



Queensland

City of Brisbane Regulation 2012

Explanatory Notes for SL 2012 No. 235

made under the

City of Brisbane Act 2010

General outline

Short title

City of Brisbane Regulation 2012.

Authorising law

Section 252 of the *City of Brisbane Act 2010*.

Policy objectives and the reasons for them

For the 2012 State election the Queensland Government made an express commitment to revitalise the *City of Brisbane Act 2010* and the *Local Government Act 2009* to empower Queensland local councils. The Government's commitments in the "Six month action plan July-December 2012" and the *Empowering Queensland Local Government Election Policy* include the following:

- *Empowering Queensland Local Government Policy 1.1.5*: Recognising that local governments need to be autonomous, sustainable, efficient, responsible, accountable and responsive to local needs, with a clear role in enhancing economic, social and environmental quality of life in local communities;

- *Empowering Queensland Local Government Policy 4.4*: Ensuring that mayors and local councillors are clearly in charge of councils;
- *Empowering Queensland Local Government Policy 11.2.3*: Streamlining reporting and auditing regulation where local governments have demonstrated adequate financial planning and administration to reflect diversity of local governments, and take into account appropriate risk profiling;
- *Empowering Queensland Local Government Policy 19.1*: Recognising that local communities have the power to establish appropriate local laws, through a responsible, accountable local council.

The objective of the *City of Brisbane Regulation 2012* is to complement the statutory reforms already made under the *Local Government and Other Legislation Amendment Act 2012* and to further implement the Government's local government election commitments, by removing unnecessary regulation and interference from the State government, streamlining processes and reporting requirements and reducing the volume of the statute book.

Achievement of policy objectives

The *City of Brisbane Regulation 2012* achieves the policy objectives by supporting the recent amendments to the *City of Brisbane Act 2010* and implementing the Government's broader policy agenda of empowering local governments, by streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription and replacing the *City of Brisbane (Beneficial Enterprises and Business Activities) Regulation 2010*, the *City of Brisbane (Finance, Plans and Reporting) Regulation 2010* and the *City of Brisbane (Operations) Regulation 2010* with a single regulation.

A suite of amendments to the previous regulations and the unchanged provisions in the previous regulations to remain in force make up the new *City of Brisbane Regulation 2012*.

Beneficial enterprise and corporatisation processes

The *Local Government and Other Legislation Amendment Act 2012* repeals provisions in the *City of Brisbane Act 2010* relating the corporatisation of business activities. As a result, the corporatisation processes within the *Corporations Act 2001* (Cwlth) will apply to Brisbane City Council (BCC) when it seeks to establish corporations. Also, the Act reduces prescription

applying when BCC carries out beneficial enterprises. The beneficial enterprise processes under the *Statutory Bodies Financial Arrangements Act 1982* will continue to apply to BCC. Accordingly, reforms under the proposed regulation include:

- removing prescription around BCC carrying out beneficial enterprises
- removing prescription concerning reform of significant businesses
- removing the power for BCC to corporatise a significant business under the *City of Brisbane Act 2010*
- streamlining provisions regarding competitive neutrality complaints.

Financial management

The *Local Government and Other Legislation Amendment Act 2012* cuts unnecessary red tape and streamlines provisions about the financial sustainability and accountability of BCC and clarifies matters regarding various contractual matters. Accordingly, reforms under the proposed regulation include streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription in relation to:

- levying special rates or charges
- amending a land record
- annual budget reporting requirements
- relevant measures of financial sustainability
- annual report, corporate plan and operational plan reporting requirements
- the preparation and content of financial planning and accountability documents, including the long-term financial forecast and revenue statement
- council policies, including removing the requirement for a community engagement policy
- councillor's discretionary funds
- internal and external auditing and reporting
- contracting procedures, including increasing financial thresholds
- long-term community plans and financial plans
- exemptions regarding disposal of valuable non-current assets

- publication requirements for contracts.

Operational matters

The *Local Government and Other Legislation Amendment Act 2012* cuts unnecessary red tape and streamlines provisions regarding a number of operational matters within BCC's jurisdiction. Accordingly, reforms under the proposed regulation include streamlining provisions and/or removing unnecessary regulatory duplication, red tape or prescription in relation to:

- local laws
- the operation of malls
- BCC meeting requirements
- portability of long service leave entitlements
- employee disciplinary action and related appeal rights.

Consistency with policy objectives of authorising law

Section 252 of the *City of Brisbane Act 2010* is the general regulation-making power. The proposed regulation is consistent with the main objectives of the *City of Brisbane Act 2010*, that is to ensure there is a local government in Brisbane, that is accountable, effective, efficient and sustainable.

Inconsistency with policy objectives of other legislation

The proposed regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

The proposed regulation empowers BCC, removes unnecessary regulation and interference from the State government, and streamlines processes and reporting requirements which would not be achieved without legislative amendment.

Benefits and costs of implementation

As the proposed regulation's objectives are to empower BCC and streamline processes, any costs to the Government are expected to be minimal.

Consistency with fundamental legislative principles

The proposed regulation is considered to be consistent with the fundamental legislative principles, as defined in the *Legislative Standards Act 1992*.

Consultation

No public consultation was undertaken during the development of the regulation as the Government has an electoral mandate to implement its announced policy commitments, outlined in the Government's *Empowering Queensland Local Government Election Policy* and its "Six month action plan July-December 2012".

The proposed regulation supports recent amendments to the City of Brisbane Act 2010. These statutory reforms were widely consulted on and generally supported by the Local Government Association Queensland (LGAQ), Local Government Managers Australia (LGMA) and BCC and numerous government agencies.

The LGAQ, the LGMA, BCC, the Queensland Ombudsman, the Queensland Integrity Commissioner, the Crime and Misconduct Commission, the Queensland Water Commission, the Queensland Audit Office, Queensland Treasury and Trade and the Department of the Premier and Cabinet were consulted during the development of the proposed regulation.

In addition, the Minister for Local Government recently undertook visits to all 73 local governments across Queensland to ascertain their views about, and suggestions for, improvements to the local government portfolio legislation. Feedback provided by local governments (including BCC) during this process was considered during drafting of the regulation.

The Regulatory Review Branch of Queensland Treasury and Trade was consulted in relation to the proposed regulation and confirmed that a Regulatory Impact Statement is not required.

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Local Government.

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