



15 July 2020

Department of Local Government, Racing and Multicultural Affairs (DLGRMA)

Finance and reporting reforms

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To whom it may concern

**RE: Proposed amendments relating to transparency and accountability of local government controlled entities and sale or acquisition of land for overdue rates**

OSCAR wishes to thank the Department of Local Government, Racing and Multicultural Affairs (DLGRMA) for the opportunity to comment on the proposed amendments to the Local Government Regulation (LGR) and the City of Brisbane Regulation (COBR) in relation to two Policy position papers:

1. The Sale or acquisition of land for overdue rates
2. Transparency and accountability of local government controlled entities

OSCAR made a submission to the Discussion Paper of August 2019 relating to both of these topics and is pleased to see and is supportive of proposed amendments, with however some qualification. OSCAR also congratulates DLGRMA on the ongoing reforms relating to Local Government and encourages the Government to continue the reform process.

**The sale or acquisition of land for overdue rates**

In our August submission OSCAR was supportive of the changes being proposed, but stressed then and we continue to stress that in order to ensure fairness and trust in Local Government, that the general obligation of LG should be **similar** to the duty, imposed on mortgagees and receivers under the Property Law act 1974, to take reasonable care to ensure that the land is sold at or as close to market value or as best can be as determined by an independent valuer, given the constraints of the LG not being required to take possession of the property. The public confidence in LG as a whole is not at a high level given the actions of some LG over the last few years.

Proposed amendment	Comment
Retain the requirement that a local government must first offer the land for sale by auction, but provide that if the land fails to sell at auction, a local government may sell the land by private contract;	<b>Agree</b> However, the LG must ensure that no council officer, councillor or any related party or persons, or any such associated company as listed under the LG declaration of interests, is permitted to bid at auction or be party to any private sale in the event of the said property not selling at auction.
Remove the restriction in section 143 of the LGR (section 135 of the COBR) that a local government can only negotiate with the highest bidder at the auction and that the price must be more than the highest bid;	<b>Agree</b> However, with the same rider as above.
Remove the requirement that the land is deemed to be sold to the local government if the land does not sell at the auction or following any subsequent negotiations for sale.	<b>Agree</b>

Provide that if the land fails to sell at auction or by private contract within twelve (12) months after the local government gives the notice of intention to sell, the sale of land process must end.	<b>Agree</b>
Provide that a local government may commence fresh procedures to sell the same land at any time after the previous procedures have ended.	<b>Agree</b> , with the rider that: As long as there has been no subsequent attempt by the ratepayer to negotiate a realistic payment plan.
Make any necessary consequential amendments to sections 144 and 145 of the LGR (sections 136 and 137 of the COBR).	<b>Agree</b>

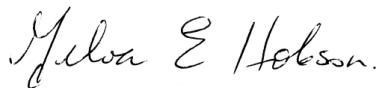
### Transparency and accountability of local government controlled entities

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.

<b>Proposed amendment</b>	<b>Comment</b>
<b>Advice on the creation of new controlled entities</b>	
1. It is proposed that the LGR and the COBR be amended to prescribe that: <ul style="list-style-type: none"> <li>• a local government must notify the Minister of a notifiable event (as defined under the A-G Act) within 14 days.</li> <li>• a local government must provide the Minister with a copy of a controlled entity's governing documents (e.g. constitution, statement of corporate intent, etc) when it is established or when any change is made to the governing documents within 14 days.</li> </ul>	<b>Agree</b> OSCAR would also like to see that the documents provided to the Minister should be placed on the LG website within the same timeframe, including the names of Directors, constitution, purpose etc
<b>Controlled entities – audited financial statements to be publicly available</b>	
2. It is proposed that the LGR and the COBR be amended to prescribe that: <ul style="list-style-type: none"> <li>• the audited financial statements of a controlled entity must be tabled at the next meeting of the local government following certification by audit;</li> <li>• the audited financial statements of a controlled entity of a local government must be published on the local government's website, within 14 days of tabling at the meeting of the local government;</li> <li>• in respect to an entity jointly controlled by more than one local government: <ul style="list-style-type: none"> <li>– the audited financial statements of a jointly-controlled entity must be tabled at the next meeting of each local government</li> </ul> </li> </ul>	<b>Agree</b> Further to these amendments we support greater frequency in reporting financial results and outcomes in the form of quarterly reports to the LG and recorded in the minutes, not kept as confidential but open to the public.  Publishing on the LG website is critical. Some such entities have their own website where some of the proposed information is

<p>that jointly controls the entity, following certification by audit;</p> <ul style="list-style-type: none"><li>– if the audited financial statements of a jointly-controlled entity are published on its website, then each local government that jointly controls that entity must include a link on its website to the statements published on the website of that entity, within 14 days of tabling at the meeting of the local government;</li><li>– if the audited financial statements of a jointly-controlled entity are not published on that entity’s website or the entity does not have a website, then each local government that jointly controls that entity must publish the audited financial statements on its own website, within 14 days of tabling at the meeting of the local government.</li></ul>	<p>published, but with no link to the respective LG website.</p> <p>(However, we acknowledge that there may be some non-completed financial arrangements unable to be publicly available at the time of reporting.)</p>
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Yours sincerely



Melva E Hobson PSM

President

Organisation Sunshine Coast Association of Residents