

# Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2019

## Explanatory notes for SL 2019 No. 259

### Short title

*Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2019.*

### Authorising law

Sections 22 and 252 of the *City of Brisbane Act 2010*

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

Sections 75A, 132A and 208 of the *Local Government Electoral Act 2011*

### Policy objectives and the reasons for them

The objectives of the *Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2019* (the Regulation) are to amend the *City of Brisbane Regulation 2012* (CBR) and the *Local Government Regulation 2012* (LGR) to implement local government change determinations made by the Local Government Change Commission (the Change Commission) for the purposes of the 2020 quadrennial local government elections and to amend the *Local Government Electoral Regulation 2012* (LGER) to approve procedures for electronically assisted voting and for electronic lodgement of returns for local government elections.

#### Implementation of Local Government Change Commission Recommendations

Under chapter 2 part 4 of the *City of Brisbane Act 2010* (COBA), the Change Commission (which under section 22 of the LGA is made up of the electoral commissioner or a combination of the electoral commissioner, the deputy electoral commission or a casual commission nominated by the electoral commissioner) has jurisdiction to assess and make determinations in relation to applications for change to the boundaries of Brisbane or any ward of Brisbane. Similarly, under chapter 2 part 3 of the *Local Government Act 2009* (LGA), the Change Commission has jurisdiction to assess and make determinations 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.

Section 20 of the COBA provides that Brisbane City Council (BCC), the Minister or the Electoral Commission of Queensland (ECQ) may apply to the Change Commission to assess

whether the boundary change should be made. However, under the LGA section 18 only the Minister may propose a local government change to the Change Commission.

Chapter 2 part 3 of the COBA and chapter 2 part 2 of the LGA provide that each ward/division of a local government area must have a reasonable proportion of electors. There is to be no more than a 10 per cent variance in the number of electors enrolled in each ward/division of a local government where the local government area population totals more than 10,000 electors (or 20 per cent variance for local government areas with populations of less than 10,000 electors).

Section 18 of the COBA requires BCC to review its electoral wards before 1 October in the year that is two years before the quadrennial elections to determine whether they have a reasonable proportion of electors, or quota of plus or minus ten per cent of the average number of electors per ward and give written notice of the results of the review to the Minister and the electoral commissioner.

Under section 16 of the LGA, local governments are required (no later than 1 March in the year before the quadrennial elections) to review whether each of their divisions has a reasonable proportion of electors and give written notice of the results of the review to the Minister and the electoral commissioner. Under the LGA, local governments may also submit proposals for other local government changes to the Minister for consideration, including changes to a local government's boundary, divisions and the number of councillors.

On 11 September 2018, the Chief Executive Officer of BCC wrote to the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs (the Minister) and the electoral commissioner advising that two Brisbane wards were without a reasonable proportion of electors.

In February, March, April and May 2019, the Minister referred submissions from Cassowary Coast Regional Council, Fraser Coast Regional Council, Gold Coast City Council, Gympie Regional Council, Ipswich City Council, Isaac Regional Council, Logan City Council, Moreton Bay Regional Council, Redland City Council, Rockhampton Regional Council, Scenic Rim Regional Council, South Burnett Regional Council, Sunshine Coast Regional Council, Tablelands Regional Council, Townsville City Council and Whitsunday Regional Council with respect to each local government's divisional quotas and other local government changes to the Change Commission for assessment.

On 17 August 2018, the Minister also referred a submission to review a boundary change proposal to transfer a 3.84 hectare lot from South Burnett Regional Council to Toowoomba Regional Council to the Change Commission for assessment.

Section 22 of the COBA and section 20 of the LGA provide that the Governor in Council may implement the Change Commission's recommendations under a regulation.

#### Procedures for electronically assisted voting and electronic lodgement of returns

Under section 68(5B) of the *Local Government Electoral Act 2011* (the LGEA), an elector may cast an electronically assisted vote, subject to electronically assisted voting procedures being made under section 75A of the LGEA. Section 75A of the LGEA provides that the ECQ may make procedures about how an elector may cast an electronically assisted vote for

an election. The procedures do not take effect until approved by a regulation and must also be tabled in the Legislative Assembly with the regulation approving the procedures and published on the ECQ's website.

Section 4 of the *Local Government Electoral Regulation 2012* (LGER) approves the procedures set out in the document called 'Electronically assisted voting procedures' for local government elections' made by the ECQ on 15 June 2016.

Under Part 6 of the LGEA, candidates, groups of candidates, donors and other third parties are required to lodge returns with ECQ disclosing donations, loans and expenditure for political activity the purposes of an election. From 20 January 2020, amendments in the *Local Government (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act 2019* (Belcarra Stage 2 Act) will also require candidates, groups of candidates and political parties to lodge returns disclosing electoral expenditure incurred for an election that totals \$500 or more. Under section 132A of the LGEA the ECQ may make procedures about how a return under this part may be lodged electronically to enable 'real-time' disclosure to increase the transparency of elections providing the returns are made in accordance with procedures for electronic lodgement of returns made by ECQ and approved by regulation in accordance with section 132A of the LGEA.

Section 10 of the LGER approves the procedures set out in the document called 'Procedure for electronic disclosure' made by the ECQ on 25 January 2017.

Amendments to be made by the Belcarra Stage 2 Act to electoral matters and electoral disclosure requirements under the LGEA has led to ECQ having to make new procedures.

In accordance with section 75A of the LGEA, ECQ made the new 'Procedures for Electronically Assisted Voting for Local Government Elections' on 1 November 2019. In accordance with section 132A of the LGEA, ECQ also made the 'Procedures for Electronic Lodgement of Returns' on 1 November 2019.

## **Achievement of policy objectives**

### Implementation of Local Government Change Commission Recommendations

The Regulation achieves the policy objective by implementing the following recommendations of the Change Commission to take effect for the purposes of the 2020 quadrennial local government elections:

#### *Ward and Divisional Boundary Reviews – Reasonable Proportion of Electors (Quota)*

##### **Brisbane City Council**

That Brisbane City Council be redivided into twenty-six wards as shown in the maps contained in Appendix A of the full report titled *Review of Ward Boundaries – 2019 Final Determination – Brisbane City Council*.

### **Cassowary Coast Regional Council**

That Cassowary Coast Regional Council be redivided into six divisions as shown in the maps contained in Appendix A of the full report titled *Review of the Divisional Boundaries – 2019 Final Determination – Cassowary Coast Regional Council*.

### **Fraser Coast Regional Council**

That Fraser Coast Regional Council be redivided into ten divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Fraser Coast Regional Council*.

### **Gold Coast City Council**

That Gold Coast City Council be redivided into fourteen divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Gold Coast City Council*.

### **Gympie Regional Council**

That Gympie Regional Council be redivided into eight divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Gympie Regional Council*.

### **Isaac Regional Council**

That Isaac Regional Council be redivided into eight divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Isaac Regional Council*.

### **Logan City Council**

That Logan City Council be redivided into twelve divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Logan City Council*.

### **Moreton Bay Regional Council**

That Moreton Bay Regional Council be redivided into twelve divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Moreton Bay Regional Council*.

### **Redland City Council**

That Redland City Council be redivided into ten divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Redland City Council*.

### **Rockhampton Regional Council**

That Rockhampton Regional Council be redivided into seven divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Rockhampton Regional Council*.

### **Scenic Rim Regional Council**

That Scenic Rim Regional Council be redivided into six divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Scenic Rim Regional Council*.

### **South Burnett Regional Council**

That South Burnett Regional Council be redivided into six divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – South Burnett Regional Council*.

### **Sunshine Coast Regional Council**

That Sunshine Coast Regional Council be redivided into ten divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Sunshine Coast Regional Council*.

### **Tablelands Regional Council**

That Tablelands Regional Council be redivided into six divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Tablelands Regional Council*.

### **Townsville City Council**

That Townsville City Council be redivided into ten divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Townsville City Council*.

### **Whitsunday Regional Council**

That Whitsunday Regional Council be redivided into six divisions as shown in the maps contained in Appendix A of the full report titled *Review of Divisional Boundaries – 2019 Final Determination – Whitsunday Regional Council*.

### *External Boundaries and Other Electoral Arrangement Reviews*

### **Ipswich City Council**

That:

- the Ipswich City Council be divided into four multi-member divisions with two councillors representing each division, plus a mayor (nine councillors in total); and

- for the purpose of the 2020 local government quadrennial election, the boundaries of the four multi-member divisions are as shown in the maps in Appendix A as shown in the full report titled *Electoral Arrangement & Divisional Boundary Review – 2019 Final Determination – Ipswich City Council*.

### **Toowoomba Regional Council and South Burnett Regional Council**

That Lot 155 on FY2699 be transferred from the South Burnett Regional Council to the Toowoomba Regional Council as shown on the maps contained in Appendix D of the full report titled *Review of External Boundaries – 2018 Final Determination - Toowoomba Regional & South Burnett Regional Local Government Areas* (14 December 2018).

### Procedures for electronically assisted voting and electronic lodgement of returns

The Regulation achieves the policy objective about electoral procedures by amending:

- section 4 of the LGER to approve procedures set out in the document called ‘Procedure for electronically assisted voting for local government elections’, version 2.0, made by the ECQ on 1 November 2019
- section 10 of the LGER to approve procedures set out in the document called ‘Procedure for electronic lodgement of returns’ version 2.0, made by the ECQ on 1 November 2019.

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

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

### **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**

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

### **Benefits and costs of implementation**

The benefits of the Regulation are to:

- approve procedures to facilitate transparency and accountability in the disclosure of gifts, loans and electoral expenditure by candidates, groups of candidates, political parties and third parties and to enable electronically assisted voting for eligible electors
- ensure that BCC electoral wards have an equitable number of voters within each local government ward
- ensure that the internal local government divisional electoral areas have an equitable number of voters in each division

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 these principles.

## Consultation

The Change Commission considered submissions received from the public on the proposed boundary/local government changes before making final determinations. The required outcome is to have an equitable number of voters in each ward or division. Consultation with the community and individuals resolved to achieve this and provide communities with the opportunity to propose their arguments and ideas in relation to local community issues.

The results of the consultation undertaken by the Change Commission are detailed in the Change Commission's Final Determination Reports for each local government area that required boundary changes in preparation for the quadrennial local government elections required to be held in 2020.

Copies of the Change Commission's Final Determination Reports were provided to the Minister for Local Government, Minister for Racing and Minister for Multicultural Affairs. Public notice of the Change Commission's recommendations was also published in the Queensland Government Gazette, in local newspapers and on the ECQ's website, [www.ecq.qld.gov.au](http://www.ecq.qld.gov.au).

Consultation in relation to the electronically assisted voting for local government elections and electronic lodgement of returns made by ECQ was not necessary as these procedures are updated to reflect changes made by the Belcarra Stage 2 Act.

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 '*Queensland Government Guide to Better Regulation – May 2019*' exclusion category (g) 'regulatory proposals that are of a machinery nature'.

## Consistency with legislation of other jurisdictions

The regulation is consistent with the legislation of other jurisdictions.