

# Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023

## Human Rights Certificate

### Prepared in accordance with Part 3 of the *Human Rights Act 2019*

In accordance with section 41 of the *Human Rights Act 2019* (HR Act), I, Steven Miles MP, Deputy Premier, Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympic and Paralympic Games Infrastructure provide this human rights certificate with respect to the *Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023* (the Regulation) made under the *City of Brisbane Act 2010* and the *Local Government Act 2009*.

In my opinion, the Regulation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the HR Act. I base my opinion on the reasons outlined in this statement.

## Overview of the Subordinate Legislation

The purpose of the Regulation is to amend:

1. the *City of Brisbane Regulation 2012* (CBR) and the *Local Government Regulation 2012* (LGR) to prescribe new measures of financial sustainability (ratios) described in a new Financial Management (Sustainability) Guideline 2023 version 1
2. the LGR to implement the recommendations of the Local Government Change Commission (the Commission) to alter the boundaries between the Barcardine Regional Council and six of its adjoining councils.

### *New ratios*

Section 160(5) of the CBR and section 169(5) of the LGR currently provide that the ‘relevant measures of financial sustainability’ are the following measures as described in the ‘Financial Management (Sustainability) Guideline’: the asset sustainability ratio; the net financial liabilities ratio; and the operating surplus ratio.

The Financial Management (Sustainability) Guideline is currently defined in section 160(9) of the CBR and section 169(9) of the LGR to mean the document called ‘Financial Management (Sustainability) Guideline 2013’, version 1, made by the department’.

The ratios are used to measure and assess the financial sustainability of local governments and must be calculated and reported on in the following local government documents (‘the financial planning and accountability documents’):

- the budget, for the current year and the next nine years (section 160(4) of the CBR and section 169(4) of the LGR)

- the financial sustainability statements for the current year and the next nine years (section 170 of the CBR and section 178 of the LGR)
- the community financial report, for the current year (section 171 of the CBR and section 179 of the LGR).

The Queensland Audit Office (QAO), as part of its yearly audit of local governments, certifies these calculations.

In recent years, the QAO has raised issues about the sufficiency of the ratios that local governments must use to analyse and report on. The QAO's audit report 'Forecasting long-term sustainability of local government (Report 2: 2016–17)' recommended broadening the number of ratios required to be calculated to include the asset renewal funding ratio once local governments improved their asset condition data. Further, the QAO's audit report 'Local government 2020 (Report 17: 2020–21)' recommended the development of new ratios for local governments that consider the different sizes, services and circumstances of the various local governments.

The Department of State Development, Infrastructure, Local Government and Planning (the department) has released a new Sustainability Framework for Queensland Local Governments<sup>1</sup> (the Framework), for implementation from 1 July 2023. The Framework reflects the diverse nature of Queensland councils and considers key factors such as finances, asset management, compliance, governance and a council's operating environment.

A new 'Financial Management (Sustainability) Guideline 2023', version 1 (the 2023 Guideline), has been made to describe new ratios based on the principles established in the Framework.

The 2023 Guideline increases the number of ratios from three to nine and states the extent to which the new ratios apply to the financial planning and accountability documents according to the nature of each ratio and the different circumstances of Queensland's local governments.

Therefore, the Regulation amends the CBR and LGR to define the 'Financial Management (Sustainability) Guideline' to be the 2023 Guideline, state the new ratios, and to clarify that a ratio applies to the financial planning and accountability documents to the extent the 2023 Guideline states the ratio applies to a council for the financial year.

#### *Implementation of Commission recommendations*

Under the 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 or 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.

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<sup>1</sup> The Framework is available at [https://www.statedevelopment.qld.gov.au/\\_data/assets/pdf\\_file/0033/77496/local-government-sustainability-framework.pdf](https://www.statedevelopment.qld.gov.au/_data/assets/pdf_file/0033/77496/local-government-sustainability-framework.pdf)

On 12 March 2021, the Deputy Premier and then Minister for State Development, Infrastructure, Local Government and Planning referred a local government change application received from the Barcaldine Regional Council to the Commission for assessment. The application sought changes related to the placement of 24 properties straddling the boundaries between the Barcaldine Regional Council and six adjoining local government areas—Blackall-Tambo Regional Council, Central Highlands Regional Council, Charters Towers Regional Council, Flinders Shire Council, Isaac Regional Council and Longreach Regional Council (the six adjoining local government areas). The proposed changes were to correct boundary anomalies identified by the former Department of Natural Resources, Mines and Energy where properties straddled two local government areas, contrary to section 9(1)(d)(iii) of the LGR which states local government areas should generally have external boundaries that do not dissect properties.

On 15 September 2022, the Commission wrote to the Deputy Premier and then Minister for State Development, Infrastructure, Local Government and Planning and Minister Assisting the Premier on Olympics Infrastructure enclosing its final determination report '*External Boundary Review – 2022 Final Determination – Barcaldine Regional Council, Blackall-Tambo Regional Council, Central Highlands Regional Council, Charters Towers Regional Council, Flinders Shire Council, Isaac Regional Council and Longreach Regional Council*' (the Commission report).

The Commission report notes that in addition to the 24 property lots included as part of the referral to the Commission, the Commission identified an additional two property lots in Isaac Regional Council that were consequently included in the review on the basis that they were wholly surrounded by the other lots subject to review.

The Commission recommendations were for minor boundary changes between Barcaldine Regional Council and the six adjoining local government areas, outlined in the 'Achievement of policy objectives' section of the Explanatory Notes to the Regulation.

Section 6(1) of the LGR provides that 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.

Section 13B of the LGR provides 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 implements the recommended boundary changes and facilitates their implementation by updating the area map titles of the affected local governments in schedule 1, column 3 of the LGR and by including the details of the local government change in schedule 3, part 1 of the LGR.

## Human Rights Issues

### Human rights relevant to the subordinate legislation (Part 2, Division 2 and 3 *Human Rights Act 2019*)

#### *New ratios*

The amendments do not engage any human rights under the HR Act as the amendments relate to the obligations of public entities, not individuals.

#### *Implementation of Commission recommendations*

Section 24 of the HR Act provides that every person has the right to own property alone or in association with others and that a person must not be arbitrarily deprived of their property. Property includes real and personal property, including contractual rights and leases. Property may include statutory rights and non-traditional or informal rights (e.g., right to enjoy uninterrupted possession of land) recognised under general law and may include some statutory rights.

The proposed amendments do not limit this right as the property rights of the landholders in question are not negatively affected. However, the right to property is potentially promoted by the amendments which will help reduce the administrative burden on these landholders who currently hold property interests across two local government areas.

## Conclusion

I consider that the *Local Government Legislation (Boundary Changes and Other Matters) Amendment Regulation 2023* is compatible with the HR Act because it does not limit human rights.

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