

Local Government (Change of Representation for Cloncurry Shire Council) Amendment Regulation 2020

Explanatory notes for SL 2020 No. 6

made under the

Local Government Act 2009

General Outline

Short title

Local Government (Change of Representation for Cloncurry Shire Council) Amendment Regulation 2020

Authorising law

Sections 20 and 270 of the *Local Government Act 2009*

Policy objectives and the reasons for them

The objective of the *Local Government (Change of Representation for Cloncurry Shire Council) Amendment Regulation 2020* (the Regulation) is to amend the *Local Government Regulation 2012* (LGR) to implement a recommendation of the Local Government Change Commission (the Change Commission). The recommendation is contained in the Change Commission's *Electoral Arrangement Review 2019 Final Determination: Cloncurry Shire Council* (the Determination).¹

The *Local Government Act 2009* (LGA) chapter 2, part 3 provides for making a local government change. The LGA section 17(2) provides that a local government change is a change to a local government's boundaries, divisions (other than for the City of Brisbane), number of councillors, name or classification. The LGA section 18 provides that only the Minister may propose a local government change to the Change Commission. Under the LGA section 22(2), the Change Commission is made up of the electoral commissioner or any combination of the electoral commissioner, the deputy electoral commissioner and a casual commissioner.

¹ The Determination is available on the Electoral Commission of Queensland website:
https://www.ecq.qld.gov.au/_data/assets/pdf_file/0024/6828/2019-Cloncurry-Shire-Council_Electoral-Arrangement-Review_Final-Determination_with-appendices.pdf

Under the LGA section 19, the Change Commission is responsible for assessing whether a local government change proposed by the Minister is in the public interest. The Change Commission may conduct its assessment in any way that it considers appropriate, including, for example, by asking for submissions from any local government that would be affected or holding a public hearing to ask the public for its views about the proposed local government change. The Change Commission must also consider the views of the Minister about the proposed local government change.

Currently Cloncurry Shire Council (the Council) is represented by four councillors and a mayor (five councillors in total). On 20 August 2018 the Council wrote to the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs requesting an increase in the number of elected representatives. On 10 January 2019 the Minister referred the local government change proposal to the Change Commission.

The Change Commission finalised its assessment of the Council's electoral arrangements on 22 November 2019. The Change Commission's recommendation is that 'for the purpose of the 2020 Local Government Quadrennial Election, representation in the Cloncurry Shire Council increase to five councillors and a mayor (six councillors in total)'. In line with the LGA section 19(8), the Change Commission recommended that the Governor in Council implement its final decision.

Achievement of policy objectives

The Regulation achieves the policy objective by amending the LGR. The LGA section 20(1) provides that the Governor in Council may implement the Change Commission's recommendation under a regulation. The LGA section 8(4)(c) provides that a regulation may fix the number of councillors for a local government and any divisions of the local government area. The LGR section 3(c) provides that, for section 8(4) of the LGA, chapter 2 part 1 of the LGR fixes the number of councillors for local governments. The LGR section 7(1) provides that the total number of councillors for each local government area is mentioned in schedule 1, column 5.

The *Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2019* (the Boundary Changes Regulation) amends the LGR to implement a number of other determinations made by the Change Commission. Part 4 division 2 of the Boundary Changes Regulation commenced on 13 December 2019 and inserted new schedule 1A into the LGR. Schedule 1A states particular information, including the total number of councillors for each local government area, for the 2020 quadrennial election. For all other purposes, schedule 1 continues to state the prescribed information for local governments. The Boundary Changes Regulation part 4 division 3 will replace schedule 1 and omit schedule 1A on 28 March 2020 to implement the determinations for other purposes from the conclusion of the 2020 quadrennial election.

The Regulation amends the LGR schedule 1A on notification to apply the change to the number of councillors in the Council for the purpose of the 2020 quadrennial election. The Regulation also amends the LGR schedule 1 to commence on 28 March 2020 immediately after the Boundary Changes Regulation replaces schedule 1. This amendment will result in the change being applied for other purposes from the conclusion of the 2020 quadrennial election.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the LGA. The LGA section 4 provides that the local government principles underpin the LGA. The local government principles include democratic representation and meaningful community engagement.

Inconsistency with policy objectives of other legislation

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

Alternative ways of achieving policy objectives

There are no alternative ways of achieving the policy objectives.

Benefits and costs of implementation

The benefits of the Regulation are to implement the recommendations of the Change Commission. The Change Commission noted in its Determination that it had considered whether:

- there was demonstrable community support for the proposed change
- the proposed change would be financially sustainable
- the proposed change would improve democratic representation and result in more meaningful community engagement.

The Determination notes the Change Commission's view that 'an increase of one councillor for the 2020 election will address the immediate representation concerns of the Council and community, while also providing scope for a future increase if it is still deemed necessary. By adding one councillor for the 2020 quadrennial election, the Change Commission believes this offers the Council and the community an opportunity to review the organisational, community and financial outcomes of having an additional representative and then if required, apply for a further increase based on those outcomes.'

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 and is consistent with the principles.

Consultation

The Change Commission noted in the Determination that the Council undertook community consultation through a survey from 19 April 2018 to 6 May 2018. The results of consultation are detailed in the Determination which lists paraphrased feedback supporting and opposing the increase.

Of the 306 responses to the survey, 85% were in support of increasing the number of councillors and 15% opposed the change. The Change Commission noted that it had considered the feedback received through the Council's consultation process and that most of the public sentiment was in favour of an increase in council representation.

The Determination was provided to the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs. As required under the LGA section 19(6), notice of the Determination was also published in the Queensland Government Gazette on 22 November 2019, in a local newspaper (the North West Star) on 23 November 2019 and on the Electoral Commission of Queensland website.

Consultation was not undertaken with the Office of Best Practice Regulation as the Department of Local Government, Racing and Multicultural Affairs determined that the Regulation was excluded from further regulatory impact analysis under the *Queensland Government Guide to Better Regulation* exclusion category (g) 'regulatory proposals that are of a machinery nature'.