

Local Government Legislation Amendment Regulation (No. 1) 2017

Explanatory notes for SL 2017 No. 65

made under the

City of Brisbane Act 2010
Local Government Act 2009

General Outline

Short title

Local Government Legislation Amendment Regulation (No. 1) 2017

Authorising law

Section 252 of the *City of Brisbane Act 2010* and sections 20 and 270 of the *Local Government Act 2009*.

Policy objectives and the reasons for them

The objectives of the regulation are to:

1. amend the *City of Brisbane Regulation 2012* (CBR) and the *Local Government Regulation 2012* (LGR) to provide that if a rate notice is given to a person electronically, a rating category statement that must or may accompany, or be contained in, the rate notice, may be given electronically to the person with the rate notice, or by including the rating category statement in the notice, or by giving the person electronic access to the rating category statement (for example, providing the person a message stating that the statement is available to read by opening a stated hyperlink); and
2. amend the LGR to implement the recommendations of the Local Government Change Commission (the Commission) to alter the common external boundaries of Barcoo, Bulloo, Paroo and Quilpie Shire Councils and to facilitate the implementation of the boundary changes.

Provision of a rating category statement

The CBR section 100 and the LGR section 108 provide that 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/local government to expect the notice would be readily accessible so as to be useable for subsequent reference by the person.

Currently, if a ratepayer has given consent to the rate notice being given electronically, Brisbane City Council (BCC) provides the rating category statement as an electronic PDF attachment to the notice emailed to the relevant ratepayer. BCC requested an amendment to the CBR to allow council to replace the PDF attachment with a direct hyperlink to the rating category statement on the website.

The Local Government Association of Queensland (LGAQ) supports the equivalent amendment to the LGR.

Local government boundary changes

Under the *Local Government Act 2009* (LGA), the Commission has jurisdiction to assess and make recommendations in relation to applications for local government changes. Local government changes are changes to a local government's boundaries, divisions (other than the City of Brisbane), number of councillors, name and classification.

Chapter 2 part 3 of the LGA governs the process for making a local government change.

Section 18 of the LGA provides that only the Minister for Local Government may propose a local government change to the Commission.

On 18 June 2015, applications from Barcoo Shire Council (27 March 2015), Bulloo Shire Council (31 March 2015), Paroo Shire Council (27 April 2015) and Quilpie Shire Council (27 March 2015) seeking realignment of their common boundaries, were referred by the then Minister for Local Government to the Commission for assessment. All the boundary anomalies were identified by the Department of Natural Resources and Mines (DNRM).

In September 2016 the Commission recommended that the common boundaries be realigned. In February 2017 the Commission furnished an Addendum Report which made a minor amendment to the original report.

Section 20 of the LGA provides that the Governor in Council may implement the Commission's recommendation under a regulation and that the regulation may provide for anything that is necessary or convenient to facilitate the implementation of the local government change.

Achievement of policy objectives

Provision of a rating category statement

Sections 4 and 7 of the regulation achieve the policy objectives by amending the CBR section 100 and the LGR section 108, respectively, to provide that if a rate notice is given to a person electronically, the rating category statement may also be given electronically to the person: (a) with the rate notice, or (b) by including the rating category statement in the notice, or (c) by giving the person electronic access to the rating category statement, for example, providing the person a message stating that the statement is available to read by opening a stated hyperlink.

The amendments only apply to a ratepayer who consents to receive their rate notice electronically. Ratepayers who do not elect to receive their rate notices electronically will not be affected by the changes and will continue to receive their rate notices and the rating category statement in paper form.

In relation to notices given to owners about categorisation of land, sections 3 and 6 of the regulation insert a note in the CBR section 81(3) and the LGR section 88(3), respectively, to cross reference the sections about how a rating category statement may be given electronically (CBR section 100(2) and the LGR section 108(2)).

Local government boundary changes

The regulation achieves the policy objectives by implementing the Commission's recommendations, as follows:

- All parts of Lot 3349 on PH1343 (now SP276963) within Quilpie Shire be moved to Barcoo Shire
- All parts of Lot 6 on SP196201 within Bulloo Shire be moved to Quilpie Shire
- All parts of Lot 3 on B122 within Quilpie Shire be moved to Bulloo Shire
- All parts of Lot 5096 on PH550 within Bulloo Shire be moved to Paroo Shire
- All parts of Lot 2 on AD3 within Bulloo Shire be moved to Barcoo Shire
- All parts of Lot 5 on GE39 within Quilpie Shire be moved to Barcoo Shire
- All parts of Lot 434 on PH2147 (now SP271043) within Barcoo Shire be moved to Quilpie Shire
- All parts of Lot 4195 on PH288 within Quilpie Shire be moved to Barcoo Shire.

The LGR section 6(1) states the boundaries of each local government area, and any divisions of the area, are shown on its area map mentioned in schedule 1 column 3.

The regulation section 8 amends schedule 1 column 3 of the LGR to reflect the updated local government area maps – Barcoo Shire Council (LGB 6 edition 2), Bulloo Shire Council (LGB 10 edition 2), Paroo Shire Council (LGB 53 edition 2), and Quilpie Shire Council (LGB 55 edition 2).

The LGR section 13B states that schedule 3 part 1 implements the local government changes mentioned in it, and schedule 3 part 2 makes provision for facilitating the implementation of each local government change mentioned in schedule 3 part 1.

The regulation section 9 inserts section 1G in the LGR schedule 3 part 1 to detail the changes in the common boundaries between Barcoo, Bulloo, Paroo and Quilpie Shire Councils. The changes take effect on the commencement of the regulation.

The amendments implement the boundary changes and enable the matters ancillary to boundary changes listed in schedule 3 part 2 of the LGR to facilitate the implementation of the boundary changes. These matters include unfinished actions of the former local government and the continuation of planning schemes for persons affected by boundary changes.

Consistency with policy objectives of authorising law

The regulation is consistent with the policy objectives of the authorising laws.

Inconsistency with policy objectives of other legislation

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

Benefits and costs of implementation

The costs to government as a result of the proposed amendments are negligible.

Consistency with fundamental legislative principles

The regulation has been drafted with regard to the fundamental legislative principles as defined in the *Legislative Standards Act 1992* and is consistent with the principles.

Consultation

In accordance with section 19 of the LGA, the Commission determined that the holding of a public hearing or to call for further submissions about the proposed boundary changes was unnecessary.

In making its assessment, the Commission noted:

- the Minister referred the matter expressing a view that a change was desirable;
- the support of the four councils to change the boundaries to align them with the relevant cadastral boundaries;
- the affected landowners had been consulted.

The proposed boundary changes were assessed as being in the public interest, consistent with the LGA, in the interests of the affected councils and landowners and also for essential services with the entirety of the lots being included in the same locality and council area.

Public notice of the Commission's recommendations was published in the Queensland Government Gazette, in local newspapers and on the Electoral Commission of Queensland's website, www.ecq.qld.gov.au.

The LGAQ and BCC were consulted on the draft regulation and raised no issues.

DNRM was consulted to ensure the availability of updated local government area maps for public inspection as required under section 6 of the LGR from the commencement of the regulation.