

# Local Government (Fraser Coast Regional Council—Dismissal of Councillor) Amendment Regulation 2018

Explanatory notes for SL 2018 No. 13

made under the

*Local Government Act 2009*

## General Outline

### Short title

*Local Government (Fraser Coast Regional Council—Dismissal of Councillor) Amendment Regulation 2018*

### Authorising law

Sections 122 and 270 of the *Local Government Act 2009*.

### Policy objectives and the reasons for them

Section 122 of the *Local Government Act 2009* (LGA) provides that if the Minister reasonably believes that a councillor has seriously or continuously breached the local government principles, the Minister may recommend that the Governor in Council dismiss the councillor.

Section 122(3) of the LGA provides that the Governor in Council may give effect to the Minister's recommendation under a regulation.

The policy objective of the regulation is to give effect to the recommendation to dismiss Councillor Christopher Loft (Councillor Loft) as mayor and councillor of the Fraser Coast Regional Council (FCRC). The dismissal takes effect at 10.00am on Friday 16 February 2018.

Under section 120 of the LGA, the Minister must give the councillor in question a written notice of the proposal to exercise the power to dismiss the councillor, before the power is exercised, unless the Minister considers that giving notice is likely to defeat the purpose of the exercise of the power, or would serve no useful purpose.

The notice must state:

- the power that the Minister proposes to exercise; and
- the reasons for exercising the power; and
- any remedial action that the councillor should take; and
- a reasonable time within which the councillor may make a submission to the Minister about the proposal to exercise the power.

The Minister must have regard to any submissions that are made by the councillor within the time specified in the notice. If the Minister receives no submission from the councillor within the specified time or the submission from the councillor does not contain reasonable grounds to persuade the Minister not to exercise the power, the Minister may exercise the power without further notice to the councillor.

On 25 January 2018, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs gave written notice to Councillor Loft of the proposal to exercise his power to dismiss Councillor Loft as mayor and councillor of the FCRC, in accordance with section 120 of the LGA.

The letter stated that any submission Councillor Loft wished to make in relation to the proposed action should be submitted in writing within seven days of the letter.

The Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs regards that Councillor Loft's submission, received on 1 February 2018, does not contain reasonable grounds to persuade him not to recommend Councillor Loft's dismissal to the Governor in Council.

Accordingly, under section 122(2) of the LGA, the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs decided to recommend that the Governor in Council dismiss Councillor Loft as mayor and councillor of the FCRC. The dismissal takes effect at 10.00am on Friday 16 February 2018.

## **Achievement of policy objectives**

The regulation gives effect to the recommendation of the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs to the Governor in Council to dismiss Councillor Loft as mayor and councillor of the FCRC.

The regulation inserts new section 253 under chapter 8 part 1 division 3 of the *Local Government Regulation 2012* to provide that at 10.00am on 16 February 2018, the nominated councillor is dismissed as a councillor of the Fraser Coast Regional Council. The section expires on 17 February 2018 and defines 'nominated councillor' to mean Christopher David Loft.

## **Consistency with policy objectives of authorising law**

The regulation is consistent with the policy objectives of the LGA.

## **Inconsistency with policy objectives of other legislation**

The regulation is not inconsistent with the policy objectives of other legislation.

## **Benefits and costs of implementation**

The benefits of the regulation are to enforce compliance with the local government principles and to provide for increased public confidence in the transparency, integrity and accountability of local government in Queensland.

There are no anticipated costs of implementation.

## **Consistency with fundamental legislative principles**

The regulation is generally consistent with fundamental legislative principles (FLPs). Potential breaches of FLPs set out in the *Legislative Standards Act 1992* (LSA) are addressed below.

### **Sufficient regard to the rights and liberties of individuals and natural justice**

The regulation dismisses Councillor Loft as mayor and councillor constituting a potential breach of sections 4(2)(a) and 4(3)(b) of the LSA, that legislation should have sufficient regard to the rights and liberties of individuals and that legislation should be consistent with the principles of natural justice.

Any potential breach of the FLPs is considered justified as Councillor Loft was given written notice by the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs of the proposal to exercise his power to dismiss Councillor Loft as mayor and councillor of the FCRC, in accordance with section 120 of the LGA. The letter stated that any submission Councillor Loft wished to make in relation to the proposed action should be submitted in writing within seven days of the letter.

The Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs regarded that Councillor Loft's submission did not contain reasonable grounds to persuade him not to recommend Councillor Loft's dismissal to the Governor in Council.

## **Consultation**

No consultation was undertaken.