or charges are paid; or
 - (ii) an amount, including any interest on the amount, is paid for work that was performed by the council under a remedial notice issued under the Act; and
 - (e) the discount period.
 - (5) The council may allow more than 1 discount period for rates or charges only if the council's resolution—
 - (a) states more than 1 discount period for the rates or charges; and
 - (b) allows a different discount for each discount period.

- (6) The council may, by resolution, change the discount period to end on a later day (the *new discount day*).
- (7) However, if the discount period is changed under subsection (6), the council must also, by resolution, change the due date for payment to a later day that is no earlier than the new discount day.
- (8) If the council decides to allow a discount for a discount period, it must allow the discount to all rate payers who pay the rates or charges before the end of the discount period.
- (9) If the council is satisfied a rate payer has been prevented, by circumstances beyond their control, from paying the rates or charges in time to get a discount, the council may still allow the discount.
- (10) A rate payer is not entitled to a discount for paying in full rates or charges for land by the end of a discount period if other rates or charges for the land are overdue.

63 Other benefits for prompt payment

The council may give a benefit that is not a discount as an inducement for payment of rates or charges before the due date for payment.

Examples of a benefit—

- free use of the council's services, facilities or activities
- an opportunity to win a donated car, holiday or other prize

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Part 12 Overdue rates and charges

Division 1 General provisions

64 What are *overdue* rates or charges and when do they become *overdue*

- (1) *Overdue* rates or charges are made up of—
 - (a) either of the following—
 - (i) subject to subparagraph (ii), rates or charges that are not paid by the due date for payment stated in the rates notice;
 - (ii) if a rate payer is granted a concession for rates or charges of a type mentioned in section 53(b) or (c)—rates or charges that are not paid by the due date stated in the agreement to which the concession relates; and
 - (b) if the council takes the rate payer to court to recover rates or charges and the court orders the rate payer to pay the council's costs—the costs; and
 - (c) the interest, if interest is payable, on the rates or charges, or costs.
- (2) Subject to subsection (3), the rates or charges mentioned in subsection (1)(a)(i) become *overdue* on the day after the due date for payment of the rates or charges stated in the rates notice.
- (3) Subject to subsections (4) to (6), the rates or charges mentioned in subsection (1)(a)(ii) become *overdue* on the day after the due date for payment of the rates or charges stated in the agreement to which the concession relates.
- (4) Subsection (5) applies if—
 - (a) rates or charges are not paid before the due date stated in the rates notice for the rates or charges; and

-
- (b) a concession of a type mentioned in section 53(b) or (c) is granted after the due date; and
 - (c) the rates or charges are not paid by the due date stated in the agreement to which the concession relates.
- (5) The rates or charges are taken to have become *overdue* on the day after the due date stated in the rates notice for the rates or charges.
- (6) If an agreement deferring payment of rates or charges includes a condition about when the rates or charges become payable, the rates or charges can become *overdue* only if the condition is satisfied.

Example—

An agreement to defer payment of general rates for land provides that the rates become payable within a stated period after the land is sold. The rates or charges can become overdue only if the land is sold.

65 Interest on overdue rates or charges

- (1) Interest is payable on overdue rates or charges—
- (a) at the percentage, of not more than 11% a year, decided by the council; and
 - (b) from the day the rates or charges become overdue or a later day decided by the council.
- (2) The council's decision about the rate of interest, and the date from which interest is payable on overdue rates or charges, must apply equally to all rate payers.
- (3) Interest must be calculated—
- (a) on daily rests and as compound interest; or
 - (b) in another way the council decides, if an equal or lower amount will be obtained.

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Division 2 Court proceedings for overdue rates or charges

66 Court proceedings for overdue rates or charges

- (1) The council may recover overdue rates or charges by bringing court proceedings for a debt against a person who is liable to pay the overdue rates or charges.
- (2) If the council does so, but does not recover all of the overdue rates or charges from the person, the council may recover the remaining overdue rates or charges from any other person who is liable to pay the overdue rates or charges (for example, a joint owner).
- (3) If a court orders a person to pay overdue rates or charges, and the person fails to comply with the court order, the person is not liable to imprisonment for the failure.

67 Selling or acquiring land ends liability for overdue rates or charges

If the council sells or acquires land for overdue rates or charges, the council can not start or continue any court proceedings to recover the overdue rates or charges.

Division 3 Selling or acquiring land for overdue rates or charges

Subdivision 1 Preliminary

68 What div 3 is about

This division is about the power of the council to sell or acquire land for overdue rates or charges.

69 Reference to *market value*

- (1) A reference in this division to the *market value* of land includes a reference to the market value of the land and any improvements on the land.
- (2) A written report about the market value of land from a valuer registered under the *Valuers Registration Act 1992* who is not a council employee is evidence of the market value of the land.

Subdivision 2 Selling land for overdue rates or charges

70 Selling land that is subject to a State encumbrance

- (1) This section applies if—
 - (a) the council intends to sell land under this subdivision; and
 - (b) the land is subject to a State encumbrance.
- (2) A *State encumbrance* is an encumbrance on land that gives the State or a government entity an interest in the land, including, for example—
 - (a) a mortgage; or
 - (b) an interest that arises under a Housing Act contract.
- (3) The council must give the State or government entity that has the interest in the land under the State encumbrance a notice of the council's intention to sell the land, before the council sells the land.
- (4) The council may sell the land only—
 - (a) subject to the State encumbrance; or
 - (b) free of the State encumbrance to the extent, and on any conditions (the *sale conditions*), to which the State or government entity agrees.

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- (5) If the land is subject to an interest arising under a Housing Act contract, the council may sell the land free of the interest only if the sale conditions include a condition that the council pays the State an amount for—
- (a) the State's interest in the land; and
 - (b) any amount that is owing to the State under the contract.

71 Selling land that is subject to other restrictions

- (1) This section applies if—
- (a) the council intends to sell land under this subdivision; and
 - (b) the land is held on a tenure that requires the holder of the land to have—
 - (i) particular qualifications; or
 - (ii) the agreement or permission of a particular government entity.
- (2) The council may sell the land only to a person who has—
- (a) the particular qualifications; or
 - (b) the agreement or permission of the government entity.

72 Notice of intention to sell land for overdue rates or charges

- (1) This section applies if—
- (a) there are overdue rates or charges on land; and
 - (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
 - (c) some or all of the overdue rates or charges have been overdue for at least—
 - (i) generally—3 years; or

- (ii) if the rates or charges were levied on vacant land or land used only for commercial purposes, and the council has obtained judgment for the overdue rates or charges—1 year; or
 - (iii) if the rates or charges were levied on a mining claim—3 months.
- (2) The council may, by resolution, decide to sell the land.
- (3) If the council does so, the council must, as soon as practicable, give all interested parties a notice of intention to sell the land.
- (4) A ***notice of intention to sell*** is a document, signed by the chief executive officer, stating—
 - (a) that the council has, by resolution, decided under this section to sell land for overdue rates or charges; and
 - (b) the day on which the resolution was made; and
 - (c) the terms of the resolution; and
 - (d) a description of the location and size of the land, as shown in the council's land record; and
 - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges have been unpaid; and
 - (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
 - (i) details of the rate at which interest is payable on the rates or charges; and
 - (ii) a description of the way the interest is calculated; and
 - (g) the total amount of overdue rates or charges and the interest, as at the date of the notice; and
 - (h) a copy, or a general outline, of sections 73 to 76.

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73 When procedures for selling land must be started

- (1) This section applies if—
 - (a) the council decides to sell land under this subdivision for overdue rates and charges and gives the registered owner of the land a notice of intention to sell the land; and
 - (b) the overdue rates or charges are not paid in full within—
 - (i) generally—3 months after the council gives the notice of intention to sell the land; or
 - (ii) if the rates or charges were levied on a mining claim—1 month after the council gives the notice of intention to sell the land.
- (2) The council must start the procedures under section 74 for selling the land within 6 months after the council gives the notice of intention to sell the land.
- (3) However, the council must end the procedures if the council is paid—
 - (a) the amount of the overdue rates or charges; and
 - (b) all expenses that the council incurs in attempting to sell the land.

74 Procedures for selling land

- (1) This section sets out the procedures that the council must follow when selling land for overdue rates or charges.
- (2) The council must first offer the land for sale by auction.
- (3) The council must prepare an auction notice.
- (4) An ***auction notice*** is a document stating—
 - (a) the time and place of the auction; and
 - (b) a full description of the land.
- (5) At least 14 days, but not more than 35 days, before the day of the auction, the council must—

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- (a) give a copy of the auction notice to everyone who was given a notice of intention to sell the land; and
 - (b) advertise the auction notice in a newspaper that is circulating generally in Brisbane; and
 - (c) display the auction notice in a conspicuous place in the council's public office, until the day of the auction; and
 - (d) display the auction notice in a conspicuous place on the land unless it is not reasonably practicable to do so because the land is in a remote location or difficult to access.
- (6) However, if—
- (a) the land is a building unit; and
 - (b) it is not practicable to display the auction notice in a conspicuous place on the land;

the notice may be displayed in a conspicuous part of the common property for the building units.

75 Conduct of auction

- (1) The council must set a reserve price for the auction that is at least—
 - (a) the market value of the land; or
 - (b) the higher of the following—
 - (i) the amount of overdue rates or charges on the land;
 - (ii) the value of the land.
- (2) If the reserve price is not reached at the auction, the council may enter into negotiations with the highest bidder at the auction to sell the land by agreement.
- (3) However, the price for the land under the agreement must be more than the highest bid for the land at the auction.

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- (4) If the highest bidder at the auction does not agree to buy the land, the land is taken to have been sold at the auction to the council for the reserve price.
- (5) However, subsection (4) does not apply if the land is held on a tenure the council is not competent to hold.

76 Procedures after sale of land to council

- (1) This section applies if land is taken to have been sold at auction to the council under section 75(4).
- (2) The council must give the registrar of titles a general request form.
- (3) A *general request form* is a form that—
 - (a) is approved for a general request lodged in the land registry; and
 - (b) requests the council be registered as owner of the land.
- (4) After receiving the general request form, the registrar of titles must register the transfer of the interest of the registered owner to the council free of all encumbrances.
- (5) The registrar of titles may register the transfer even though the general request form is not accompanied by the instrument of title for the land.
- (6) Also, the registrar of titles—
 - (a) need not inquire whether the council has complied with this subdivision; and
 - (b) is not affected by actual or constructive notice of any failure by the council to comply with this subdivision.

77 Application of proceeds of sale

- (1) The council must use the proceeds of the sale of the land in the following order—

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- (a) to pay any amount agreed for the release of a State encumbrance under section 70(4)(b) or (5);
- (b) to pay the expenses of the sale;
Examples of expenses of the sale—
- administrative costs incurred by the council
 - body corporate fees
 - land taxes owing on the day of sale
- (c) to pay the overdue rates or charges for the land;
- (d) to pay any other amounts relating to the land that the owner of the land owed the council immediately before the sale;
- (e) to pay any rates or charges, other than overdue rates or charges, for the land;
- (f) to pay any registered encumbrances, other than State encumbrances, in order of their priority under the Land Title Act;
- (g) to pay the person who owned the land immediately before the sale.
- (2) If any of the proceeds of sale remain unclaimed for 2 years, the council must pay the proceeds to the public trustee as unclaimed money.

78 Council's failure to comply with this subdivision

- (1) This section applies if the council fails to comply with this subdivision.
- (2) No person may make a claim against an indemnity fund that is administered by the State for—
- (a) any dealing with the land under this subdivision; or
 - (b) the registration of an interest in the land under this subdivision.
- (3) However, this section does not protect—

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- (a) the council from liability for any loss that is caused by the council's failure to comply with this subdivision; or
- (b) a person who commits fraud or wilful default from liability for any loss that is caused by the person's fraud or wilful default.

Subdivision 3 Acquiring land for overdue rates or charges

79 Application of sdiv 3

This subdivision applies if—

- (a) there are overdue rates or charges on land in Brisbane; and
- (b) the liability to pay the overdue rates or charges is not the subject of court proceedings; and
- (c) some of the overdue rates or charges have been overdue for at least 3 years; and
- (d) the person who is liable to pay the overdue rates or charges has an interest in the land that a corporation is not prohibited from holding (for example, a life interest in land); and
- (e) either of the following applies—
 - (i) the total amount of the overdue rates or charges is more than the value of the land and the land is considered to be—
 - (A) valueless; or
 - (B) of so little value that, if it were sold, the proceeds of the sale would be less than the amount of the overdue rates or charges;
 - (ii) the total amount of the overdue rates or charges is more than the market value of the land.

80 Requirements for notice of intention to acquire land

- (1) The council may, by resolution, decide to acquire the land.
- (2) If the council does so, the council must, as soon as practicable, give all interested parties a notice of intention to acquire the land.
- (3) A *notice of intention to acquire* is a document, signed by the chief executive officer, stating—
 - (a) that the council has, by resolution, decided to acquire land for overdue rates or charges, under this section; and
 - (b) the day on which the resolution was made; and
 - (c) the terms of the resolution; and
 - (d) a description of the location and size of the land, as shown in the council's land record; and
 - (e) details of the overdue rates or charges for the land, as at the date of the notice, including details of the period for which the rates or charges are unpaid; and
 - (f) details of the interest that is owing on the overdue rates or charges, as at the date of the notice, including—
 - (i) details of the rate at which interest is accruing; and
 - (ii) a description of the way that the interest is calculated; and
 - (g) the total amount of the overdue rates or charges and the interest, as at the date of the notice; and
 - (h) a copy of this section and a general outline of the owner's rights to pay the overdue rates or charges.

81 Time to start procedures to acquire

- (1) This section applies if—
 - (a) the council gives under section 80 a notice of intention to acquire land for overdue rates or charges; and

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- (b) the overdue rates or charges are not paid in full within 6 months after the council gives the notice of intention to acquire the land.
- (2) The council may start the procedures for acquiring the land.
- (3) However, the council must end the procedures for acquiring the land if the council is paid—
 - (a) the amount of the overdue rates or charges; and
 - (b) all expenses that the council incurs in attempting to acquire the land.

82 Acquisition procedures

- (1) This section sets out the procedures that the council must follow when acquiring land for overdue rates or charges.
- (2) The council must—
 - (a) discharge the overdue rates or charges payable for the land; and
 - (b) give the registrar of titles a request, in the appropriate form, to record the council as the registered owner of the land.
- (3) After receiving the request, the registrar of titles must record the council as the registered owner of the land free of all encumbrances other than any State encumbrances.
- (4) The registrar of titles—
 - (a) may record the council as the registered owner of the land even if the request is not accompanied by the instrument of title for the land; and
 - (b) need not inquire whether the council has complied with this subdivision; and
 - (c) is not affected by actual or constructive notice of any failure by the council to comply with this subdivision.

- (5) When the registrar of titles has recorded the council as the registered owner of the land, the council must remove the reference to the land from the land record.
- (6) In this section—
appropriate form see schedule 2 of the Land Title Act.

Division 4 State pays overdue rates or charges

83 Satisfaction on termination of tenure

- (1) This section applies if—
 - (a) the council is owed rates or charges on land; and
 - (b) the tenure of a holding is terminated for all or part of the land; and
 - (c) the State receives an amount from an incoming holder of all or part of the land.
- (2) After retaining any amount owing to the State, the State may pay the council an amount for the rates or charges.

Part 13 The council's land record

Division 1 Land record

84 What pt 13 is about

- (1) This part is about the council's land record.
- (2) The council uses a land record to identify who is responsible for paying rates or charges for land.

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85 Land record to be kept

- (1) The council must keep a land record.
- (2) A *land record* contains the following information for each parcel of rateable land in its area—
 - (a) the name and postal address of the owner of the land;
 - (b) a description of the land, including its location and size;
 - (c) the value of the land and the date the valuation took effect;
 - (d) information about rates or charges for the land, including about the following—
 - (i) the type and amounts of rates or charges levied on the land;
 - (ii) if differential general rates are levied—the rating category of the land;
 - (iii) the date of each levy and the due date for payment;
 - (iv) the period for which the rates or charges are levied;
 - (v) the financial year to which the rates or charges apply;
 - (vi) concessions granted or discounts given for payment of rates or charges;
 - (vii) payment of rates or charges by instalments;
 - (viii) any overdue rates or charges, accrued interest on overdue rates or charges and the interest rate applying to overdue rates or charges;
 - (ix) the date when rates or charges are paid;
 - (e) any other information that the council considers appropriate.

86 Public may inspect land record

- (1) The public may inspect the land record kept by the council.

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- (2) However, if the chief executive (valuations) has given the council a notice under section 73A of the Valuation of Land Act about a protected person, the council must not include the name and postal address of the protected person in the land record when the record is open to inspection.
 - (3) The following persons may inspect particulars of land in the land record free of charge—
 - (a) an owner, lessee or occupier of—
 - (i) the land; or
 - (ii) adjoining land;
 - (b) the agent of an owner, lessee or occupier of—
 - (i) the land; or
 - (ii) adjoining land.
 - (4) The agent must produce, to the council, written evidence of the agent's appointment.
 - (5) Any other person may inspect the land record after paying the reasonable fee decided by the council.
 - (6) In this section—

chief executive (valuations) means the chief executive of the department in which the Valuation of Land Act is administered.

protected person means a person for whose benefit the chief executive (valuations) has made a suppression direction under section 75B(2) of the Valuation of Land Act, while the direction continues to have effect.

87 Amending a land record

- (1) The chief executive officer must ensure the particulars contained in the land record are amended whenever necessary to ensure the land record is correct and up to date.
- (2) If an amendment of the land record changes the rates or charges that are or may be levied on land, the chief executive

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officer must, as soon as practicable, give the rate payer a QCAT information notice for the amendment.

- (3) The council must give a QCAT information notice for an amendment of a land record only if required under subsection (2).
- (4) Subsection (2) does not apply to an amendment of the land record that is made because of an annual valuation of all rateable land in Brisbane by the valuation authority.
- (5) In this section—

QCAT information notice means a notice complying with the QCAT Act, section 157(2).

88 Evidence of land record

- (1) In any court proceedings in which the liability for rates or charges is relevant, a certified extract of the land record is evidence that—
 - (a) the valuation recorded in the extract was properly made; and
 - (b) the information about the rates or charges recorded in the extract is correct; and
 - (c) the person recorded in the extract as the owner of the land is liable to pay the rates or charges levied on the land.
- (2) In this section—

A *certified extract* is a document that—

- (a) purports to be a copy of an entry in the land record; and
- (b) is certified by the chief executive officer to be a true copy of the entry in the land record.

Division 2 Review of decisions by QCAT to amend land record

89 Who may apply for review

A person dissatisfied with an amendment of a land record, other than a removal of land that has been acquired by the council, may apply, as provided under the QCAT Act, to QCAT for a review of the amendment.

90 Powers of QCAT on review

In deciding the review, QCAT may—

- (a) confirm the amendment; or
- (b) set aside the amendment and order the particulars previously contained in the land record be restored.

Division 3 Change in ownership of land

91 Definitions for div 3

In this division—

change of owner notice, for land, means a document stating—

- (a) the description of the land; and
- (b) the date the owner of the land changed; and
- (c) the reason the owner changed, including, for example, because the land has been sold; and
- (d) the full name and address of the previous owner of the land; and
- (e) the full name and address of the new owner of the land.

new owner, of land, means the person who owns the land immediately after the owner of the land changes.

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previous owner, of land, means the person who owned the land immediately before the owner of the land changed.

92 Notice of change of owner of land for sale or other ownership changes for land

- (1) This section applies if the owner of land changes—
 - (a) because the land is sold; or
 - (b) for another reason, including, for example, if the land, or an entitlement to occupy the land, is forfeited or surrendered to the State.
- (2) The new owner of the land must give the council notice of the change of owner within 30 days after the change, unless the new owner has a reasonable excuse.
Maximum penalty—5 penalty units.
- (3) The new owner may comply with subsection (2) by giving the following documents to the registrar of titles—
 - (a) a properly completed combined form for the change of owner of the land;
 - (b) the instrument of transfer of the land.
- (4) However, subsection (2) does not prevent the previous owner of the land giving the council the notice about the change of owner for the land.
- (5) In this section—

combined form means a form that—

 - (a) gives information required by this section; and
 - (b) may be given to the registrar of titles.

93 Council to record change of owner

If the council receives a change of owner notice under this division, it must record the details of the new owner in the

land record unless the council has reason to believe that the notice is false.

94 Previous owner can continue to be liable to pay rates or charges

If the council does not receive a change of owner notice under this division, the previous owner of the land continues to be liable to pay all rates or charges on the land, including interest on overdue rates or charges, if any, until—

- (a) the change of owner notice is given under this division;
or
- (b) the council otherwise records the details of the new owner in the land record.

Chapter 3 Financial sustainability and accountability

Part 1 General matters about financial management systems

95 Requirement to keep record of particular matters

- (1) The council must keep a written record stating the following—
 - (a) the risks the council's operations are exposed to, to the extent they are relevant to financial management;
 - (b) the control measures adopted to manage the risks;
 - (c) the duties of each council employee who is responsible for carrying out an activity relating to financial management.

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- (2) The council must keep, with the record, a copy of each of the following—
- (a) its community engagement policy;
 - (b) its community grants policy;
 - (c) its entertainment and hospitality policy;
 - (d) its advertising spending policy;
 - (e) its procurement policy.

Part 2 Financial management documents

Division 1 Annual budget

96 Preparation and content of the budget

- (1) The annual budget must—
- (a) be prepared on an accrual basis; and
 - (b) include statements of the following for the financial year for which it is prepared and the next 2 financial years—
 - (i) financial position;
 - (ii) cash flow;
 - (iii) income and expenditure;
 - (iv) changes in equity.
- (2) The statement of income and expenditure must state each of the following—
- (a) rates and utility charges excluding discounts and rebates;

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- (b) contributions from developers;
 - (c) fees and charges;
 - (d) interest;
 - (e) grants and subsidies;
 - (f) depreciation;
 - (g) finance costs;
 - (h) net result;
 - (i) the estimated costs of—
 - (i) the council’s significant business activities carried on using a full cost pricing basis; and
 - (ii) the activities of the council’s commercial business units; and
 - (iii) the council’s significant business activities.
- (3) The budget must include each of the following (the *relevant measures of financial sustainability*) for the financial year for which it is prepared and the next 9 financial years—
- (a) asset consumption ratio;
 - (b) asset sustainability ratio;
 - (c) interest coverage ratio;
 - (d) net financial liabilities ratio;
 - (e) operating surplus ratio;
 - (f) working capital ratio.
- (4) The budget must be consistent with the following documents of the council—
- (a) its long-term financial forecast;
 - (b) its financial plan;
 - (c) its corporate plan;
 - (d) its annual operational plan;

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- (e) its long-term community plan.
- (5) In this section—
 - commercial business unit* see section 25(2) of the Business Activities Regulation.

97 Scrutiny of the budget

- (1) The council must establish and follow a process for scrutiny of the budget.
- (2) The process must include conducting an information session about each program under the budget at which—
 - (a) a suitably qualified councillor provides information about the program; and
 - (b) councillors can ask questions about the program; and
 - (c) suitably qualified councillors must make reasonable efforts to answer the questions asked; and
 - (d) members of the public can attend.
- (3) However, if a question can not be answered at an information session, the process must provide for the question to be answered at the council meeting at which the budget is to be adopted.

98 Adoption and amendment of the budget

- (1) The annual budget must comply with section 96 when it is adopted.
- (2) If the budget does not comply with section 96 when it is adopted, the adoption of the budget is void.
- (3) The council may, by resolution, amend the budget for a financial year at any time before the end of the financial year.
- (4) However, the budget must continue to comply with section 96 when the amendment is adopted.

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- (5) If the budget is amended and does not comply with section 96, the amendment of the budget is void.

99 Unauthorised spending for genuine emergency or hardship

- (1) The council may spend money that is not authorised in the annual budget only for genuine emergency or hardship.
- (2) However, the council must make a resolution about spending the money before, or as soon as practicable after, the money is spent.
- (3) The resolution must state how the spending is to be funded.
- (4) If the council's budget for a financial year is amended after the money is spent, the amendment must take the spending into account.

Division 2 General purpose financial statement

100 Preparation of general purpose financial statement

- (1) The council must prepare a general purpose financial statement for each financial year.
- (2) The general purpose financial statement must be prepared in accordance with the following documents (each a *relevant accounting document*) published by the Australian Accounting Standards Board—
- (a) Australian Accounting Standards;
 - (b) Statements of Accounting Concepts;
 - (c) Interpretations;
 - (d) Framework for the Preparation and Presentation of Financial Statements.

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Editor's note—

The relevant accounting documents are available on the Australian Accounting Standards Board's website at <www.aasb.com.au>.

Division 3 Community financial report

101 Preparation of community financial report

- (1) The council must prepare a community financial report for each financial year.
- (2) The community financial report for a financial year must—
 - (a) contain a summary and an analysis of the council's financial performance and position for the financial year; and
 - (b) be consistent with the general purpose financial statement for the financial year; and
 - (c) include the relevant measures of financial sustainability for the financial year; and
 - (d) be in a form that can be easily understood by the community.

Division 4 Long-term financial forecast

102 Preparation of long-term financial forecast

- (1) The council must, at least annually, prepare a long-term financial forecast.
- (2) The long-term financial forecast must—
 - (a) contain a forecast of the following for each year during the period of the forecast—
 - (i) income;
 - (ii) expenditure;

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- (iii) the value of assets, liabilities and equity; and
 - (b) include the following documents covering each year of the period of the forecast—
 - (i) a statement of financial position;
 - (ii) a statement of cash flow;
 - (iii) a statement of income and expenditure;
 - (iv) a statement of changes in equity.
 - (3) The long-term financial forecast must also state the relevant measures of financial sustainability for the period of the forecast.
 - (4) The long-term financial forecast must cover a period of at least 10 years and be reviewed annually.
 - (5) The council must consider the long-term financial forecast before planning new borrowings.

Division 5 Asset register

103 Non-current physical assets to be recorded

The council's asset register must record its non-current physical assets.

Division 6 Revenue statement

104 Preparation of revenue statement

- (1) The council must prepare a revenue statement each financial year.
- (2) The revenue statement must be adopted—
 - (a) after 31 May in the year before the financial year; and
 - (b) before—

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- (i) 1 September in the financial year; or
 - (ii) a later day decided by the Minister.
- (3) The council may, by resolution, amend the revenue statement at any time before the financial year ends.
- (4) However, the revenue statement can not be amended to change the general rates decided at the budget meeting for the financial year.

105 Revenue statement contents

- (1) The revenue statement must state—
 - (a) if the council levies differential general rates—
 - (i) the rating categories for rateable land in Brisbane; and
 - (ii) a description of each rating category; and
 - (b) if the council levies special rates or charges for a joint government activity—a summary of the terms of the joint government activity; and
 - (c) if the council fixes a cost-recovery fee—the criteria used to decide the amount of the cost-recovery fee; and
 - (d) if the council conducts a business activity on a commercial basis—the fees the council receives for the activity.
- (2) The revenue statement for a financial year must include the following information for the financial year—
 - (a) an outline and explanation of the measures that the council has adopted for raising revenue, including an outline and explanation of—
 - (i) the rates and charges to be levied in the financial year; and
 - (ii) the concessions for rates and charges to be granted in the financial year;

- (b) whether the council has made a resolution limiting an increase of rates and charges.

Part 3 Planning and accountability documents

Division 1 Annual report

Subdivision 1 Preparation

106 Preparation of annual report

- (1) The council must prepare an annual report for each financial year.
- (2) The annual report must be adopted before—
 - (a) 30 November in the year after the end of the financial year; or
 - (b) a later day decided by the Minister.

Subdivision 2 Contents

107 What sdiv 2 is about

This subdivision explains what an annual report for a financial year must contain.

Note—

See also sections 32 and 166 of the Business Activities Regulation for additional requirements for annual reports for the council conducting significant business activities and section 98 of that regulation for additional requirements for annual reports for corporate entities of local governments.

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108 General purpose financial statement

The annual report for a financial year must contain—

- (a) the general purpose financial statement for the financial year, audited by the auditor-general; and
- (b) the auditor-general's audit report about the general purpose financial statement.

109 Community financial report

The annual report for a financial year must contain the community financial report for the financial year.

110 Relevant measures of financial sustainability

The annual report for a financial year must state—

- (a) the relevant measures of financial sustainability for the financial year for which the report has been prepared and the next 9 financial years; and
- (b) an explanation of the council's financial management strategy that is consistent with the long-term financial forecast.

111 Resolutions

The annual report for a financial year must contain—

- (a) a copy of the resolutions made during the year under section 52 of the Operations Regulation; and

Editor's note—

section 52 (Requirement to adopt expenses reimbursement policy or amendment) of the Operations Regulation

- (b) a list of any resolutions made during the year under section 172(3).

112 Councillors

- (1) The annual report for a financial year must contain particulars of—
 - (a) the total remuneration paid to each councillor during the year; and
 - (b) the total superannuation contributions paid during the year for each councillor; and
 - (c) the expenses incurred by, and the facilities provided to, each councillor during the year under the council's expenses reimbursement policy; and
 - (d) a copy of the council's expenses reimbursement policy; and
 - (e) the number of council meetings that each councillor attended during the year; and
 - (f) the total number of the following during the year—
 - (i) orders and recommendations made under section 183(2) or (4) of the Act;
 - (ii) orders made under section 185 of the Act; and
 - (g) each of the following during the year—
 - (i) the name of each councillor for whom an order or recommendation was made under section 183 of the Act or an order was made under section 185 of the Act;
 - (ii) a description of the misconduct or inappropriate conduct engaged in by each of the councillors;
 - (iii) a summary of the order or recommendation made for each councillor; and
 - (h) the number of each of the following during the year—
 - (i) complaints, assessed as frivolous or vexatious under section 180(4) of the Act, about the conduct or performance of councillors;

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- (ii) complaints referred to the BCC councillor conduct review panel under section 180(5) of the Act;
 - (iii) complaints referred to the BCC councillor conduct review panel under section 180(6) of the Act;
 - (iv) complaints assessed by the chief executive officer as being about official misconduct;
 - (v) complaints heard by the BCC councillor conduct review panel;
 - (vi) complaints heard by the tribunal;
 - (vii) complaints dealt with by the chief executive officer under section 180(8) of the Act.
- (2) In this section—
- expenses reimbursement policy* see section 51(2) of the Operations Regulation.

113 Administrative action complaints

- (1) The annual report for a financial year must contain—
- (a) a statement about the council’s commitment to dealing fairly with administrative action complaints; and
 - (b) a statement about how the council has implemented its complaints management process, including an assessment of the council’s performance in resolving complaints under the process.
- (2) The annual report must also contain particulars of—
- (a) the number of the following during the year—
 - (i) administrative action complaints made to the council;
 - (ii) administrative action complaints resolved by the council under the complaints management process;

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- (iii) administrative action complaints not resolved by the council under the complaints management process; and
 - (b) the number of administrative action complaints under paragraph (a)(iii) that were made in a previous financial year.
- (3) In this section—
- complaints management process* see section 114(3) of the Operations Regulation.

114 Overseas travel

The annual report for a financial year must contain the following information about any overseas travel made by a councillor or council employee in an official capacity during the financial year—

- (a) for a councillor—the name of the councillor;
- (b) for the council employee—the name of, and position held by, the council employee;
- (c) the destination of the overseas travel;
- (d) the purpose of the overseas travel;
- (e) the cost of the overseas travel;
- (f) any other information about the overseas travel the council considers relevant.

115 Expenditure on grants to community organisations

The annual report for a financial year must contain a summary of—

- (a) the council's expenditure for the financial year on grants to community organisations; and
- (b) expenditure from each councillor's discretionary fund, including—

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- (i) the name of each community organisation to which an amount was allocated from the fund; and
- (ii) the amount and purpose of the allocation.

116 Reserves and controlled roads

- (1) The annual report for a financial year must contain a note about each of the following that the council controls at any time during the financial year—
 - (a) land that is a reserve under the Land Act;
 - (b) roads that the council does not own.
- (2) A note about a reserve must state the area of the reserve that the council controls, including land that the council has leased to someone else.
- (3) A note about roads must state the total length of roads the council controls and does not own.

Example of a note for this section—

The council controls—

- (a) 100ha of parks (including 10ha that are leased to sporting clubs) on land that is a reserve under the Land Act; and
- (b) 700km of roads the council does not own.

117 Other contents

- (1) The annual report for a financial year must contain—
 - (a) an assessment of the council's performance in implementing its long-term community plan, corporate plan and annual operational plan; and
 - (b) particulars of other issues relevant to making an informed assessment of the council's operations and performance in the financial year; and
 - (c) details of any action taken for, and expenditure on, a service, facility or activity—

- (i) supplied by another local government under an agreement for conducting a joint government activity; and
 - (ii) for which the council levied special rates or charges for the financial year; and
 - (d) the number of invitations to change tenders under section 172(7) during the year; and
 - (e) a list of the registers kept by the council; and
 - (f) a summary of all concessions for rates and charges granted by the council; and
 - (g) the report on the internal audit for the year; and
 - (h) a statement about the council's activities during the year to implement its plan for equal opportunity in employment; and
 - (i) the names of the council's shareholder delegates for its corporate entities; and
 - (j) a summary of investigation notices given in the year under the section 127 of the Business Activities Regulation for competitive neutrality complaints; and
 - (k) the council's decisions in the year on—
 - (i) the referee's recommendations on any complaints under section 135 of the Business Activities Regulation; and
 - (ii) the Queensland Competition Authority's recommendations under section 148 of the Business Activities Regulation; and
 - (l) an overview of the council's long-term strategy to ensure financial sustainability; and
 - (m) an overview of the council's long-term asset management plan.
- (2) In this section—

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Queensland Competition Authority means the Queensland Competition Authority established under the *Queensland Competition Authority Act 1997*.

shareholder delegate see section 76(1) of the Business Activities Regulation.

Division 2 Corporate plan

118 Preparation of corporate plan

- (1) The council must prepare a corporate plan for each period of 5 financial years.
- (2) The council must adopt the corporate plan in sufficient time before the start of the first financial year that is covered by the plan to allow a budget and annual operational plan that are consistent with the corporate plan to be adopted for the financial year.
- (3) The chief executive officer must present a written assessment of the council's progress towards implementing the corporate plan at meetings of the council held at regular intervals of not more than 1 year.
- (4) The council may, by resolution, amend the corporate plan at any time.
- (5) The council must discharge its responsibilities in a way that is consistent with the corporate plan.

119 Corporate plan contents

The corporate plan must—

- (a) outline the strategic direction of the council; and
- (b) state—
 - (i) the performance indicators for measuring the council's progress in achieving its vision for the

future of Brisbane as stated in its long-term community plan; and

- (ii) how the implementation of the long-term community plan will be progressed for the period of the corporate plan.

Division 3 Annual operational plan

120 Preparation and adoption of annual operational plan

- (1) The council must prepare and adopt an annual operational plan for each financial year.
- (2) The chief executive officer must present a written assessment of the council's progress towards implementing the annual operational plan at meetings of the council held at regular intervals of not more than 3 months.
- (3) The council may, by resolution, amend its annual operational plan at any time before the end of the financial year.
- (4) The council must discharge its responsibilities in a way that is consistent with the annual operational plan.

121 Annual operational plan contents

The annual operational plan must—

- (a) be consistent with the annual budget; and
- (b) state how the council will—
 - (i) progress the implementation of the corporate plan during the period of the annual operational plan; and
 - (ii) manage operational risks.

Division 4 Long-term community plan

122 What div 4 is about

This division is about the requirements for the council's long-term community plan for providing strategic direction for the council's planning processes for at least 10 financial years.

123 Process for preparing a long-term community plan

The council must prepare the long-term community plan consistently with the following process—

- *intelligence gathering phase*

The council—

- (a) considers current and emerging trends, issues and relationships that affect the council and the community; and
- (b) identifies key descriptive data about the community by gathering and analysing data obtained from surveys, focus groups and existing forecasts, plans and proposals; and
- (c) analyses and evaluates relevant internal data, external data and the key descriptive data; and
- (d) identifies areas for which more information is required.

- *community input phase*

The council engages with the community, in a way that is consistent with the community engagement policy, to identify and prioritise the planning themes on which the development of the long-term community plan is based.

- *community vision phase*
The council develops its vision for the future of Brisbane having regard to its engagement with the community.
- *community validation phase*
The council—
 - (a) reviews the vision for Brisbane; and
 - (b) prepares a draft long-term community plan; and
 - (c) engages with the community about its vision for Brisbane, the planning themes on which the development of the long-term community plan is based and the draft long-term community plan.
- *policy and adoption phase*
The council—
 - (a) considers the impact of the draft long-term community plan on its long-term financial forecast, financial plan, and long-term asset management plan; and
 - (b) finalises and adopts the long-term community plan.

124 Adoption of long-term community plan

- (1) The council must adopt the long-term community plan but only if the council is satisfied the plan—
 - (a) outlines the engagement process undertaken by the council with the community in the development of the plan; and
 - (b) complies with the requirements under section 125.
- (2) The long-term community plan continues in force—
 - (a) for the period of at least 10 financial years stated in the long-term community plan; or

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- (b) until the earlier adoption of a new long-term community plan.

125 Long-term community plan contents

- (1) The long-term community plan must outline the council's goals, strategies and policies for implementing its vision for the future of Brisbane during the period covered by the plan.
- (2) The plan must also state—
- (a) how the council engaged with the community in preparing the plan and the extent to which the engagement was consistent with the council's community engagement policy; and
- (b) how the council has considered and incorporated local and regional issues that affect, or may in the future affect, Brisbane, including issues relating to the following—
- (i) economic development;
- (ii) environmental management;
- (iii) governance;
- (iv) social wellbeing.

Examples—

- art and culture development
- cultural and linguistic diversity
- housing
- population change
- community health

- (3) The plan may include separate provisions applying differently to different areas within Brisbane.

126 Community engagement for reviewing long-term community plan

- (1) This section applies to each of the following annual reviews of the implementation of the long-term community plan carried out by the council—
 - (a) the annual review for the fifth year after the plan is first adopted;
 - (b) at least 1 annual review within each subsequent period of 5 years while the plan is in force.
- (2) The council must, for carrying out the annual review, engage with the community in a way that is consistent with its community engagement policy.
- (3) The report on the results of the annual review must state—
 - (a) how the council engaged with the community for carrying out the review; and
 - (b) the extent to which the engagement was consistent with the council's community engagement policy.

127 Changing long-term community plan

- (1) The council may change the long-term community plan—
 - (a) at any time to—
 - (i) correct an error in the plan; or
 - (ii) make a change, other than a change of substance, in the plan; or
 - (b) as a result of an annual review of the plan, but only if the council has engaged with the community about the proposed change in a way that is consistent with its community engagement policy.
- (2) The change must be adopted by a resolution of the council.
- (3) A resolution for a change under subsection (1)(b) must state—

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- (a) the reasons for changing the long-term community plan; and
- (b) how the council engaged with the community about the change and the extent to which the engagement is consistent with the council's community engagement policy.

Division 5 Community engagement policy

128 Community engagement policy

- (1) The council must prepare and adopt a policy (a *community engagement policy*) describing how the council engages with the community about—
 - (a) preparing, reviewing and changing its long-term community plan; and
 - (b) any other matters mentioned in the policy relevant to establishing or reviewing the performance of its system of financial management.
- (2) The council may, by resolution, change the community engagement policy.

Division 6 Financial plan

Subdivision 1 General requirements

129 Financial plan requirements and contents

- (1) The council must prepare and adopt a financial plan.
- (2) The financial plan must—
 - (a) outline, for the period covered by the plan, the council's goals, strategies and policies, including the following—

-
- (i) an investment policy;
 - (ii) a debt policy;
 - (iii) a revenue policy; and
- (b) cover a period of at least 10 years after the commencement of the plan; and
 - (c) be consistent with the following—
 - (i) the long-term financial forecast;
 - (ii) the long-term community plan;
 - (iii) the long-term asset management plan.
- (3) For applying the financial plan to a decision about an investment, the council must consider the whole-of-life costing for the investment.

Subdivision 2 Requirements for policies outlined in plan

130 Investment policy

- (1) The council must prepare an investment policy each financial year.
- (2) The investment policy must—
 - (a) identify the council's—
 - (i) philosophy and strategy for investment; and
 - (ii) overall risk philosophy; and
 - (iii) investment objectives and expectations; and
 - (b) state—
 - (i) procedures for achieving the goals related to investment stated in the policy; and
 - (ii) how to follow the procedures.

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131 Debt policy

- (1) The council must prepare a debt policy each financial year.
- (2) The debt policy must state—
 - (a) the new borrowings planned for the current financial year and the next 9 financial years; and
 - (b) the time over which the council plans to repay existing and new borrowings.

132 Revenue policy

- (1) The council must prepare a revenue policy each financial year.
- (2) The revenue policy must state—
 - (a) the principles that the council intends to apply in the financial year for—
 - (i) levying rates and charges; and
 - (ii) granting concessions for rates and charges; and
 - (iii) recovering overdue rates and charges; and
 - (iv) cost-recovery fees; and
 - (b) if the council intends to grant concessions for rates and charges—the purpose for the concessions; and
 - (c) the extent to which physical and social infrastructure costs for a new development are to be funded by charges for the development; and
 - (d) the amount of each reserve to be kept in the operating fund and the way in which the council intends to ensure funding is available to support the purpose of each reserve.
- (3) The revenue policy may state guidelines that may be used for preparing the council's revenue statement.
- (4) The council must adopt the revenue policy in sufficient time before the start of the financial year to allow an annual budget

that is consistent with the revenue policy to be adopted for the financial year.

- (5) The council may amend the revenue policy at any time before the end of the financial year.

Division 7 Long-term asset management plan

133 Preparation of long-term asset management plan

- (1) The council must prepare and adopt a long-term asset management plan.
- (2) The long-term asset management plan continues in force—
- (a) for the period of at least 10 years stated in the plan; or
 - (b) until the earlier adoption of a new long-term asset management plan.

Part 4 Community grants

134 Grants to community organisations

The council may give a grant to a community organisation only—

- (a) if the council is satisfied—
 - (i) the grant will be used for a purpose that is in the public interest; and
 - (ii) the community organisation meets the criteria stated in the community grants policy; and
- (b) in a way that is consistent with the council's community grants policy.

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135 Community grants policy

- (1) The council must prepare and adopt a policy about grants to community organisations (a *community grants policy*).
- (2) The community grants policy must state—
 - (a) the criteria for a community organisation to be eligible for a grant from the council; and
 - (b) types of grants to community organisations that the council considers meet the criteria; and
 - (c) the procedure for approving a grant to a community organisation; and
 - (d) the criteria for a councillor to decide how to allocate the councillor's discretionary funds to particular community organisations that have applied for the funds.

Part 5 Spending

136 Entertainment and hospitality

- (1) The council may spend money on entertainment or hospitality only—
 - (a) if the entertainment or hospitality is in the public interest; and
 - (b) in a way that is consistent with the council's entertainment and hospitality policy.
- (2) *Entertainment or hospitality* includes, for example—
 - (a) entertaining members of the public in order to promote a council project; and
 - (b) providing food or beverages—
 - (i) to a person who is visiting the council in an official capacity; or

- (ii) for a conference, course, meeting, seminar, workshop or another forum that is held by the council for its councillors, council employees or other persons; and
- (c) paying for a councillor or council employee to attend a function as part of the councillor's or employee's official duties or obligations as a councillor or council employee.

137 Entertainment and hospitality policy

- (1) The council must prepare and adopt a policy about the council's spending on entertainment or hospitality (an *entertainment and hospitality policy*).
- (2) The entertainment and hospitality policy must state—
 - (a) the types of entertainment or hospitality the council considers to be in the public interest; and
 - (b) the types of entertainment or hospitality that may, or may not, be paid for with a credit card that is issued in the name of the council; and
 - (c) the procedure for approving spending on entertainment or hospitality.

138 Advertising spending

- (1) The council may spend money on advertising only—
 - (a) if—
 - (i) the advertising is to provide information or education to the public; and
 - (ii) the information or education is provided in the public interest; and
 - (b) in a way that is consistent with the council's advertising spending policy.

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- (2) **Advertising** is promoting an idea, goods or services to the public for which a fee is paid.

139 Advertising spending policy

- (1) The council must prepare and adopt a policy about the council's spending on advertising (an **advertising spending policy**).
- (2) The advertising spending policy must state—
- (a) the types of advertising the council considers provide information or education to the public; and
 - (b) the types of information or education the council considers are in the public interest to provide; and
 - (c) conditions limiting the level of spending on advertising in the 3 month period immediately before an election for the council; and
 - (d) the procedure for approving spending on advertising.

140 Procurement policy

- (1) The council must prepare and adopt a policy about procurement (a **procurement policy**) for each financial year.
- (2) The procurement policy must include details of the principles, including the sound contracting principles, that the council will apply in the financial year for purchasing goods and services.

Part 6 Public access to particular documents

141 Public access to relevant financial and planning documents

- (1) This section applies to the following documents of the council—
 - (a) its annual budget;
 - (b) its general purpose financial statement;
 - (c) its community financial report;
 - (d) its revenue statement;
 - (e) its annual report;
 - (f) its corporate plan;
 - (g) its long-term community plan, including the resolution to adopt the plan or a resolution to change it;
 - (h) its community engagement policy;
 - (i) its financial plan, including—
 - (i) the investment policy under section 130; and
 - (ii) the debt policy under section 131; and
 - (iii) the revenue policy under section 132;
 - (j) its community grants policy;
 - (k) its procurement policy.
- (2) The council must allow the public—
 - (a) to inspect the documents—
 - (i) at the council's public office; and
 - (ii) on the council's website; and
 - (b) to buy copies of the documents from the council.

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- (3) The council must ensure each copy costs no more than the cost to the council of making the copy available for purchase.

Part 7 Council's funds and accounts

Division 1 Trust fund

142 Trust fund

- (1) The council must establish a trust fund.
- (2) A *trust fund* is a fund that is credited with trust money.
- (3) *Trust money* is money that is—
 - (a) paid to the council in trust for a person; or
 - (b) paid to the council as a deposit; or
 - (c) required by an Act to be credited to a trust fund; or
 - (d) interest accrued on money that was paid to the council under paragraphs (a) to (c), whether or not the money was required to be paid to the council, unless the council and the depositor have agreed the interest accrued should be paid to an entity other than the council.
- (4) The council must deposit trust money in a financial institution account.
- (5) The council must not allow a financial institution account in which trust money has been deposited to be overdrawn at any time.
- (6) The council must, at least monthly, reconcile the assets of the trust fund with the liabilities of the trust fund.

143 Transferring money to or from a trust fund

- (1) The council may transfer trust money from a trust fund only under this section.
- (2) The council may transfer trust money from a trust fund—
 - (a) to, or for, the person who is entitled to the money, according to law; or
 - (b) as required by the relevant Act under which the money was paid into the trust fund.
- (3) If the purpose for which an amount of trust money was credited to the trust fund no longer exists, the council may, if it has resolved the purpose no longer exists, transfer the amount from the trust fund to the operating fund.
- (4) If an amount of trust money is mistakenly paid into the operating fund, the council must transfer the amount to the trust fund as soon as practicable, but in any case within 5 working days, after the council becomes aware that the amount has been paid into the wrong fund.
- (5) If an amount that is not trust money is mistakenly paid into the trust fund, the council must transfer the amount to the operating fund as soon as practicable, but in any case within 5 working days, after the council becomes aware the amount has been paid into the wrong fund.
- (6) Money that is trust money under section 142(3)(d) may be transferred from the trust fund to the operating fund at any time.

Division 2 Operating fund

144 Operating fund

- (1) The council must—
 - (a) establish a fund (the *operating fund*); and

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- (b) credit the operating fund with all money received by the council other than trust money.
- (2) The council may debit the operating fund for amounts relating to the council's operations, including capital expenditure.
- (3) The council must deposit money to be credited to the operating fund in a financial institution account.

145 Creating a reserve

- (1) The council may create a reserve in the operating fund by—
 - (a) including the reserve in its annual budget; or
 - (b) a resolution.
- (2) The purpose of the reserve must be stated in—
 - (a) the annual budget or an amendment of the annual budget; or
 - (b) the resolution that adopts or amends the annual budget; or
 - (c) the resolution mentioned in subsection (1)(b).

146 Transfers to or from an operating fund reserve

- (1) The council may transfer money to or from a reserve in the operating fund only under this section.
- (2) The council may make a transfer to or from a reserve in the operating fund only if it—
 - (a) resolves to make the transfer; or
 - (b) includes the transfer in its annual budget.
- (3) If a transfer is to be made for a purpose that is not the purpose of the reserve, the council must state the purpose of the transfer in—
 - (a) the resolution to make the transfer; or

- (b) the resolution that adopts the annual budget in which the transfer is included.
- (4) If the purpose for which the reserve was created no longer exists, the council may close the reserve.

Division 3 Discretionary funds

147 Requirements about discretionary funds—Act, s 106

- (1) This section prescribes requirements for—
 - (a) the council for making discretionary funds available; and
 - (b) a councillor for using discretionary funds.
- (2) The council must, within 20 business days after adopting its budget for a financial year, publish a notice on its website (the *availability notice*) stating—
 - (a) the amount in the council's discretionary funds budgeted for use by each councillor for the financial year; and
 - (b) that community organisations may apply for allocation of the funds; and
 - (c) how to apply for allocation of the funds.
- (3) A councillor of the council—
 - (a) must not allocate the councillor's discretionary funds for—
 - (i) capital works of the council; or
 - (ii) supplying administrative or support services for performing the councillor's responsibilities under the Act; and

Note—

See section 57 (Administrative and support services for councillors) of the Operations Regulation.

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- (b) may allocate the funds only to community organisations that have applied for the funds in the way stated in the availability notice; and
 - (c) must allocate the funds in a way that is consistent with the council's community grants policy.
- (4) As soon as practicable after an amount has been allocated from a councillor's discretionary funds, the council must publish a notice on its website stating—
- (a) the name of each community organisation to which the amount has been allocated; and
 - (b) the amount and purpose of the allocation.

Part 8 Accounting records

148 Accounting records for funds generally

- (1) The council must establish separate accounting records for—
- (a) its operating fund; and
 - (b) each reserve in its operating fund; and
 - (c) its trust fund.
- (2) The accounting records for a financial year must—
- (a) give a comparison with its annual budget for the financial year; and
 - (b) fairly represent the council's financial operations for the financial year.

149 Financial report

- (1) The council must prepare a financial report for each month.

- (2) The chief executive officer must present the financial reports at least quarterly at meetings of the council.
- (3) The financial reports presented at a meeting of the council must state the progress that has been made in relation to the council's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

150 Statement of estimated financial position

- (1) The chief executive officer must present the council's annual budget meeting with a statement of estimated financial position.
- (2) A *statement of estimated financial position* is a document stating the financial operations, and financial position, of the council for the previous financial year.
- (3) However, if the budget meeting is held in June, the statement—
 - (a) must relate to the financial operations for the financial year when the budget meeting is held until the latest day to which the document can reasonably be compiled; and
 - (b) must contain an estimate of the financial operations from the day when the budget meeting is held until the end of the financial year.
- (4) The statement must—
 - (a) be prepared on an accrual basis; and
 - (b) state the estimated income and expenditure stated in the adopted annual budget for the financial year; and
 - (c) state—
 - (i) the actual income and expenditure for the financial year; or
 - (ii) if the budget meeting is held before the end of the financial year—the anticipated actual income and expenditure for the financial year; and

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- (d) if there is a material difference between the income and expenditure mentioned in paragraph (b) and the income and expenditure mentioned in paragraph (c)—
 - (i) state the reason for the difference; and
 - (ii) state whether the difference will affect the council's annual budget for a later financial year.
- (5) In this section—

adopted annual budget, of the council, means—

 - (a) the annual budget adopted by the council under section 98(1); and
 - (b) any amendments of the annual budget adopted by the council under section 98(3) and (4).

Part 9 Asset accounting

151 Valuation of non-current physical assets

- (1) The value of the council's non-current physical assets must be worked out using the relevant accounting documents.
- (2) The council must, by resolution, set an amount for each different type of non-current physical asset below which the value of an asset of the same type must be treated as an expense.
- (3) The amount must be included in a note in the council's general purpose financial statement.
- (4) For subsection (2), the following assets that are controlled by the council do not have a value for the general purpose financial statement—
 - (a) land that is a reserve under the Land Act;
 - (b) a road that is not owned by the council.

Part 10 Auditing

Division 1 Internal audit function

Subdivision 1 Internal auditing and reporting

152 Internal audit

- (1) The council must carry out an internal audit each financial year.
- (2) *Internal audit* is the assessment and evaluation of the control measures that the council has adopted, or is to adopt, to manage the risks (*operational risks*) to which the council's operations are exposed.
- (3) The council must—
 - (a) prepare an internal audit plan for the internal audit for each financial year; and
 - (b) monitor the implementation of the plan.
- (4) In preparing the internal audit plan the council must—
 - (a) evaluate the operational risks; and
 - (b) have regard to the relevant accounting documents.
- (5) The council's *internal audit plan* is a document stating—
 - (a) the way in which the operational risks have been evaluated; and
 - (b) the most significant operational risks identified from the evaluation; and
 - (c) the control measures that the council has adopted, or is to adopt, to manage the most significant operational risks; and
 - (d) the way in which the council has had regard to the relevant accounting documents in preparing the plan.

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153 Internal audit progress report

- (1) The council must prepare an internal audit progress report for the internal audit for each financial year.
- (2) The council's *internal audit progress report* is a document stating—
 - (a) the control measures that the council has adopted that were assessed by the internal audit; and
 - (b) the way in which the internal audit was carried out; and
 - (c) the observations of the person carrying out the internal audit, including, for example, whether the person considers that the control measures have been successful in managing the risks to which they relate; and
 - (d) any recommendations of the person who conducted the audit about—
 - (i) any action that may be taken to improve the success of the control measures; or
 - (ii) alternative control measures that the council may adopt for managing the risks that the council's operations are exposed to and the action that may be taken to give effect to the alternative control measures; and
 - (e) a summary of the chief executive officer's response to the internal audit including—
 - (i) the action the council intends to take in response to the recommendations mentioned in paragraph (d); and
 - (ii) when the action is intended to be taken;
 - (f) a summary of the actions taken by the council in response to the recommendations in the internal audit progress reports for the preceding 2 financial years.
- (3) The council must give its audit committee—
 - (a) the internal audit progress report; and

-
- (b) at least twice during the year after the internal audit is carried out, each of the following documents—
 - (i) a summary of the recommendations stated in the report;
 - (ii) a summary of the actions that have been taken by the council in response to the recommendations;
 - (iii) a summary of any actions that have not been taken by the council in response to the recommendations.

Subdivision 2 Audit committee

154 Establishment and composition of audit committee

- (1) The council must establish an audit committee that—
 - (a) consists of at least 3 and no more than 6 members; and
 - (b) includes at least 1 member who has significant experience and skills in financial matters.
- (2) The audit committee may also include 2, but no more than 2, councillors appointed by the council.
- (3) The chief executive officer can not be a member of the audit committee but can attend meetings of the committee.
- (4) The council must appoint a member of the audit committee, other than a person appointed under subsection (2), as chairperson.

155 Audit committee meetings

- (1) The audit committee must—
 - (a) meet at least twice each financial year; and
 - (b) review each of the following matters—
 - (i) the internal audit plan for the internal audit for the current financial year;

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- (ii) the internal audit progress report for the internal audit for the preceding financial year including the recommendations in the report and the actions to which the recommendations relate;
 - (iii) a draft of the council's general purpose financial statement for the preceding financial year before the statement is certified under section 156(2) and given to the auditor-general for auditing;
 - (iv) the auditor-general's report about the council's general purpose financial statement for the preceding financial year; and
 - (c) as soon as practicable after a meeting of the committee, give the council a written report about the matters reviewed at the meeting and the committee's recommendations about the matters.
- (2) At a meeting of the audit committee—
 - (a) a quorum is at least half the number of members of the committee; and
 - Examples—*
 - 1 If the committee consists of 4 members, a quorum is 2.
 - 2 If the committee consists of 5 members, a quorum is 3.
 - (b) either—
 - (i) the chairperson presides; or
 - (ii) if the chairperson is absent, the member chosen by the members present as chairperson for the meeting, presides.
- (3) The audit committee may, for performing its functions under subsection (1)(b), seek information or advice from the person who has carried out the internal audit.
- (4) The chief executive officer must present the report mentioned in subsection (1)(c) at the next meeting of the council.

Division 2 External auditing

156 Auditing of general purpose financial statement by auditor-general

- (1) The council's general purpose financial statement for a financial year must be given to the auditor-general for auditing—
 - (a) as soon as practicable after the end of the financial year; and
 - (b) no later than 15 September of the next financial year.
- (2) The general purpose financial statement must be accompanied by a certificate in the approved form given by the mayor and chief executive officer, certifying that the statement—
 - (a) has been prepared in accordance with the relevant accounting documents; and
 - (b) accurately reflects the council's financial performance and position for the financial year.
- (3) If the Minister considers the council has not been able to give the auditor-general its general purpose financial statement under subsection (1) because of extraordinary circumstances, the Minister may, by notice to the council, extend the time by which the statement must be given.

157 Presentation of auditor-general's report

- (1) This section applies if the auditor-general gives the mayor of the council a copy of the auditor-general's report about the council's general purpose financial statement.
- (2) The mayor must present a copy of the report at the next ordinary meeting of the council.

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Part 11 Other matters

158 Insurance

The council must maintain the following insurance—

- (a) public liability insurance for at least \$30m;
- (b) professional indemnity insurance for at least \$10m.

159 Notice of payment of notional GST

The council must, no later than 15 September in each financial year, give the Minister a notice stating that the council has paid notional GST for the previous financial year.

Chapter 4 Contracting

Part 1 Introduction

160 What ch 4 is about

- (1) This chapter is about the council's contracting activities.
- (2) *Contracting activities* are activities for the making of a contract for—
 - (a) the carrying out of work; or
 - (b) the supply of goods or services; or
 - (c) the disposal of non-current assets.
- (3) However, this chapter does not apply to the council making a contract of employment with a council employee.

Part 2 Strategic contracting procedures

161 What pt 2 is about

- (1) This part allows the council to take a strategic approach to its contracts.
- (2) A *strategic approach* is an approach that identifies potential opportunities, while managing adverse risks.
- (3) However, this part applies to the council only if it decides to apply the part.
- (4) This part does not apply to a contract for the disposal of land.
- (5) For all other contracts, this part provides an alternative to part 3.

162 Power to choose strategic approach

- (1) The council may, by resolution, decide to apply this part to its contracts.
- (2) However, the council may do so only after it—
 - (a) has considered the costs and benefits of complying with this part; and
 - (b) has given the public notice of the proposed resolution.
- (3) The notice must—
 - (a) state the proposed resolution; and
 - (b) state the day and time of the meeting where the resolution is to be considered; and
 - (c) be published in a newspaper that circulates generally in Brisbane at least 4 weeks before the meeting.

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163 Effect of choice

- (1) If the council decides to apply this part to its contracts, it must comply with this part from—
 - (a) generally, the day on which the resolution is passed; or
 - (b) if the resolution states a later day for complying—the later day.
- (2) The later day must not be more than 1 year after the resolution is passed.
- (3) The passing of the resolution does not of itself affect a contractual obligation or right of the council.
- (4) Subsection (5) applies if, immediately before the day on which the council passes the resolution, the council—
 - (a) had, under part 3, invited tenders or quotes for a contract; and
 - (b) had received tenders or quotes in response to the invitation; and
 - (c) had not accepted, or had decided not to accept, any of the tenders or quotes.
- (5) Part 3 continues to apply to the contracts as if the resolution had not been passed.
- (6) The council may, by a later resolution, decide this part no longer applies to the council.
- (7) If the council does so, it must continue to comply with this part for any contract that was made when this part did apply to the council.

164 Contracting plans

- (1) This section applies if the council decides to apply this part to its contracts.
- (2) Each financial year, the council must make and adopt a contracting plan.

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- (3) A **contracting plan** is a document stating—
- (a) the types of contracts that the council proposes to make in the financial year; and
 - (b) how the sound contracting principles are to be applied to the council's contracting activities; and
 - (c) how the council will measure the application of the sound contracting principles; and
 - (d) the principles and strategies for performing the contracts; and
 - (e) a policy about proposed delegations for the contracts; and
 - (f) a market assessment for each type of contract; and
 - (g) the contracts that the council considers will be significant (a **significant contract**) having regard to the market assessment; and
 - (h) a policy about the making of a significant contracting plan under section 165.
- (4) A **market assessment** is an assessment of the relative cost and difficulty in securing supply under each type of contract.
- (5) A contracting plan must be consistent with and support the achievement of the strategic directions stated in the corporate plan.
- (6) The council must make the resolution to adopt a contracting plan before the council adopts the annual budget for the financial year.
- (7) The council may, by resolution, amend a contracting plan at any time before the end of the financial year to which the plan relates.
- (8) The council must allow the public to inspect and buy copies of the contracting plan at the council public office.

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165 Significant contracting plans

- (1) This section applies if the contracting plan identifies any significant contracts.
- (2) The council must make a significant contracting plan for each contract before the contract starts.
- (3) A *significant contracting plan* is a document stating—
 - (a) the objectives of the significant contract; and
 - (b) how the objectives support the asset disposal plan; and
 - (c) how the objectives are to be achieved; and
 - (d) how achievement of the objectives will be measured; and
 - (e) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
 - (f) proposed contractual arrangements for the activity; and
 - (g) a risk analysis of the market in which the contract is to happen.
- (4) The objectives must be consistent with the council's contracting plan.
- (5) The council may, by resolution, amend a significant contracting plan at any time before the end of the financial year to which the plan relates.

166 Contracting activities manual

- (1) The council must make and adopt a contract manual.
- (2) A *contract manual* is a document that sets out the procedures for how the council is to carry out all contracts.
- (3) The contract manual must—
 - (a) apply the sound contracting principles; and
 - (b) be consistent with, and support, the achievement of the strategic direction stated in the corporate plan; and

- (c) if the council has adopted a contracting plan—be consistent with the contracting plan; and
- (d) include a policy about how the council is to deal with any non-current assets that have a value of less than the relevant amount under section 168(6).

Part 3 Default contracting procedures

Division 1 Introduction

167 What pt 3 is about

- (1) This part is about the requirements that the council must comply with before entering into a contract, unless the council decides to comply with part 2.
- (2) This part also applies to a contract for the disposal of land.

Division 2 Entering into particular contracts

168 What div 2 is about

- (1) This division explains what the council must do before it enters into—
 - (a) a medium-sized contract; or
 - (b) a large-sized contract; or
 - (c) a valuable non-current asset contract.
- (2) A *medium-sized contract* is a contract worth \$15000 or more but less than \$150000.
- (3) A *large-sized contract* is a contract worth \$150000 or more.

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- (4) A *valuable non-current asset contract* is a contract for the disposal of a valuable non-current asset.
- (5) A *valuable non-current asset* is—
 - (a) land; or
 - (b) another non-current asset that has an apparent value that is equal to or more than the limit set by the council.
- (6) The limit set by the council can not be more than the following amount—
 - (a) for land—\$1;
 - (b) for plant or equipment—\$5000;
 - (c) for another type of non-current asset—\$10000.

169 Medium-sized contract—quotes needed first

- (1) The council can not enter into a medium-sized contract unless the council first invites written quotes for the contract.
- (2) The invitation must be given to at least 3 persons who the council considers can meet the council's requirements, at competitive prices.
- (3) The council may decide not to accept any of the quotes it receives.
- (4) However, if the council does decide to accept a quote, the council must accept the quote most advantageous to it having regard to the sound contracting principles.
- (5) This section is subject to division 3.

170 Large-sized contract—tenders needed first

- (1) The council can not enter into a large contract unless the council first invites written tenders for the contract under section 172.
- (2) This section is subject to division 3.

171 Valuable non-current asset contract—tenders or auction needed first

- (1) The council can not enter into a valuable non-current asset contract unless it first—
 - (a) invites written tenders for the contract under section 172; or
 - (b) offers the non-current asset for sale by auction.
- (2) This section is subject to division 4.

172 Tender process

- (1) This section is about how the council must invite written tenders for—
 - (a) a large-sized contract; or
 - (b) a valuable non-current asset contract.
- (2) The council must either—
 - (a) invite written tenders under subsection (4); or
 - (b) invite expressions of interest under subsection (5), before considering whether to invite written tenders under subsection (6)(b).
- (3) However, the council may invite expressions of interest under subsection (5) only if the council—
 - (a) decides, by resolution, that it would be in the public interest to invite expressions of interest before inviting written tenders; and
 - (b) keeps a record of its reasons for making the resolution.
- (4) The invitation for tenders must—
 - (a) be made by an advertisement in a newspaper that circulates generally in Brisbane; and
 - (b) allow written tenders to be given to the council for at least 21 days after the advertisement is published.

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- (5) The invitation for expressions of interest must—
 - (a) be made by an advertisement in a newspaper that circulates generally in Brisbane; and
 - (b) allow written expressions of interest to be given to the council for at least 21 days after the advertisement is published.
- (6) If the council invites expressions of interest under subsection (5), the council may—
 - (a) prepare a shortlist from the persons who respond to the invitation for expressions of interest; and
 - (b) invite written tenders from those persons.
- (7) If—
 - (a) an invitation to tender under subsection (4) or (6)(b) states that the council might later invite all tenderers to change their tenders to take account of a change in the tender specifications; and
 - (b) the council does change the tender specifications;
the council may invite all the persons who submitted a tender to change their tender to take account of the change, before making a decision on the tenders.
- (8) The council may decide not to accept any tenders it receives.
- (9) However, if the council does decide to accept a tender, the council must accept the tender most advantageous to it, having regard to the sound contracting principles.

Division 3 Exceptions for medium- and large-sized contracts

173 What div 3 is about

This division explains when the council may enter into—

- (a) a medium-sized contract without first inviting written quotes; or
- (b) a large-sized contract without first inviting written tenders.

174 Exception if quote or tender consideration plan prepared

- (1) The council may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if the council—
 - (a) decides, by resolution, to prepare a quote or tender consideration plan; and
 - (b) prepares and adopts the plan.
- (2) A *quote or tender consideration plan* is a document stating—
 - (a) the objectives of the plan; and
 - (b) how the objectives are to be achieved; and
 - (c) how the achievement of the objectives will be measured; and
 - (d) any alternative ways of achieving the objectives, and why the alternative ways were not adopted; and
 - (e) the proposed terms of the contract for the goods or services; and
 - (f) a risk analysis of the market from which the goods or services are to be obtained.

175 Exception for contractor on approved contractor list

- (1) This section applies to a medium-sized contract or large-sized contract for services.
- (2) The council may enter into the contract without first inviting written quotes or tenders if the contract is made with a person who is on an approved contractor list.

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- (3) An ***approved contractor list*** is a list of persons who the council considers to be appropriately qualified to provide the services.
- (4) The council must put together the approved contractor list by—
 - (a) inviting expressions of interest from suitably qualified persons, by an advertisement in a newspaper that circulates generally in Brisbane; and
 - (b) allowing expressions of interest to be given to the council for at least 21 days after the invitation is advertised; and
 - (c) choosing persons for the approved contractor list on the basis of the sound contracting principles.

176 Exception for register of pre-qualified suppliers

- (1) This section applies to a medium-sized contract or large-sized contract for the supply of goods or services.
- (2) The council may enter into the contract without first inviting written quotes or tenders if the contract is entered into with a supplier from a register of pre-qualified suppliers.
- (3) The council may establish a register of pre-qualified suppliers of particular goods or services only if—
 - (a) the preparation and evaluation of invitations every time that the goods or services are needed would be costly; or
 - (b) the capability or financial capacity of the supplier of the goods or services is critical; or
 - (c) the supply of the goods or services involves significant security considerations; or
 - (d) a precondition of an offer to contract for the goods or services is compliance with particular standards or conditions set by the council; or
 - (e) the ability of local business to supply the goods or services needs to be discovered or developed.

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- (4) A *pre-qualified supplier* is a supplier who has been assessed by the council as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements.

177 Exception for a preferred supplier arrangement

- (1) This section applies to a medium-sized contract, or a large-sized contract, for goods or services if the council—
- (a) needs the goods or services—
 - (i) in large volumes; or
 - (ii) frequently; and
 - (b) is able to obtain better value for money by accumulating the demand for the goods or services; and
 - (c) is able to describe the goods or services in terms that would be well understood in the relevant industry.
- (2) The council may enter into a contract for the goods or services without first inviting written quotes or tenders if the contract is entered into with the preferred supplier under a preferred supplier arrangement that is made in compliance with subsections (3) to (7).
- (3) The council must invite persons to tender for a preferred supplier arrangement.
- (4) The invitation to tender for a preferred supplier arrangement must—
- (a) be made by an advertisement in a newspaper that circulates generally in Brisbane; and
 - (b) allow tenders to be given to the council for at least 21 days after the advertisement is published; and
 - (c) describe the terms of the preferred supplier arrangement.

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- (5) When selecting a person to be the preferred supplier under a preferred supplier arrangement, the council must have regard to the sound contracting principles.
- (6) The council must ensure the terms of the preferred supplier arrangement allow the contract to be cancelled for the poor performance of the preferred supplier.
- (7) A preferred supplier arrangement may be entered into for a term of more than 2 years only if the council is satisfied it will get better value for doing so.

178 Exception for LGA arrangement

- (1) The council may enter into a contract for services without first inviting written quotes or tenders if the contract is entered into under an LGA arrangement.
- (2) An **LGA arrangement** is an arrangement that—
 - (a) has been entered into by—
 - (i) LGAQ Ltd.; or

Note—
See the *Local Government Act 2009*, section 287.

 - (ii) a company (the **associated company**) registered under the Corporations Act, if LGAQ Ltd. is its only shareholder; and
- (b) if LGAQ Ltd. or the associated company were the council, would be, either—
 - (i) a contract with an independent supplier from a register of pre-qualified suppliers established under section 176(3) by LGAQ Ltd. or the associated company; or
 - (ii) a preferred supplier arrangement entered into with an independent supplier under section 177.

-
- (3) An **independent supplier** is an entity other than a subsidiary (a **relevant subsidiary**) of LGAQ Ltd. or the associated company under the Corporations Act.
 - (4) Despite subsection (2)(b), an **LGA arrangement** may include a contract with a relevant subsidiary from a register of pre-qualified suppliers or a preferred supplier arrangement with a relevant subsidiary if the arrangement is approved by the Minister.
 - (5) For deciding whether to approve an LGA arrangement under subsection (4), the Minister—
 - (a) must have regard to the sound contracting principles; and
 - (b) may ask LGAQ Ltd. or the associated company to give the Minister information or documents relevant to the arrangement.

Examples of relevant information or documents—

- information or documents relating to assessment of the relevant subsidiary's suitability to be on the register of pre-qualified suppliers or the tender process for the preferred supplier arrangement
- information or documents relating to the potential impact of the arrangement on council employees

179 Other exceptions

The council may enter into a medium-sized contract or large-sized contract without first inviting written quotes or tenders if—

- (a) the council resolves it is satisfied that there is only 1 supplier who is reasonably available; or
- (b) the council resolves that, because of the specialised or confidential nature of the services that are sought, it would be impractical or disadvantageous for the council to invite quotes or tenders; or
- (c) a genuine emergency exists; or

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- (d) the contract is for the purchase of goods and is made by auction; or
- (e) the contract is for the purchase of second-hand goods; or
- (f) the contract is made with, or under an arrangement with, a government body.

Division 4 Exceptions for valuable non-current asset contracts

180 Exceptions for valuable non-current asset contracts

- (1) The council may dispose of a valuable non-current asset other than by tender or auction if—
 - (a) the valuable non-current asset—
 - (i) was previously offered for sale by tender or auction but was not sold; and
 - (ii) is sold for more than the highest tender or auction bid that was received; or
 - (b) the valuable non-current asset is disposed of to—
 - (i) a government body; or
 - (ii) a community organisation; or
 - (c) for the disposal of land—
 - (i) the land will not be rateable land after the disposal; or
 - (ii) the land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom; or
 - (d) for the disposal of a valuable non-current asset, other than land, by way of a trade-in for the supply of goods or services to the council—
 - (i) the supply is, or is to be, made under part 2; and

- (ii) the disposal is, or is to be, part of the contract for the supply; or
 - (e) the Minister exempts the council from complying with section 171.
- (2) An exemption under subsection (1)(e) may be given subject to conditions.

Part 4 Publishing details of particular contracts

181 Publishing details of contracts worth \$100000 or more

- (1) The council must, as soon as practicable after entering a contract under this chapter worth \$100000 or more, publish relevant details of the contract on the council's website.
- (2) Also, if a person asks the council to give relevant details of a contract, the council must allow the person to inspect the relevant details at the council's public office.
- (3) In this section—
 - relevant details*, of a contract, include the following—
 - (a) the person with whom the council has entered into the contract;
 - (b) the worth of the contract;
 - (c) the purpose of the contract.

Example—

the particular goods or services to be supplied under the contract

Part 5 Other matters

182 Entering into a contract under a delegation

- (1) The council may, by resolution (the *delegation resolution*), delegate power to make, amend or discharge a contract for the council.
- (2) The delegate may make, amend or discharge a contract (the *contractual action*) for the council if—
 - (a) the council's expenditure because of the contractual action has been provided for in the approved annual budget for—
 - (i) the financial year when the contractual action is taken; or
 - (ii) the financial year in which the delegation resolution is made, if the expenditure is within the limits stated in the resolution; or
 - (b) the contractual action has been taken because of genuine emergency or hardship.
- (3) The delegate may take the contractual action in the same way as an individual.
- (4) This section does not affect another law that requires—
 - (a) an approval, consent or permission to be obtained; or
 - (b) a procedure to be complied with for taking the contractual action.

Chapter 5 Transitional provisions

183 Amendment of annual budget for 2010–2011 financial year

- (1) This section applies to the council's annual budget for the 2010–2011 financial year.
- (2) Despite section 96, the budget is not required to comply with section 96(3).
- (3) Despite section 98(4) and (5), the budget does not fail to comply with section 96 only because the budget does not comply with section 96(3).

184 Requirements for reporting complaints in annual report for 2010–2011

- (1) This section applies, despite section 113, to the council's annual report for the 2010–2011 financial year.
- (2) If the council has continued to follow the general complaints process under the repealed *Local Government Act 1993* for a period, the annual report must include the number of complaints resolved under the process during the period.

Note—

Under section 114(6) of the Operations Regulation, the council may continue to follow the general complaints process under the repealed Act before 1 July 2011.

185 Long-term community plan

- (1) Despite section 124, the council is not required to prepare and adopt a long-term community plan until 1 December 2011.
- (2) However, the council may, before 1 December 2011, adopt another of its documents (a ***comparable document***) as its long-term community plan if the council is reasonably satisfied the comparable document would comply with sections 124(1)(a) and 125 if the provisions applied to the comparable document.

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Chapter 6 Amendment of Fire and Rescue Service Regulation 2001

186 Regulation amended

This chapter amends the *Fire and Rescue Service Regulation 2001*.

187 Insertion of new s 13A

After section 13—

insert—

‘13A Prescribed provisions for general rates applying to amount in fire levy notice—Act, s 115

‘For section 115(2), definition *relevant provisions* of the Act, the prescribed provisions are as follows—

- (a) the *Local Government Act 2009*, section 94(1)(a);
- (b) the *Local Government (Finance, Plans and Reporting Regulation) 2010*, chapter 2, other than the following—
 - (i) sections 41(1), 43, 44, 45 and 48;
 - (ii) part 10;
 - (iii) sections 64 and 65;
 - (iv) part 12, division 3, subdivision 3;
- (c) the *City of Brisbane Act 2010*, section 96(1)(a);
- (d) the *City of Brisbane (Finance, Plans and Reporting Regulation) 2010*, chapter 2, other than the following—
 - (i) sections 39(1), 41, 42, 43 and 46;
 - (ii) part 10;
 - (iii) sections 62 and 63;
 - (iv) part 12, division 3, subdivision 3.’.

Schedule Dictionary

section 3

2-year averaged value see section 8(1).

3-year averaged value see section 9(1).

Accounting Standard AASB 116 is Accounting Standard AASB 116 issued by the Australian Accounting Standard Board.

advertising see section 138(2).

advertising spending policy see section 139(1).

annual budget means the council's annual budget under chapter 3, part 2, division 1.

annual implementation plan see section 27(8).

annual report means the council's annual report under chapter 3, part 3, division 1.

asset consumption ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

asset sustainability ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

auditor-general's report means a report under the *Auditor-General Act 2009*, section 40.

Business Activities Regulation means the *City of Brisbane (Beneficial Enterprises and Business Activities) Regulation 2010*.

categorisation officer means a person appointed under section 17.

change of owner notice, for chapter 2, part 13, division 3, see section 91.

community engagement policy see section 128(1).

community financial report means the council's community financial report under section 101.

community grants policy see section 135(1).

community organisation means—

- (a) an entity that carries on activities for a public purpose; or
- (b) another entity whose primary object is not directed at making a profit.

community service obligation see section 22 of the Business Activities Regulation.

community titles Act means—

- (a) the *Body Corporate and Community Management Act 1997*; or
- (b) the *Building Units and Group Titles Act 1980*; or
- (c) the *Integrated Resort Development Act 1987*; or
- (d) the *Mixed Use Development Act 1993*.

concession, for rates or charges, means a concession granted under chapter 2, part 10.

contracting activities, for chapter 4, see section 160(2).

control measure, for managing a risk, means a measure that may be adopted for managing the risk.

corporate plan means the corporate plan adopted under section 118.

court proceedings means proceedings in a court having jurisdiction for the recovery of a debt in the amount claimed.

differential general rates see section 13(2).

discount period see section 62(2).

due date for payment, for rates or charges, means—

- (a) the due date stated in the rate notice by which the rates or charges must be paid; or

-
- (b) if a concession defers payment of the rates or charges under section 53(b)—the due date stated in the agreement to defer payment of the rates or charges under the concession; or
 - (c) if a concession accepts a transfer of unencumbered land in full or part payment of the rates or charges under section 53(c)—the due date stated in the agreement to accept the transfer.

entertainment and hospitality policy see section 137(1).

financial institution account means an account with a financial institution.

Financial Management (Sustainability) Guideline 2009 means the document of that name published by the department.

Editor's note—

The document may be obtained from the department's head office at 100 George Street, Brisbane and is available on the department's website at <www.dip.qld.gov.au>.

government body is—

- (a) the State, a government entity, a corporate entity, or another local government; or
- (b) another Australian government, an entity of another Australian government; or
- (c) a local government of another State.

interest coverage ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

interested parties are—

- (a) the owner of the land; and
- (b) the holder of any registered interest in the land; and
- (c) any encumbrancee, lessee or trustee of the land who has given the council notice of their interest in the land.

internal audit see section 152(2).

internal audit progress report see section 153(2).

land record see section 85(2).

large-sized contract see section 168(3).

market value, of land for chapter 2, part 12, division 3, see section 69.

medium-sized contract see section 168(2).

net financial liabilities ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

new owner, for chapter 2, part 13, division 3, see section 91.

notice means a written notice.

notice of intention to acquire, for land, see section 80(3).

notice of intention to sell, for land, see section 72(4).

objection notice see section 23(4).

operating fund see section 144(1)(a).

operating surplus ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

Operations Regulation means the *City of Brisbane (Operations) Regulation 2010*.

overall plan see section 27(4).

overdue, for rates or charges, see section 64.

pensioner means a person who is the holder of a pensioner concession card issued by the department of the Commonwealth responsible for administering the *Social Security Act 1991* (Cwlth) or the *Veterans' Entitlements Act 1986* (Cwlth).

preferred supplier arrangement means a preferred supplier arrangement under section 177.

pre-qualified supplier see section 176(4).

previous owner, for chapter 2, part 13, division 3, see section 91.

procurement policy see section 140.

rateable value see section 7(2).

rate notice see section 36(2).

rate payer is a person who is liable to pay rates or charges.

rating category see section 14(1).

rating category statement see section 21(4).

registered interest, in land, means an interest in land that has been registered by the registrar of titles.

relevant accounting document see section 100(2).

relevant measures of financial sustainability see section 96(3).

reserve, for an operating fund, means a reserve under section 145.

significant contract see section 164(3)(g).

State encumbrance see section 70(2).

statement of estimated financial position see section 150(2).

strategic approach see section 161(2).

trust fund see section 142(2).

trust money see section 142(3).

valuable non-current asset see section 168(5).

valuable non-current asset contract see section 168(4).

Valuation of Land Act means the *Valuation of Land Act 1944*.

value, of land, see section 5.

working capital ratio see the Financial Management (Sustainability) Guideline 2009, heading 'Explanation of measures'.

ENDNOTES

- 1 Made by the Governor in Council on 1 July 2010.
- 2 Notified in the gazette on 1 July 2010.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Infrastructure and Planning.

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