

Local Government Legislation Amendment Regulation (No. 1) 2020

Explanatory notes for SL 2020 No. 244

made under the

City of Brisbane Act 2010
Local Government Act 2009

General Outline

Short title

Local Government Legislation Amendment Regulation (No. 1) 2020

Authorising law

Sections 96A, 98 and 252 of the *City of Brisbane Act 2010*
Sections 94A, 96 and 270 of the *Local Government Act 2009*

Policy objectives and the reasons for them

The policy objectives of the *Local Government Legislation Amendment Regulation (No. 1) 2020* (the Regulation) are to amend the *City of Brisbane Regulation 2012* (CBR) and *Local Government Regulation 2012* (LGR) for the following matters.

Local governments may make additional rating decisions for the 2020-2021 financial year

The *Justice and Other Legislation (COVID-19 Emergency Response) Amendment Act 2020* received assent on 25 May 2020. It amended over 20 different Acts across the Queensland statute book, as the third stage in the Government's legislative response to the COVID-19 public health emergency. This included amendments to the *City of Brisbane Act 2010* (COBA) to insert new section 96A and to the *Local Government Act 2009* (LGA) to insert new section 94A. The provisions expire on 30 June 2021. They provide a regulation-making power for:

- an 'extraordinary decision' about rates and charges for the 2020-2021 financial year to be made at a meeting other than the local government's annual budget meeting
- amendment of the annual budget and adoption of the amended annual budget.

The policy objectives of the Regulation are to:

- enable Queensland local governments to decide by resolution, at a meeting other than a budget meeting, what rates and charges are to be levied for a relevant part of the 2020-2021 financial year
- make provision for the local government's annual budget for the 2020-2021 financial year to be amended to take account of an extraordinary decision and for any amended annual budget to be adopted.

Sale of land for overdue rates or charges

Chapter 4, part 12 of the CBR and chapter 4, part 12 of the LGR are about overdue rates or charges and the measures a local government may take to recover those rates or charges. Specifically, chapter 4, part 12, division 3, subdivision 2 (Selling land for overdue rates and charges) provides that a local government may sell land for overdue rates or charges.

Under section 132 of the CBR and section 140 of the LGR, if overdue rates or charges on land have been overdue for specified periods (generally three years), the local government may, by resolution, decide to sell the land. If the local government makes this decision, it must, as soon as practicable, give all interested parties a notice of intention to sell the land.

Section 134 of the CBR and section 142 of the LGR set out the procedures a local government must follow when selling land for overdue rates or charges. A local government must first offer the land for sale by auction and set a reserve price for the auction under section 135 of the CBR and section 143 of the LGR. If the reserve price is not reached at auction, the local government may enter into negotiations with the highest bidder at the auction to sell the land by agreement for a price that is more than the highest bid at the auction. 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 local government for the reserve price.

The policy objective is to address stakeholder concerns about the restrictions imposed on the sale of land if the reserve price is not reached at auction and the automatic sale of land to a local government for the reserve price after an unsuccessful auction. The Regulation will amend the procedures for selling land, including by removing the automatic sale of the land to the local government and allowing the local government to offer the land for sale by a further auction or negotiation after an unsuccessful auction.

Matters about controlled entities

Under section 30 of the *Auditor-General Act 2009* (the AG Act), the Auditor-General must audit public sector entities for each financial year. The AG Act schedule defines 'public sector entity' to mean a department; a local government; a statutory body; a government-owned corporation (GOC); or a controlled entity. Section 5 of the AG Act defines 'controlled entity' to mean an entity subject to the control of one or more of the following: a department; a local government; a statutory body; a GOC; another entity subject to the control of one or more of those entities.

The policy objective is to continue the Government's rolling reform agenda to strengthen the transparency, accountability and integrity of the local government system in Queensland by placing disclosure obligations on local government in relation to controlled entities. For the

purpose of the amendments a controlled entity of the local government includes an entity subject to the control of a local government, whether on its own or with 1 or more other entities (for example, a Regional Organisation of Councils) and an entity that is subject to the control of an entity that is subject to the control of a local government, whether on its own or with 1 or more other entities (for example, a subsidiary of a controlled entity).

Notification about controlled entities

To facilitate the Auditor-General's mandate to audit public sector entities, section 33 of the AG Act requires the appropriate Minister to give the Treasurer and the Auditor-General a written notice about a 'notifiable event', that is, when a public sector entity is established or abolished or an entity becomes or stops being a public sector entity.

Currently there is no statutory requirement for local governments to advise the Minister for Local Government of a notifiable event in relation to a controlled entity of the local government. To ensure the Minister is able to give notice to the Auditor-General, the amendments will require local governments to inform the Minister of a notifiable event in relation to a controlled entity.

In addition, to ensure the Minister is made aware of the changes in size and scope of a controlled entity, the amendments will also require a local government to inform the Minister of any changes to the documents governing the activities and members of the controlled entity (governing document).

Publication of audited financial statements of controlled entities

Currently there is no legislative requirement for local governments to make the financial statements of controlled entities publicly available.

The Queensland Audit Office (QAO) reports on local government entities for the last two financial years – *Local government entities: 2017-18 results of financial audits* (Report 18: 2018-19) and *Local government entities: 2018-19 results of financial audits* (Report 13: 2019-20) – recommended that the Department of Local Government, Racing and Multicultural Affairs (the Department) mandate that financial statements of controlled entities of local governments be made publicly available, preferably in a consistent location.

The amendments will further improve transparency and accountability in the local government sector and address QAO's recommendations by requiring the publication of controlled entities' audited financial statements.

Notice requirements for local governments

The CBR and LGR contain provisions which require Local Governments to advertise in print newspapers. To address concerns around the declining readership of print newspapers, the increasing cost of newspaper advertising and the termination of many of News Corp Australia's regional and community print newspapers, the proposed Regulation replaces print newspaper advertising requirements with more appropriate alternatives. Current provisions which require print newspaper advertising are mentioned below.

Section 134 of the CBR and section 142 of the LGR set out the procedures that a local government must follow when selling land for overdue rates or charges. In particular, subsection (5)(b) requires a local government, within a certain time before an auction, to advertise the auction notice in a newspaper that is circulating generally in the local government area.

Chapter 6 of the CBR and chapter 6 of the LGR are about a local government's activities for the making of a contract for the supply of goods or services or the disposal of non-current assets. Chapter 6, part 2 (Strategic contracting procedures) allows a local government to decide, by resolution, to take a strategic approach to its contracts after considering the costs and benefits and publishing notice of the proposed resolution in a newspaper that circulates generally in the local government area. Chapter 6, part 3 (Default contracting procedures) is about the requirements that a local government must comply with before entering into a contract. A local government must advertise all invitations for written tenders and expressions of interest in a newspaper that circulates generally in the local government area, including invitations for tenders/expressions of interest for certain contracts, invitations for expressions of interest from persons to be on an approved contractor list, invitations for tenders from suppliers to be on a register of pre-qualified suppliers and invitations from persons to tender for a preferred supplier arrangement.

Also, section 235 of the CBR requires Brisbane City Council to publish, in a newspaper circulating generally in Brisbane, details of a decision about the remuneration payable to its councillors as soon as practicable after the decision is made.

Publication of registers of interests of councillors

Chapter 8, part 5 of the CBR and chapter 8, part 5 of the LGR is about the management of registers of interests of councillors, chief executive officers, senior executive employees and a person related them. Section 271(1) of the CBR and section 293(1) of the LGR provide that the register of interest for a councillor may be viewed/inspected by the public. Section 273(1) of the CBR and section 293(1) of the LGR provide that a local government must ensure a copy of a register of interests of a councillor may be viewed by the public at the local government's public office and on its website.

As part of the Government's local government reform agenda, the *Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Act 2020* amended the COBA and the LGA to align the requirements for councillors' registers of interests with the requirements applying to State Members of Parliament statements of interests. The *Local Government Legislation (Integrity) Amendment Regulation 2020* made amendments to the CBR and LGR to promote transparency, accountability and consistency in relation to the interests to be disclosed in registers of interests.

The policy objective is to continue the Government's rolling reform agenda by requiring that an extract showing particulars of a councillor's current interests be published on the local government's website.

Kuranda rail line amendments

Chapter 3, part 4 of the LGR contains provisions specific to the levy on the railway between Cairns and Kuranda (the Kuranda rail line). Section 66 imposes a tourist infrastructure levy

on each Kuranda rail operator until 31 December 2020, at the rate of \$1 for each passenger journey to or from Kuranda on the Kuranda rail line. Currently, the Kuranda rail operator is Queensland Rail.

Section 67 requires each Kuranda rail operator, within three weeks after the end of each quarter, to pay the State the amount of the levy imposed on it during the quarter. Section 68 requires each Kuranda rail operator, within four months after each financial year ends, to give the chief executive a written statement detailing how many passenger journeys on the Kuranda rail line were provided by the operator during the financial year. A maximum penalty of 20 penalty units applies for non-compliance with this requirement. Section 70 provides that chapter 3, part 4 expires on 30 June 2021.

The current Kuranda Infrastructure Agreement 2010-2020 (Kuranda Agreement) between the State and Mareeba Shire Council (the Council) provides that the State will pay monies collected by the State from levies on the Kuranda Scenic Railway and the Skyrail Rainforest Cableway to the Council. The Council must use the funds to provide and maintain amenities that will enhance visitors' experience, enjoyment and environmental understanding of the Kuranda area whilst supporting the well-being of the local Kuranda community. The Kuranda Agreement is due to expire on 31 December 2020 and a new agreement with the Council is presently being negotiated.

Following consultation with relevant stakeholders, including Mareeba Shire Council, the policy objectives are to:

- amend the LGR to extend the end date for imposition of the tourist infrastructure levy to align with the term of the proposed new Kuranda agreement and to provide time for Government to review the Kuranda arrangements, including matters relating to Skyrail, the rate of the tourist infrastructure levy and consideration of traditional owner interests
- streamline administrative requirements by prescribing equivalent timeframes for payment of the levy and the giving of the annual statement detailing passenger journey numbers
- remove the penalty for non-compliance with the obligation to give the annual statement within four months after each financial year ends
- extend the expiry date for chapter 3, part 4 of the LGR.

Achievement of policy objectives

Local governments may make additional rating decisions for the 2020-2021 financial year

The policy objectives are achieved by amending the CBR and LGR to:

- provide that, for the 2020-2021 financial year, a local government may decide, by resolution made other than at the budget meeting for the financial year, what rates and charges are to be levied for the period of the financial year starting on a day not earlier than the day the resolution is made and ending on 30 June 2021
- apply the provisions of the CBR and LGR in relation to an extraordinary decision as if it were made at the budget meeting for the 2020-2021 financial year
- provide that the annual budget must be amended at the meeting at which the extraordinary decision is made and the amended budget must be adopted

- provide that the amended budget must comply with section 160 of the CBR or section 169 of the LGR (Preparation and content of budget) and with the local government's extraordinary decision
- provide for minor technical amendments.

The amendments commence on notification and expire on 30 June 2021.

Sale of land for overdue rates or charges

The policy objective is achieved by amending the procedures for sale of land by a local government as follows:

- removing the restriction that the local government may only enter into negotiations with the highest bidder at the auction and providing that the local government may enter into negotiations with any bidder who attended the auction
- replacing the current requirement that the price for the land under an agreement following an auction must be more than the highest bid for the land at the auction with a requirement that the price must not be less than the reserve price for the land
- removing the provision deeming the land to have been sold to the local government if it does not sell at auction or by subsequent negotiation
- providing that, if land fails to sell at the auction, the local government may decide to continue to offer the land for sale by a further auction or negotiation
- providing that the procedures for a sale by auction apply to the preparation and conduct of any further sale by auction
- requiring the local government to give notification of any further sale by negotiation to interested parties and the public, consistent with requirements for notification of an auction
- providing that the price for land offered for sale by negotiation must be at least the market value of the land or the higher of the amount of the overdue rates or charges or the value of the land, consistent with the reserve price for an auction
- providing that the procedures that currently apply for recording the transfer of the land to the purchaser following an auction also apply if the land is sold by negotiation
- providing that the local government must end the sale of land procedures one year after the notice of intention to sell the land was given to the registered owner if the land has not been sold or the overdue rates and charges and the expenses of attempting to sell the land have not been paid earlier
- providing that if the local government ends the procedures at the end of the one-year period, it is not prevented from deciding to commence a new sale of land procedure
- providing that if the land is not sold within the one-year period, the expenses incurred by the local government in relation to selling the land become overdue rates or charges at the end of that period
- making minor technical amendments.

These amendments commence on notification, however transitional provisions (new section 299 of the CBR and new section 360 of the LGR) provide that the amended procedures for the sale of land only apply to local government decisions to sell land made on or after commencement.

Matters about controlled entities

Notification about controlled entities

The policy objective is achieved by inserting new section 203A into the CBR and new section 213A into the LGR to require a local government to give the Minister, within 14 days after a controlled entity of the local government is established or abolished or if an entity becomes or stops being a controlled entity of the local government (each a ‘notifiable event’):

- a notice stating the name of the controlled entity; a description of the notifiable event; when it happened; and
- any documents, including governing documents, about the controlled entity that the local government considers to be relevant to the notifiable event, for example, the constitution of the controlled entity or its statement of corporate intent.

In addition, the amendments will require a local government to give the Minister, within 14 days after a governing document of a controlled entity of the local government changes:

- a notice stating the details of the change; and
- a copy of the governing document as amended.

These amendments commence on notification.

Publication of financial statements of controlled entities

The Auditor-General audits the annual financial statements of controlled entities of local government and prepares an auditor’s report about the statements under section 40 of the AG Act. However, if a controlled entity is exempt from audit by the Auditor-General under section 30, the controlled entity must be audited by an engaged auditor under section 30A of the AG Act.

The policy objective is achieved by inserting new section 203B into the CBR and new section 213B into the LGR to require that, if the financial statements of a controlled entity of a Local Government are audited under the AG Act:

- a local government must obtain a copy of the audited financial statements of the controlled entity, from:
 - the controlled entity; or
 - if the controlled entity is subject to the control of another entity and the other entity is subject to the control of the local government, the other entity
- the mayor must present the copy of the audited financial statements at the next ordinary meeting of the local government
- the local government must ensure that within 14 days after the copy of the audited financial statements is presented at the meeting, the copy is, or a link to the copy is, published on the local government’s website.

These amendments commence on notification, however transitional provisions (new section 300 of the CBR and new section 361 of the LGR) provide that the notification requirements do not apply to the audited financial statements of a controlled entity of a local government for the financial year ending 30 June 2020.

Notice requirements for local governments

The policy objective of modernising local government advertising requirements to reflect contemporary means of communication is achieved by amending:

- section 134 of the CBR and section 142 of the LGR to provide that a local government must, for the purpose of selling land for overdue rates and charges, publish an auction notice on the local government's website and take all reasonable steps to publish the auction notice in another way to notify the public about the sale of the land, for example, in a newspaper circulating generally in the local government area or on a real estate trading website. The timeframe for publication of the auction notice before the auction has not changed. The new publication requirements also apply to a sales notice prepared if the local government decides to offer the land for sale by negotiation following an unsuccessful auction as part of the amendments described above
- section 208(3) of the CBR and section 218(3) of the LGR to provide that the notice about a proposed resolution of a local government to choose a strategic approach to its contracts must be published on the local government's website and in another way the chief executive officer considers appropriate. The requirement for publication of the notice in a newspaper that circulates generally in the local government area has been removed, however, the notice must still be published at least 4 weeks before the meeting where the proposed resolution is to be considered
- section 218(4) and (5) of the CBR and section 228(4) and (5) of the LGR to provide that the invitation for tenders or the invitation for expressions of interest for particular contracts must be published on the local government's website and allow written tenders/expressions of interest to be given to the local government while the invitation is published on the website. The amendments also provide that a local government must take all reasonable steps to publish the invitation for tenders/expressions of interest in another way to notify the public about the tender process, for example, in an industry publication or on the QTENDERS website. The requirements for the invitation for tenders/expressions of interest to be advertised in a newspaper that circulates generally in the local government area have been removed. There is no change to the current 21-day timeframe for receipt of written tenders/expressions of interest
- section 221(4) of the CBR and section 231(4) of the LGR to provide that to put together an approved contractor list, a local government must publish on the local government's website an invitation for expressions of interest from persons for inclusion on the list; take all reasonable steps to publish the invitation in another way to notify the public about the making of the approved contractor list, for example, in an industry publication or on the QTENDERS website; and allow written expressions of interest to be given to the local government while the invitation is published on the website. The requirement for the invitation for expressions of interest to be advertised in a newspaper that circulates generally in the local government area has been removed. There is no change to the current 21-day timeframe for receipt of written expressions of interest or to the current requirement that a local government choose persons for the approved contractor list on the basis of the sound contracting principles under section 103(3) of COBA and section 104(3) of the LGA
- section 222(5) of the CBR and section 232(5) of the LGR to provide that the invitation for suppliers to tender to be on a register of pre-qualified suppliers must be published on the local government's website and allow written tenders to be given to the local government while the invitation is published on the website. The amendments also provide that a local government must take all reasonable steps to publish the invitation for tenders in another way to notify the public about establishing the register of pre-qualified suppliers, for example, in an industry publication or on the QTENDERS website. The requirement for the invitation for tenders to be advertised in a newspaper that circulates generally in the local government area has been removed. There is no change to the current 21-day timeframe for receipt of written tenders

- section 223(4) of the CBR and section 233(4) of the LGR to provide that the invitation for persons to tender for a preferred supplier arrangement must be published on the local government's website and allow written tenders to be given to the local government while the invitation is published on the website. The amendments also provide that a local government must take all reasonable steps to publish the invitation for tenders in another way to notify the public about the tender process, for example, in an industry publication or on the QTENDERS website. The requirement for the invitation for tenders to be advertised in a newspaper that circulates generally in the local government area has been removed. There is no change to the current 21-day timeframe for receipt of written tenders or to the current requirement for the invitation to describe the terms of the preferred supplier arrangement
- section 235 of the CBR to provide that Brisbane City Council must publish, on the council's website and in any other way the chief executive officer considers appropriate, details of a decision about the remuneration payable to its councillors as soon as practicable after the decision is made. While the requirement to publish details of the decision in a newspaper circulating generally in Brisbane has been removed, the current requirement for publication on the council's website is retained.

Transitional provisions provide that an existing notice about a proposed resolution of a local government to choose a strategic approach to its contracts and existing invitations for tenders/expressions of interest continue in effect if, on the commencement, the meeting to which the notice relates has not been held or the period for giving a tender or expression of interest has not ended (new sections 301 and 302 of the CBR and new sections 362 and 363 of the LGR).

Also, a number of minor consequential amendments have been made to the CBR and LGR to update section references as a result of the above amendments, namely, section 182 of the CBR and section 190 of the LGR; and the definition of 'pre-qualified supplier' in the CBR schedule 4 and LGR schedule 8.

The amendments commence on notification.

Publication of registers of interests of councillors

The policy objective is achieved by:

- amending section 273 of the CBR and section 295 of the LGR to require an extract of a councillor's register of interests to be published on a local government's website, rather than a copy of the register of interests. The extract is to show the particulars of the councillor's current and recent interests for the specified periods. The extract is to include a change in the register of interests as soon as practicable, but no later than 5 business days after the change is made
- inserting new CBR schedule 3A and new LGR schedule 5A to specify the interests that must be published in the extract on the local government's website and the duration of publication as follows:
 - a gift or gifts given to a councillor by a donor during their relevant term (the current and previous terms) totalling \$500 or more but less than \$2,000 are required to be published for the term the gift is received or the gifts first total \$500 or more and the following term, if the councillor holds office in that term (the new term)
 - a gift or gifts given to a councillor by a donor during their relevant term totalling \$2,000 or more are required to be published for each term the councillor holds office

- a donation or donations made by a councillor to another person or organisation during their relevant term totalling \$500 or more but less than \$2,000 are required to be published for the term the donation is made and the new term
 - a donation or donations made by a councillor to another person or organisation during their relevant term totalling \$2,000 or more are required to be published for each term the councillor holds office
 - a sponsored travel or accommodation benefit received by a councillor totalling less than \$2,000 is required to be published for the term the benefit is received and the new term
 - a sponsored travel or accommodation benefit or benefits given to a councillor by another person during their relevant term totalling \$2,000 or more is required to be published for each term the councillor holds office
 - another interest mentioned in schedule 3 of the CBR and schedule 5 of the LGR is required to be published for the period in which the councillor holds the interest.
- Transitional provisions (new section 303 of the CBR and new section 364 of the LGR) will provide on commencement that:
 - a local government must ensure that an extract of a councillor's register of interests is published on the local government's website under amended section 273 of the CBR and amended section 295 of the LGR within 35 days after the commencement
 - former section 273 of the CBR and former section 295 of the LGR continue to apply to the register of interests of a councillor until the local government makes an extract of the register available for inspection under amended section 273 of the CBR and amended section 295 of the LGR.

The amendments commence on 12 October 2020 immediately after the commencement of the Integrity Regulation.

Kuranda rail line amendments

The policy objectives are achieved by:

- amending section 66(1) of the LGR to extend the end date of 31 December 2020 for imposition of the tourist infrastructure levy on each Kuranda rail operator to 31 December 2021. The date of 31 December 2021 aligns with the term of the proposed new Kuranda agreement and provides time for the Government to review the Kuranda arrangements, including matters relating to Skyrail, the rate of the tourist infrastructure levy and the consideration of traditional owner interests. The rate of the levy remains at \$1 for each passenger journey provided by the operator, other than free journeys
- amending section 67(1) of the LGR to require each Kuranda rail operator to pay the State, within six months after the end of each financial year for which the tourist infrastructure levy is imposed, the amount of the levy imposed on the operator during the financial year (rather than within three weeks after the end of each quarter for which the levy is imposed)
- amending section 68(1) of the LGR to require each Kuranda rail operator to give the chief executive, within six months after each financial year ends, a written statement for the financial year detailing passenger journey numbers provided by the operator (rather than within four months after each financial year ends)
- omitting the penalty attached to current section 68(1) of the LGR for non-compliance with the obligation to give an annual statement detailing passenger journey numbers within the prescribed timeframe

- amending section 70 of the LGR to provide that chapter 3, part 4 of the LGR expires on 30 June 2022 rather than on 30 June 2021 to take into account the proposed new end date of 31 December 2021 for imposition of the tourist infrastructure levy.

A transitional provision (new section 359 of the LGR) provides that new section 67(1) of the LGR applies to the 2020-2021 financial year. Any levy amount imposed on a Kuranda rail operator during the 2020-2021 financial year and paid to the State before the commencement, is taken to have been paid under new section 67(1) of the LGR in advance and must be deducted from the amount that is payable under new section 67(1) for the 2020-2021 financial year.

The amendments commence on 1 January 2021.

Consistency with policy objectives of authorising law

The Regulation is consistent with the policy objectives of the COBA and the LGA.

The purpose of the COBA includes providing for a system of local government in Brisbane that is accountable, effective, efficient and sustainable (section 3(1)(b)).

The purpose of the LGA includes providing for a system of local government that is accountable, effective, efficient and sustainable (section 3(b)).

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 implementing the Regulation include:

- supporting the financial sustainability of local governments during the COVID-19 public health emergency by allowing additional rating decisions to be made during the 2020-2021 financial year
- removing the financial burden on a local government to buy land following an unsuccessful auction when recovering overdue rates or charges and instead provide local governments with further opportunities to sell the land to recover the overdue rates and charges
- ensuring the Minister is able to notify the Auditor-General and Treasurer of notifiable events for controlled entities of local governments as required under the AG Act
- ensuring the Minister is notified of any changes in the governing documents of controlled entities of local governments
- improving transparency and accountability of the audited financial statements of controlled entities of local governments
- reducing the overall advertising costs of local governments by replacing print newspaper advertising with more appropriate alternatives which will allow for greater public awareness and achieve a wider reach of the intended audience
- improving public accessibility of particulars of a councillor's current interests on the local government's website

- continuing the provision and maintenance of amenities that will enhance visitors' experience, enjoyment and environmental understanding of the Kuranda area and allowing a review of the arrangements to be carried out
- streamlining Queensland Rail's administrative obligations in relation to the Kuranda rail line by prescribing consistent payment and reporting timeframes.

Any costs to Government of implementing the Regulation will be met through normal budgetary processes.

Consistency with fundamental legislative principles

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

Rights and liberties of individuals

Sale of land for overdue rates or charges

Whether legislation has sufficient regard to rights and liberties of individuals depends on whether, for example, the legislation provides for the compulsory acquisition of property only with fair compensation (section 4(3)(i) LSA).

Section 97(2) of the COBA and section 95(2) of the LGA provide that overdue rates and charges are a charge on the land. Chapter 4, part 12 of the CBR and chapter 4, part 12 of the LGR currently provide a local government with the power to sell land to recover overdue rates or charges.

The Regulation removes the provision that deems land to have been sold to a local government if the land does not sell at auction. The Regulation also makes amendments to the procedures for selling the land, including allowing the local government to continue to offer the land for sale by a further auction or negotiation for a period of one year of giving the notice of intention to sell the land to the registered owner if the land is not earlier sold or the overdue rates and charges paid in full.

Although the Regulation will extend a local government's options in relation to selling land without a right to compensation for the owner, the amended procedures are subject to the following current restrictions and safeguards.

A local government may only decide to sell land if the liability to pay the overdue rates or charges on the land is not the subject of court proceedings and some or all of the overdue rates or charges have been overdue for a specified period of time (generally at least three years) (section 132(1) of the CBR and section 140(1) of the LGR).

Further, if a local government decides to sell the land, it must give all interested parties, including the registered owner of the land, a notice of intention to sell the land (section 132(3) of the CBR and section 140(3) of the LGR). If the local government does not know, or is uncertain about, the owner's current address, the local government must publish a notice summarising the notice of intention to sell the land in a newspaper and the government

gazette and a copy of the notice on its website (section 220 of the COBA and section 239 of the LGA).

After giving the notice, the local government must allow a further period of three months (or one month if the rates or charges were levied on a mining claim) for the owner to pay the overdue rates and charges before starting the procedures to sell the land (section 133(1) of the CBR and section 141(1) of the LGR). The local government must end the procedures if it is paid the amount of the overdue rates or charges and all expenses incurred by it in attempting to sell the land (section 133(3) of the CBR and section 141(3) of the LGR).

In addition, the person who owned the land prior to its sale is entitled to proceeds of the sale after the overdue rates or charges and specified encumbrances, expenses, tax, fees and other amounts are paid (section 138 of the CBR and section 146 of the LGR).

The potential breach of the fundamental legislative principles is considered justified as the overdue rates or charges owed to a local government are secured against the land as a statutory charge and the power to sell the land is only afforded to it where the rates or charges have been overdue for an extended period of time. The current safeguards and restrictions also ensure the owner of the land is given sufficient notice and opportunity to pay the overdue rates or charges before the land is sold and entitles the owner to the surplus of the sale after lawful deductions.

Consultation

The Local Government Association of Queensland (LGAQ) and the Local Government Managers Australia (LGMA) were consulted on all amendments in the Regulation. The Local Government Finance Professionals Queensland (LGFP) was consulted on all the amendments in the Regulation other than the publication of councillors' registers of interests. The LGAQ, LGMA and LGFP support the amendments.

In June 2020, the Department published policy position papers on its website in relation to the local government sale of land procedures and requirements for controlled entities of local governments. Public submissions were invited on the papers. Seventeen submissions were received from peak bodies (including the Queensland Law Society), local governments, community organisations, an individual and the QAO. The submissions generally supported the proposals, with most submissions strongly supporting the proposals.

The QAO has been consulted on the proposed amendments relating to controlled entities. The QAO supports the amendments.

The matter of replacing print newspaper advertising with more appropriate alternatives has been widely supported in previous submissions to the Department by local governments. Since 2013 concerns have been raised by several local governments about the newspaper advertising requirements, particularly in remote and regional areas. These concerns have increased significantly since the announcement by News Corp to cease printing more than 100 publications across Australia on 29 June 2020.

The amendments relating to publication of councillors' registers of interests were included in an information paper published by the Department in April 2019. The Crime and Corruption

Commission, the Office of the Independent Assessor and the CEO Network were consulted on, and support, these amendments.

The Department has consulted directly with Mareeba Shire Council on the terms of the proposed new Kuranda agreement. Council has no objections to consolidating the current quarterly payments of the tourist infrastructure levy and the Skyrail contribution into single annual payments. Queensland Rail has been consulted on, and has no objection to, the proposed amendments.

A self-assessment by the Department determined that the Regulation was excluded from further regulatory impact analysis under the *Queensland Government Guide to Better Regulation* exclusion categories (c) 'regulatory proposals for the internal management of the public sector or statutory authority' and (g) 'regulatory proposals that are of a machinery nature'.