



23 August 2019

Response: proposed amendments to Regulations - rates and finance provisions

General comments

We would like to congratulate the DLGRMA on the excellent level of community engagement on these and other local government reform proposals. We have done our best to provide a response to these reform proposals in the time available but look forward, and will take up the opportunity, to respond to the next round of engagement when there are more specific recommendations to comment on.

We fully support a legislative framework that sets mandatory compliance requirements in all aspects of local governance but these requirements must be seen as a minimum standard. We are keen to see initiatives from the Department that encourage councils to exceed these requirements. This can be done via departmental guidelines, councillor training and case studies identifying exemplar council practices (eg Isaac and Southern Downs Councils) for example, as it is vital to establish the pre-eminence of the Local Government Principles at beginning of *Local Government Act 2009* as the basis for all council policies and actions.

It is important that the difficulty or cost of implementing reform for indigenous and small councils in Queensland is not used as a reason for not pursuing such reform and making them mandatory. In some cases the State Government might need to provide financial and/or personnel resources to assist these councils meet new requirements.

We also believe the Department should not apologise for going beyond the Belcarra, Sooley, Windage and OAG reports when prosecuting the Government's reform agenda.

Council reporting of budget vs actual

OSCAR has been consistent in its view that local government requirements be generally aligned with those of the state and federal tiers of government in Australia. This is an important principle to adopt and we support any amendment that achieves that outcome.

We also support amendments that would seek to:

- include the original budget figures in the statement of estimated financial position presented at the annual budget meeting;
- show, for those projects or activities that cross several years, the figures for the whole time period of the project; this should cover the original, new and additional items as separate figures;
- show sub-totals for major categories of expenditure for cross analysis; for example: marketing, salaries, IT and communications etc;
- show variations between the original budget and statement of estimated financial position by line item. These variances should, in our view, be expressed in both dollar and percentage terms with variances of greater than +/- 10% requiring an explanatory note in these financial statements;
- provide explanations that are easy to understand by the public, ratepayers, and other interested groups; and
- include variances expressed in term of percentages as well as amounts in financial reports - eg comparisons of budget vs actuals and in movements from one year to next.

Transparency and accountability of rates and charges

We believe the revenue policy should have the same status/relationship with the budget as the corporate plan and the annual operational plan, in that the budget must be consistent with the revenue policy rather than the revenue policy being included in the budget. Therefore we believe section 169 of the LGR and section 160 of the COBR should be amended to:

- remove the requirement that the budget must include a revenue policy; and
- provide that the budget must be consistent with the local government's revenue policy.

We believe the revenue policy should have a long-term outlook – in our view at least five years so that it is consistent with the corporate plan.

We believe the revenue policy should include the information noted in the Discussion Paper however there may be instances where a variance could be referenced in the revenue statement.

We believe the finding of the QAO that *“rather than councils increasing rates to cover the gap between their forecast revenue from other sources and their forecast revenue needs, their decisions to increase rates and charges at certain levels are not directly linked to their forecast revenue needs. Councils increase rates at levels they consider to be fair and reasonable for their ratepayers, rather than with a focus on operating sustainably over the long-term without eroding their physical asset base.”* indicates a serious problem we believe is occurring and it is important that this is addressed so communities are protected from excessive and unanticipated future rises in rates.

We believe the inclusion of a statutory obligation in the LGR and CBR that the CEO certify to the local government (in a prescribed form) that the final adopted budget complies with all legislative requirements be appropriate to address the QAO's concerns is desirable.

We would also strongly support an amendment to section 13 of the Local Government Act 2009 (section 15 of the City of Brisbane Act 2010), which prescribes the responsibilities of local government employees, to include a specific obligation relevant to the budget and other financial requirements.

NB We would ask that the Department give consideration to the inclusion of a **borrowings per ratepayer ratio** as a mandatory requirement in financial reports so that ratepayers can see, in easy to understand terms, a measure of the level of their individual exposure to council debt.

Public consultation on proposed budgets

We support amendments to the Local Government Regulation 2012 to provide for community input in budget development but we understand the difficulties in determining the level of detail that is appropriate and the time taken to consider community responses.

Where consultation occurs this must happen early in the budget development cycle however -ie community input is required during the development of the draft budget. Public consultation should be ongoing but provide a timeframe that is realistic for informed community response. Our preference is for a 28 day minimum time allowed for such consultation.

We do not believe the publication of the revenue policy prior to the budget being presented to, and adopted by council, provides sufficient information for community input into a proposed budget.

Controlled entities

The intention to provide protection to local governments and, by extension, ratepayers from legal liability via the establishment of controlled entities does not justify the lack of transparency associated with these in our view. We believe the creation of controlled entities by councils is often purely to protect council business activity from appropriate community scrutiny rather than for any reason of legal protection.

Our fundamental position is that councils have no need to set up separate business enterprises and we would prefer to see them proscribed rather than regulated.

If they are to be permitted we would endorse the amendments proposed in relation to the creation of controlled entities.

We also strongly support the proposal to require financial statements of controlled entities to be publicly available along the lines proposed in the Department's Discussion Paper.

We would go further however and strongly endorse the requirement that these financial statements be included in the annual financial statements prepared by councils and that they be subject to the same reporting requirements as for standard reports. We also believe quarterly updates should be tabled at council meetings.

Sale of land for overdue rates

We agree that the LGR and the COBR should be amended to require a local government to take reasonable care to ensure that the land is sold at the market value at the auction or subsequent sale if the land fails to sell at auction with the additional safeguard that Local Government should be mandated to work in the best interest of residents.

We support the current requirement under section 137 of the LGR (section 129 of the COBR) to obtain a valuer's report relating to the market value of the land.

OSCAR would be happy if the LGR and COBR were amended to require a local government to take reasonable care to ensure that the land is sold at the market value, but the argument for retaining the requirement or a valuer's report relating to the market value is compelling. The public needs the confidence related to obtaining an independent market valuation.

Sale of land in these cases should be last resort, should only happen after all alternatives are considered (eg realistic payment plans) and should ensure that adequate protection is provided to land owners to ensure land is being sold at or near market value whether by auction or sale.

We strongly support the current requirement that all land must be first offered for sale by auction.

We agree that the requirement to set a reserve price be retained. If the LGR and COBR were amended to require a local government to take reasonable care to ensure that the land is sold at the market value, the requirement to set a reserve price should be retained with the proviso that the reserve price must be consistent with the obligation to take reasonable care to ensure the land is sold at market value

We do not believe that the LGR and COBR should be amended to remove the restriction that the price at a subsequent private sale must be more than the highest bid received at the auction. The public expects that land should be sold at or above the highest Auction bid and at independently determined market value.

We support the LGR and COBR being amended to remove the "deemed sale" requirement but we do not believe the removal of the deemed sale requirement would obviate or allay concerns about setting a reserve price which is at or near to the market value because of the erosion of trust in local government. The public needs the satisfaction or confidence that flows from an independent market valuation.