



Dr Emily Philips  
Deputy Secretary, Local Government and Suburban Development  
Department of Jobs, Precincts and Regions  
Level 8, 1 Spring Street  
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23 April 2021

Dear Emily

## **REGULATORY IMPACT STATEMENT FOR THE LOCAL GOVERNMENT (LAND INFORMATION) REGULATIONS 2021**

I would like to thank your staff at the Department of Jobs, Precincts and Regions (the Department) for working with the team at Better Regulation Victoria on the preparation of the Regulatory Impact Statement (RIS) for the proposed Local Government (Land Information) Regulations 2021 (the proposed Regulations). These are intended to be made under the *Local Government Act 2020* (the new Act).

As you know, the Commissioner for Better Regulation is required to provide independent advice on the adequacy of the analysis provided in all RISs in Victoria according to the Victorian Guide to Regulation (the Guide). The Guide makes it clear that a RIS is deemed to be adequate when it contains analysis that is logical, draws on relevant evidence, is transparent about any assumptions made, and be proportionate to the proposal's expected effects.

I am pleased to advise that the final version of the RIS received by us on 23 April 2021 meets the adequacy requirements of the Guide.

### **Background**

In Victoria, there are 79 separate Councils managing over \$110 billion of public assets and delivering services that cost about \$9 billion every year. In 2018-19, revenue from rates levied represented 52 per cent of revenue for the sector. Councils are therefore reliant on the collection of revenue from rates and charges to deliver services.

Rates and charges are collected from the owners of land under the *Local Government Act 1989* (the current Act). To support the levying of rates and charges, as well as other functions such as maintaining the voting roll and providing relevant information to property owners, it is important that Councils obtain information about the owners of land in their municipalities and are kept up to date when a land transfer takes place.

From July 2021, the new *Local Government Act 2020* (the new Act) will require land purchasers to provide information to Councils about their acquisition of land (notices of acquisition, or NOAs), and require Councils to provide certain information about land to a person on request (land information certificates, or LICs).

The new Act changes many elements of the regulatory arrangements for local government, but the requirements relating to NOAs and LICs are similar to those that apply under the current Act. Additional specifications about these requirements are required to be prescribed in regulation. The purpose of this RIS, therefore, is to consider the information that should be required in NOAs and LICs, and the fee that should be charged for an LIC.

DJPR notes that Councils have been consulted as part of developing the broader local government reform, and that most of those consulted in preparing this RIS were broadly supportive of continuing the current arrangements for NOAs and LICs. Therefore, the RIS focuses on the impacts of continuing the current arrangements.

The RIS notes that some Councils raised concerns about the current arrangements, explaining in several places how these concerns can be managed through policy or procedural changes within the existing regulations. Stakeholders are welcome to comment on (or propose their own alternatives to) these arrangements as part of consultation on this RIS.

### **Analysis and Preferred Options**

The RIS considers the impacts of the proposed approaches for the information required in LICs and NOAs using a Multi-Criteria Analysis (MCA) framework to explain the degree to which they:

- enable parties to land transfers to have access to accurate information on rates, charges and liabilities for the land in a cost-efficient way;
- provide local Councils with reliable information on the owners of land in their municipality; and
- impose costs to the Government in administering the notices, and to private parties in providing information for the notices.

DJPR also uses an MCA framework to consider the proposed approach to the LIC application fee. Here, the relevant criteria are cost-reflexivity, equity, simplicity of the fee structure and administrative cost.

The proposed approaches to each issue are explained below.

#### **Information for LICs**

DJPR proposes that LICs be required to include the same information as is required under current regulations, including:

- the date of issue of the certificate;
- valuation information of the land, including Council valuation using net annual value, site value and capital improved value;
- information in relation to rates and charges and other money owing on the land; and
- any current notices or orders on the land.

#### **Information for NOAs**

DJPR proposes that persons acquiring land be required to provide a NOA to Council within one month of the acquisition, and that the information to be provided be the same as under the current regulations, including:

- personal details of the transferor and transferee;
- property details in relation to the land (such as street address, Folio, Crown allotment number);
- transfer details, including the date of possession, price, deposit amount;
- the type of property (residential or non-residential);
- contact details and certification; and
- the relevant property code.

### LIC Application Fee

DJPR proposes to continue the current flat fee of 1.82 fee units (currently equivalent to \$26.95), to be charged for all LIC applications.

An alternative option of imposing variable fee levels was not considered feasible, due to the difficulty in designing an appropriate fee that reflects the costs of different councils. The RIS argues that a variable fee would also be more costly to administer and more difficult to understand (e.g. for conveyancers and lawyers operating across different municipalities with different fees).

### **Expected Impacts**

In response to each issue, the proposed Regulations are substantively the same as the current Regulations. The Department estimates that the regulatory requirements for LICs will impose around \$71 million in costs to Councils (a Net Present Value or NPV estimate of costs over 10 years). It also argues that the LICs impose no costs to the community, as it is entirely voluntary if a person wishes to obtain an LIC for a property.

The RIS states that the costs for NOAs on the community are expected to be minimal per NOA, at around \$16.79 per NOA created. The total cost of the NOA process is \$49 million (an NPV estimate over 10 years).

In total, the regulations are expected to impose a combined \$120 million NPV in costs over 10 years.

The Department considers that the proposed Regulations have a small impact, which is not significant enough to impact on competition in the property market. The Department also states that small businesses are unlikely to be disproportionately impacted by the proposed regulations, as the fee size and time taken is immaterial compared to the time and cost of property transactions.

### **Implementation and Evaluation**

The RIS explains that as the proposed Regulations largely continue the substance and form of the current Regulations, minimal new implementation activities are expected. The Department will provide guidance to Councils on the amended fee levels. The changes are expected to commence on 1 July 2021.

The Department will consult with stakeholders on how the Regulations are working and if they remain fit for purpose, enabling the gathering and provision of information that is required in a cost-effective manner. It will consider whether the information requirements for LICs continue to be appropriate. This consultation will be undertaken mid-term (approximately five years after implementation) and again when the proposed regulations sunset.

The mid-term review will include a review of cost recovery arrangements to assess whether the current fees remain efficient and appropriate. This is prudent because it is possible that council processes and costs might change materially in the next five years (for example, some councils might automate their processes more).

Until those formal reviews, the Department will monitor the proposed regulations' effectiveness through its existing engagement with the SRO, Valuer-General Victoria, Councils and industry stakeholders (such as PEXA and Landata).

Should you wish to discuss any issues raised in this letter, please do not hesitate to contact my office on (03) 7005 9772.

Yours sincerely



**Anna Cronin**  
Commissioner for Better Regulation