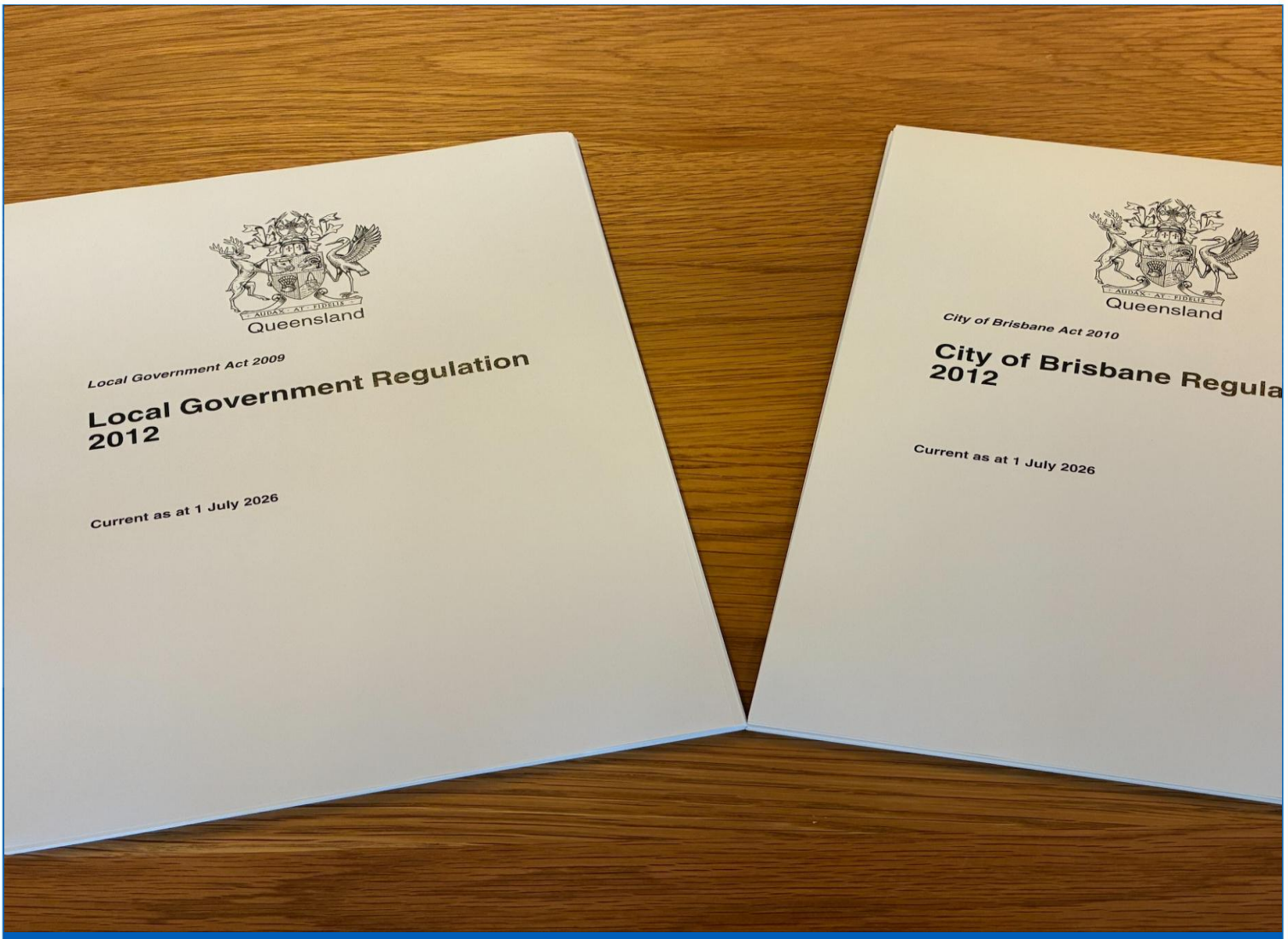


Local government regulations review

Discussion paper – Sunset review of Local Government Regulation 2012 and City of Brisbane Regulation 2012

DELIVERING FOR QUEENSLAND

Queensland Government

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1. Introduction

The Department of Local Government, Water and Volunteers (department) is undertaking a sunset review of the Local Government Regulation 2012 (LGR) and City of Brisbane Regulation 2012 (COBR) in accordance with the *Statutory Instruments Act 1992* (SIA).

This discussion paper forms an important part of the review, seeking your views on the efficiency and effectiveness of the current provisions in the LGR and COBR.

1.1 Sunset review requirements

The LGR and COBR are subordinate legislation made under the *Local Government Act 2009* (LGA) and *City of Brisbane Act 2010* (COBA), respectively. Section 54 of the SIA provides that subordinate legislation expires on 1 September occurring after its 10th anniversary.

The LGR and COBR were first made in December 2012 and were originally set to expire on 1 September 2023. However, under section 56A of the SIA both regulations were initially exempted from expiry until 31 August 2024, with further extensions to this exemption from expiry approved until 31 August 2027.

Under the *Queensland Government Better Regulation Policy*, a sunset review is required to determine if the regulations should be remade. When undertaking sunset reviews, agencies must consider if the regulations are still required, remain effective and efficient, and whether they impact competition. Where amendments are proposed as part of a remade regulation, agencies must also consider whether these amendments are likely to have any adverse impacts on stakeholders.

1.2 Discussion paper

In developing this discussion paper, the department has considered matters raised previously by stakeholders, including individual councils and the Local Government Association of Queensland (LGAQ) via submission processes, correspondence, workshops and input received through the department's regional offices.

These matters have been noted and, where appropriate, will be considered as part of the sunset review of the LGR and COBR or through other relevant policy, regulatory or administrative processes.

The discussion paper has also been informed by the work of the Local Government Red Tape Reduction Taskforce and Local Government Depreciation Taskforce.

1.3 Purpose of the regulations

The LGR and COBR provide the detailed legislative framework supporting the operation of the LGA and COBA, respectively.

The regulations set out the requirements relating to the governance, administration, financial management and operations of local governments in Queensland and Brisbane City Council (BCC). While the regulations serve a similar purpose, the COBR includes provisions reflecting BCC's unique governance structure and responsibilities.

The current versions of the LGR and COBR are available on the Office of the Queensland Parliamentary Counsel's website at:

www.legislation.qld.gov.au/view/html/inforce/current/sl-2012-0236

www.legislation.qld.gov.au/view/html/inforce/current/sl-2012-0235

1.4 How to provide feedback

The department is seeking responses to the specific questions posed in this discussion paper and general stakeholder feedback. A summary of the questions is at **Appendix I**.

Questions throughout this paper are intended to prompt discussion on key issues and are not designed to cover all aspects of the LGR and COBR. Accordingly, some topics do not include specific questions where no significant issues have been identified. Stakeholders are encouraged to raise any additional matters they consider relevant to the review of the LGR and COBR as part of their submission.

Where stakeholders consider that a proposed regulatory amendment may require amendments to the LGA or COBA, they are encouraged to identify these matters in their submissions. While amendments to the LGA and COBA are outside the scope of this review, any consequential legislative matters identified may be considered separately through future legislative, policy or regulatory review processes.

To provide feedback, please email your comments/submission to the Local Government Policy and Legislation Team at localgovernmentpolicy@dlgwv.qld.gov.au.

The closing date for providing feedback is **12 February 2027.**

Please note: Your name and submission may be published on the department's webpage, which will mean it can be viewed on the internet. You can request for your name to be withheld from your published submission, or for both your name and your submission to be kept confidential (i.e., not published). Decisions about whether and how submissions are published are at the discretion of the department.

2. Local Governments/City of Brisbane

Chapter 2, and Schedule 1, of the LGR and COBR:

- describe the boundaries of local government areas and any divisions (for BCC, the COBR describes a specific ward system consisting of 26 electoral wards), and
- fix the number of councillors for local governments and any divisions.

In addition, the LGR includes provisions to:

- name local government areas, and
- classify local government areas as a city, town, shire, or region.

The regulations provide clarity and certainty about how local government areas are constituted and how representation is structured for electoral and governance purposes.

The regulations also include provisions in relation to the availability of local government area maps. They provide that the Director-General of the department must ensure:

- the department's website states a place where a copy of the area maps may be inspected by the public
- a copy of the area maps may be inspected by the public at the place, and
- each local government has a copy of its area map.

Chapter 2 also supports the framework in the LGA and COBA for changing a local government area, name or representation. These provisions enable changes to representation arrangements over time, reflecting changes such as population growth, boundary alterations or electoral arrangements.

The LGA and COBA provide that the Local Government Change Commission (Change Commission) is responsible for assessing whether a local government change is in the public interest. In undertaking its assessment, the Change Commission must consider:

- whether the proposed local government change is consistent with a local government act.
- the views of the Minister about the proposed local government change, and
- any other matters prescribed by the LGR and COBR.

Chapter 2 requires the Change Commission to consider the following matters when assessing a potential local government change:

- **communities of interest** - including consideration of relevant geographical patterns of human activity, social and economic connections, accessibility to centres of administration and service, water catchments, and the extent to which boundaries avoid dividing established communities, neighbourhoods or properties
- **joint arrangements** – whether joint arrangements or resource-sharing alternatives would be a more effective solution, either instead of, or in combination with, a boundary change
- **planning** – whether proposed boundaries support effective planning and development, the efficient delivery of facilities and services, and existing and expected population growth, and
- **resource base sufficiency** - satisfied that a local government area has a sufficient resource base to enable it to efficiently and effectively exercise its jurisdiction and respond to future needs.

The LGR also provides specific criteria for classifying a local government area as a city, town, shire or region.

The Queensland Government's *Guide to Local Government Change Proposals* outlines the legislative framework, assessment criteria and processes for proposing changes to local government arrangements, including boundary changes, representation structures and council classifications. The guide emphasises that any proposed change must demonstrate clear public benefit, community and council support, financial sustainability, and be independently assessed by the Change Commission before implementation.

Question 1

Are the criteria that the Change Commission must consider still appropriate to determine whether a local government change is in the public interest?

Question 2

Do the criteria in the LGR to categorise a city, town, shire or region need to be updated to reflect contemporary variations, such as large local government areas with multiple urban population centres?

3. Business of local governments

3.1 Business activities and competitive neutrality

The LGA and COBA establish the framework for how local governments conduct business activities in competition with the private sector.

The Acts implement *National Competition Policy* (NCP) Agreements by requiring councils to apply the *competitive neutrality principle*, which ensures councils do not gain an unfair advantage simply because they are public entities.

Chapter 3, Part 2, of the LGR and COBR operationalises the respective provisions in the LGA and COBA by providing a detailed framework for managing *significant business activities*. The regulations require local governments to identify and assess each new significant business activity for reform when the benefit to the public (in terms of service quality and cost) of applying the reform outweighs the costs.

The regulations provide that reform must involve:

- applying full cost pricing to the activity – charging for goods or services at the full cost of providing them
- commercialising the activity – activity conducted by a commercial business unit within the local government, or
- corporatising the activity by creating a corporatised business entity.

Question 3

Do the regulations appropriately operationalise the *National Competition Policy* and competitive neutrality principle and provide sufficient options for local governments to address competition issues?

3.1.1 Thresholds and information requirements

Chapter 3, Part 2 of the LGR and COBR provide the thresholds for determining whether an activity is a *significant business activity*.

Current thresholds

The current thresholds for *significant business activities* of local governments, other than BCC, are:

- **combined water and sewerage services** – 10,000 or more premises being connected to a water service as at 30 June of the financial year ending immediately before the current financial year
- **other types of business activity** – expenditure of at least $9.7 million for the financial year ending immediately before the current financial year.

The LGR outlines specific cost recovery arrangements for water and sewerage services.

The COBR provides that the significant business activities threshold for BCC is expenditure of at least $9.7 million for the financial year ending immediately before the current financial year.

The LGR and COBR also prescribe the information a local government must use to identify *significant business activities* in its annual report.

Question 4

Does your council apply the 10,000 premises threshold to water and sewerage services combined, or separately to water and sewerage service connections? Is this threshold still fit for purpose given Queensland's growth?

Code of Competitive Conduct – building certifying or road activities

Significant business activities do not include a building certifying activity or a roads activity.

Instead, the LGR and COBR outline the *Code of Competitive Conduct* relevant to building certifying activities and roads activities of councils.

The LGR and COBR also include a threshold which determines whether a council must decide each financial year whether or not to apply the *Code of Competitive Conduct* to a business activity. This threshold, for prescribed business activities, is currently $340,000.

Question 5

Do the thresholds for significant business activities create an administrative burden to comply with the *National Competition Policy* framework, or are the thresholds for significant business activities fit for purpose?

Question 6

Is the current $340,000 (or more) threshold for the Code of Competitive Conduct for prescribed business activities adequate? If not, please explain.

3.1.2 Competitive neutrality complaints

The LGR and COBR prescribe the process for managing competitive neutrality complaints. Recent amendments to the LGR and COBR made by the *Local Government (Empowering Councils) and Other Legislation Amendment Act 2026* removed red tape and duplication by providing that councils may deal with competitive neutrality complaints under the existing administrative action complaints procedures.

Question 7

Are any further amendments required to ensure the competitive neutrality complaints process is efficient and responsive?

3.1.3 Register

The regulations provide that local governments must establish a register of business activities to which the *competitive neutrality principle* and *Code of Competitive Conduct* apply and prescribes the information that must be contained in the register, including details of any competitive neutrality complaints.

3.2 Roads and other infrastructure

Chapter 3, Part 3 of the LGR and COBR outlines what local governments must include in their register of roads, matters connected with managing, promoting or using malls, provisions about marine and aquatic infrastructure and other matters.

These provisions aim to support councils to provide and maintain safe, accessible and well-managed public spaces and infrastructure for the benefit of the community.

The provisions regarding marine and aquatic matters capture elements including, but not limited to, foreshores and bathing reserves to be placed under the control of local governments. Some feedback has indicated that further clarity may be needed regarding the extent of local government jurisdiction and application of local laws in these areas, particularly where there is an overlap with historical gazette notices or State-managed land.

Question 8

Are there any gaps or challenges in the implementation of the provisions on roads, malls, marine and aquatic matters, or the management of other infrastructure?

Question 9

To reduce red tape should the regulations be amended to remove the requirement for local governments to record details of all their existing and proposed malls in their planning schemes?

4. Rates and charges

The LGA and COBA provide that most local governments must levy general rates on all rateable land within the local government area. General rates are levied for services, facilities and activities supplied or undertaken for the benefit of the community in general (e.g. roads and library services).

In addition, local governments may levy:

- **special rates and charges** – for a service, facility or activity that has a special association with particular land
- **utility charges** – for a service, facility or activity for waste management, gas, sewerage and water
- **separate rates and charges** – for any other service, facility or activity.

The LGR prescribes the Indigenous Local Governments and Aurukun and Mornington Shire Councils are prohibited from levying general, special or separate rates. The LGA includes provisions to enable Indigenous Local Governments to levy rates in the future, once they have capacity to do so.

The LGR and COBR allow local governments to categorise rateable land and decide differential rates for rateable land.

The LGR and COBR include detailed provisions in relation to the rates and charges framework, as summarised below.

The department has also issued the *Guideline on equity and fairness in rating for Queensland local governments* (Guideline). The Guideline sets out principles to assist local governments to implement fair and equitable rating systems while ensuring flexibility for raising sufficient own source revenue.

The Guideline is available at:
https://www.dlgrma.qld.gov.au/__data/assets/pdf_file/0028/45469/equitable-rating-guidelines-for-local-governments.pdf

4.1 Land exempt from rating

The LGA and COBA provide a list of land that is exempt from rates including unallocated State land; land that is occupied by the State or a government entity; State forests; Aboriginal or Torres Strait Islander land (unless the land is used for commercial or residential purposes); and timber reserves and transport infrastructure land.

Chapter 4, Part 2 of the LGR outlines additional land that is exempt from rating:

- land owned by a religious entity if the land is less than 20 ha and is used for religious purposes; education, health or community services provision; administration; and housing incidental to these purposes
- land vested in, or placed under the management and control of a person for a public recreational or sporting purpose or a charitable purpose
- land used for the purpose of a public hospital if the public hospital is part of a private hospital complex or a private and public hospital complex and the land is more than 2 ha and separated from the rest of the complex
- land owned by a community organisation if the land is less than 20 ha and used for accommodation associated with child protection, students or educational, training or information services aimed at improving labour market participation or leisure opportunities, and

- land used for a cemetery.

The COBR does not include a similar list of specific exemptions in relation to religious, charitable, educational or other public purposes. Instead, the COBA provides BCC with the capacity to determine, via resolution, that land used for the above purposes is exempt from rating. The COBR includes a provision that land owned or held by BCC is exempted from rating unless leased to someone other than another local government.

4.2 Value of land used for rates

Chapter 4 of the LGR and COBR provide that rates are calculated based on the value of the land as decided by the Valuer-General under the *Land Valuation Act 2010*.

The rateable value of the land can be the value for the financial year or an averaged value over 2 or 3 financial years, if resolved by the local government. However, if the averaged value exceeds the financial year's value, the financial year's value must be used.

Section 7 of the *Land Valuation Act 2010* provides that the value of land is:

- for non-rural land – its site value, or
- for rural land – its unimproved value.

The *Land Valuation Act 2010* also includes provisions for the valuation of particular types of land uses, including mining leases and geothermal, Greenhouse Gas and petroleum leases.

4.3 Minimum general rates

Chapter 4, Part 4 of the LGR and COBR provides for how councils may set minimum general rates.

The regulations provide that, generally, the same minimum rate applies to all rateable land. However, different minimum rates may be set:

- if there are different rating categories of rateable land, for each different rating category
- for timeshare properties
- for certain mining leases, or
- for land subject to a mining claim.

The regulations provide a formula to calculate minimum general rates on timeshare properties and on land subject to mining claims.

4.4 Differential general rates

Chapter 4, Part 5 of the LGR and COBR provide for how councils can levy differential general rates based on categories of rateable land, which can vary between categories but cannot overlap with general rates.

A local government must, by resolution, make a decision about different rating categories at the local government’s budget meeting.

The regulations outline how council officers may enter land to categorise it and how to provide notice to owners of categorisation.

The regulations also allow landowners to formally object to or appeal their rating categories. Appeals are managed by the Land Court, which has the authority to amend categories and adjust rates retrospectively if necessary.

4.5 Special rates and charges, utility charges and separate rates and charges

Chapter 4, Parts 6 to 8 of the LGR and COBR provide the rules and procedures that councils must follow when levying special rates and charges, utility charges and separate rates or charges.

4.5.1 Special rates and charges

The LGA and COBA provide that special rates and charges are for services, facilities and activities that have a special association with particular land because the:

- land or its occupier specially benefits from the service, facility or activity or has or will have special access to the service, facility or activity
- land is or will be used in way that specially contributes to the need for the service, facility or activity, or
- occupier of the land specially contributes to the need for the service, facility or activity.

The regulations provide that a local government's resolution to levy special rates or charges must identify the rateable land to which the special rates or charges apply and include an overall plan for the relevant service, facility or activity.

The overall plan must:

- describe the service, facility or activity
- identify the rateable land to which the special rates or charges apply, and
- state the estimated cost of, and time for, carrying out the overall plan.

If an overall plan is for more than one year the local government must also adopt an annual implementation plan setting out the actions or processes to be carried out in the financial year for the service, facility or activity.

Local governments may carry unspent special rates or charges forward for spending under an annual implementation plan in a later financial year.

Broadly speaking, if the collected funds are not fully used, or if the plan is cancelled or special rates or charges were incorrectly levied, the unspent or incorrectly levied amounts must be refunded to the property owners.

This is highlighted through the **Woolwich principle** which was established in the UK case *Woolwich Equitable Building Society v Inland Revenue Commissioners*. This generally allows a person to recover money paid because of an unlawful demand by a public authority.

In Australia, this principle is often relied upon in claims against local governments, including cases involving the Redland City Council, where applicants argued that unlawfully imposed rates, charges, or taxes should be refunded, despite potential defences based on change of position or unjust enrichment.

4.5.2 Utility charges

Utility charges are charges for waste management, gas, sewerage and water. Utility charges may be levied on any basis that the council considers appropriate and they can be based on various factors, like property usage or value.

A council may also levy charges in anticipation of services for the next financial year, even if the facilities are not yet constructed. Meter reading protocols are also provided for in the regulations.

4.5.3 Separate rates and charges

The meaning of *Separate rates and charges* is found in section 92(5) of the LGA and section 94(5) of the COBA. Separate rates and charges may be levied by local governments for “any other service, facility or activity”.

The LGR and COBR provides councils with the flexibility to determine the minimum amount of the rates. A council may levy separate rates or charges regardless of whether the council or another entity provides the service, facility or activity.

The original intent of the provisions was to authorise a local government to apply a separate rate or charge to the whole of a local government area, however, feedback has indicated that some councils have been imposing ‘differential’ special rates.

4.6 Levying and adjusting rates and charges

4.6.1 Rate notices

Chapter 4, Part 9 of the LGR and COBR provide that councils can only levy rates or charges through a rate notice. A rate notice must include the following details:

- the date of issue
- the payment due date
- any applicable discounts (with terms and deadlines)
- instalment payment options, and
- payment methods.

Rate notices may also include additional amounts, such as licence fees, owed to the local government but these must be clearly identified as separate from rates or charges and must not affect any applicable discounts.

A rate notice must be sent to the entity requesting services for non-rateable land or the registered owner of rateable land.

A rate notice must cover a period of at least one month for utility charges and part or all of a financial year for other rates or charges, with at least one notice issued annually for each rateable property.

Rate notices can be issued electronically with the recipient's consent, provided they are accessible for future reference. Rating category statements may accompany them electronically. The regulations are not explicit on whether a council may charge a fee for the provision of a hard copy rates notice.

4.6.2 Adjusting rates or charges

The LGR and COBR provide that a local government must adjust the amount of rates or charges that have been levied on land, if:

- the land becomes or ceases to be rateable land
- the value of the land changes under the *Land Valuation Act 2010*
- the rating category applying to the land changes
- special rates or charges become or stop being payable on the land, or
- a person loses entitlement to occupy land under a lease, licence or permission given by the State.

The regulations provide that overpayments must be refunded and underpayments may be recovered.

4.6.3 Other matters about levying rates or charges

Local governments may also limit rate increases to a percentage of the previous year's rates, with the option to apply different limits to various land types or rates. If part of a property is compulsorily acquired, the rates for the remaining portion may be reduced proportionally.

Rates or charges can be levied or adjusted in a financial year, even if the resolution was passed in a prior year. Payment deadlines for rates or charges must be set at least 30 days after the rate notice is issued, with the same deadline applying to all ratepayers (subject to the provisions allowing concessions). This decision must be made, by resolution, during the local government's budget meeting.

4.6.4 Concessions

Chapter 4, Part 10 of the LGR and COBR provide that a local government may only grant concessions for rates or charges on land, if satisfied:

- the land is owned or occupied by a pensioner
- the land is owned by a non-profit or an entity supporting arts or cultural development
- the concession is deemed appropriate due to local cost of living in the local area (only in the LGR)
- the payment of the rates or charges will cause hardship to the landowner
- the concession will encourage economic development
- the concession will encourage the preservation, restoration or maintenance of land of cultural, environmental, historical, heritage or scientific significance
- the land is used exclusively as a single dwelling house or farm and could be used for another purpose, e.g. commercial or industrial
- the land is subject to a Greenhouse Gas tenure, mining tenement or petroleum tenure, or
- the land is part of a parcel of land that had been subdivided by the owner and the land is not developed land.

Concessions can take the form of rate or charge rebates, deferred payments or agreements to accept unencumbered land as payment.

A local government may only grant a concession by resolution. Concessions may be granted to specific ratepayers or classes of ratepayers and may impose conditions such as providing proof of eligibility or limiting the concession period. Special provisions exist for rebates on land occupied by pensioners, requiring landowners to pass on the benefit to pensioners.

4.7 Paying rates and charges

Chapter 4, Part 11 of the LGR and COBR provide that the responsibility for paying rates and charges lies with the current owner of rateable land, the entity requesting services for non-rateable land or structures, or the owner of land that was previously rateable before its status changed (e.g. due to acquisition by the State or exemption from rating). If multiple individuals are liable, they share joint and several liability (jointly and separately responsible).

Where a person makes a partial payment of the amount specified in the rate notice without specifying its application, councils must apply the payment in the order prescribed by the LGR and COBR.

Local governments may allow ratepayers to pay rates or charges in instalments, provided this is decided through a resolution at a budget meeting. The resolution must outline payment periods, additional charges for instalments (if any) and potential discounts for timely payments.

Discounts for prompt payment may be offered, with the discount amount and period varying by rating category. The discount can be a fixed amount or a percentage and may be conditional on other payments being up to date. Councils may also provide multiple discount periods or extend the discount period through a resolution.

If a ratepayer is prevented from paying on time due to circumstances beyond their control, the council may still grant the discount. However, discounts are not available if other rates or charges for the land are overdue. Councils may offer non-monetary benefits, such as free use of services or opportunities to win prizes, as incentives for early payment of rates or charges.

4.8 Overdue rates and charges

Chapter 4, Part 12 of the LGR and COBR provide the framework for how local governments may deal with overdue rates and charges.

The LGR and COBR define the term *overdue* as consisting of:

- rates or charges not paid by the due date
- court ordered costs
- any expenses incurred by the local government in relation to selling the land, if the land is not sold within one year after a notice of intention to sell, and
- interest payable on the rates or charges or costs.

The regulations also provide for when rates or charges become overdue.

4.8.1 Interest on overdue rates or charges

The maximum rate of interest that a local government may charge on overdue rates or charges is prescribed by the LGR and COBR.

The prescribed method is based on the calculation used for the interest charged on unpaid State taxes under the *Taxation Administration Act 2001* and the Taxation Administration Regulation 2022 (i.e. the Reserve Bank of Australia (RBA) 'bank bill yield rate' plus a margin of 8 per cent).

For overdue rates and charges, the bank bill yield rate (3-month bank accepted bills monthly average) as at the month of March in each year is used to calculate the maximum rate of interest to apply for the following financial year.

Local governments are required to set the actual interest rate to be charged on overdue rates or charges each year up to the maximum interest rate set by the LGR and COBR. This is to be done by resolution at the budget meeting.

The bank bill yield rate as at March 2026 published by the RBA was 4.19 per cent, so the maximum interest rate for the 2026-27 financial year is 12.19 per cent.

4.8.2 Selling land to recover overdue rates or charges

The LGR and COBR provides that local governments may sell land to recover overdue rates and outlines the process for doing so.

A local government may decide, by resolution, to sell land to recover overdue rates or charges in the following circumstances:

- the liability to pay overdue rates or charges is not the subject of court proceedings, and
- some, or all, of the overdue rates or charges have been overdue for at least: three years (generally); one year, for vacant land used only for commercial purposes and a judgement has been obtained; or three months, for mining claims.

Before selling land, a local government must issue a *notice of intention to sell* to all interested parties, including the registered owner of the land, and follow specific procedures.

The LGR and COBR prescribes certain timeframes that apply to starting and ending a procedure to sell land:

- a local government may only start the procedures for selling land if the overdue rates or charges are not paid in full within three months after it gives a *notice of intention to sell* (generally) or one month after it gives a *notice of intention to sell* for mining claims
- a local government must start the procedures for selling land within six months after giving the *notice of intention to sell*, and
- a local government must end the procedures for selling land:
  - if the local government is paid the amount of the overdue rates and charges and all expenses incurred by the local government in attempting to sell the land
  - if the land is sold, or
  - one year after the *notice of intention to sell* is given.

The regulations provide that a local government must first offer the land for sale by auction, issue an auction notice and set a reserve price (at least market value of land or higher of the amount of overdue rates or charges on the land or the value of the land).

If the reserve price is not met, the land may be sold through negotiation, but not below the reserve price.

Proceeds from the sale are applied in a specific order, starting with State encumbrances, sale expenses, land tax, overdue rates and other debts, with any remaining funds unclaimed after two years paid to the public trustee as unclaimed money.

4.8.3 Acquiring land to recover overdue rates or charges

The LGR and COBR provide that a local government may decide, by resolution, to acquire land to recover overdue rates or charges in the following circumstances:

- the liability to pay overdue rates or charges is not the subject of court proceedings
- some of the overdue rates or charges have been overdue for at least three years
- the person liable to pay the overdue rates or charges has an interest in the land that a corporation is not prohibited from holding (e.g. a life interest in land), and
- either:
  - the total amount of overdue rates or charges is more than the value of the land and the land is considered valueless or of so little value that, if it were sold, the proceeds of sale would be less than the amount of overdue charges or rates, or
  - the total amount of the overdue rates or charges is more than the market value of the land.

The local government must issue a *notice of intention to acquire* to all interested parties.

If the debt remains unpaid after six months of the issuing of a *notice of intention to acquire*, a local government may commence the acquisition procedures. A local government must end the acquisition procedures if it is paid the amount of the overdue rates or charges and all expenses the local government incurred in attempting to acquire the land.

The local government becomes the registered owner of the land, free of encumbrances except State encumbrances. If the tenure of land is terminated and the State receives payment from a new holder, it may pay the local government for the overdue rates after retaining any amounts owed to the State.

Question 10

Does the current rates and charges framework appropriately support the needs of local governments, their communities and businesses? If not, what changes should be considered including to remove any unnecessary red tape?

5. Financial planning and accountability

The LGA and COBA include provisions about financial planning and accountability provisions for local governments, including providing that:

- a local government is a statutory body for the *Statutory Bodies Financial Arrangements Act 1982*, and
- a local government must establish a system of financial management that:
  - ensures regard is had to the *sound contracting principles*[1] when entering into contracts for the supply of goods or services or the disposal of assets, and
  - includes specified financial planning documents, financial accountability documents and financial policies.

Each local government must also establish an internal audit function with *large local governments* required to establish an audit committee (see **Appendix II** for a list of large local governments). Local governments must also maintain public liability insurance and professional indemnity insurance.

Chapter 5 of the LGR and COBR supports the LGA and COBA by making detailed provisions about record keeping, financial planning documents, financial accountability documents and financial policies.

5.1 Record keeping requirements

Chapter 5, Part 1 of the LGR and COBR provide that local governments are required to maintain a written record outlining the risks their operations face in relation to financial management and the control measures adopted to manage those risks.

Additionally, they must keep copies of their community grants policy, entertainment and hospitality policy, advertising spending policy and procurement policy together with this record.

Question 11

Are the current legislative requirements for councils to keep a record of risks to their operations still suitable and fit for purpose?

5.2 Financial planning documents

Chapter 5, Part 2 of the LGR and COBR provide that local governments must prepare several key planning and financial documents to ensure transparency, accountability and alignment with long-term goals:

- **5-Year corporate plan** – outlines a council's strategic direction and performance indicators over a period of five financial years. The plan must be adopted with sufficient time to allow a budget and operational plan, consistent with the corporate plan, to be adopted. A council may, by resolution, amend its 5-year corporate plan at any time. The COBR specifies that the CEO of BCC must present a written assessment of progress at least once every 12 months. CEOs of other councils are required to write a statement within the Annual Report on the progress toward the council's 5-year corporate plan.

[1] The *sound contracting principles* are value for money; open and effective competition; development of competitive local business and industry; environmental protection and ethical behaviour and fair dealing.

- **Long-term asset management plan** - ensures the sustainable management of council assets and forecasts capital expenditure for renewing, upgrading and expanding assets over a minimum 10-year period.
- **Annual budget** - a detailed financial budget prepared on an accrual basis and includes financial statements (position, cash flow, income/expenditure, changes in equity), a long-term financial forecast, revenue statement and revenue policy and a measure of financial sustainability. The annual budget must include the total value of the change, as a percentage, in the rates and utility charges levied compared to the previous financial year budget (excluding any discounts or rebates). The annual budget must be consistent with the 5-year corporate plan and annual operational plan.
- **Long-term financial forecast** (LTFF) - a 10-year forecast of expected income, expenditure, value of assets, liabilities and equity. The forecast must be reviewed annually and forms part of the council's financial management system. Councils must consider the LTFF when planning new borrowings and it must be included in the annual budget.
- **Revenue statement** - specifies the council's rating categories (if differential general rates are in effect), any special rates or charges for a joint government activity, any cost-recovery fee criteria and any business activity charges. The revenue statement forms part of the annual budget and must provide an "outline and explanation" of revenue-raising measures, including rates, charges and concessions. It must also include information about whether the council has made a resolution limiting an increase in rates and charges.
- **Annual operational plan** - a plan that aligns with the annual budget and outlines how the council will implement the 5-year corporate plan and manage operational risks. The council CEO must present a written assessment of the local government's progress towards implementing the annual operational plan at meetings of the local government held at regular intervals of not more than three months.

Question 12

Should the annual budget be required to separately disclose an operating surplus/deficit before capital revenue is incorporated into the overall net result, to improve transparency regarding a council's underlying operating performance and long-term financial sustainability?

Question 13

Should the LGR be amended to require the percentage change in rates and utility charges to be calculated against the estimated actual rates and utility charges levied in the previous financial year, instead of the budgeted amount for that year?

Question 14

Are the current requirements for financial planning documents sufficient to ensure the financial sustainability and accountability of local governments? Are any additional provisions required, for example, to ensure risks are adequately assessed? Are any of the current financial planning documents (or requirements relating to the financial planning documents) surplus to requirements?

Question 15

Is the current legislative position in relation to the development and adoption of a corporate plan fit for purpose – including, but not limited to:

- Is the current 5 year term of the corporate plan requirement appropriate?
- Should there be a change in requirements in relation to the stage in a local government's term that the corporate plan will commence?
- Are reporting arrangements on the corporate plan fit for purpose?
- Would additional prescriptive requirements in relation to the corporate plan's purpose and contents be of benefit?
- Should any alternatives to a corporate plan in its current form be considered?

Question 16

Is there a need for more guidance in the legislation in relation to the contents of an operational plan? Can any improvements be made with respect to operational plan reporting?

The Queensland Audit Office (QAO) recommended, in its *Report 2 – 2016-17 - Forecasting long-term sustainability of local government* that councils be required to include in their annual budget or annual report statements:

- the long-term financial forecasts for at least the subsequent three years after the budget year, and
- reporting analysis of actual to budget figures.

The QAO's *Report 17 – 2017-18 – Managing local government rates and charges* recommended that the LGR be amended to:

- require councils to include in their revenue policies a long-term rates strategy
- require councils to include in their revenue statements how annual decisions on rates and charges support financial sustainability, and
- require a council's CEO to certify to the mayor (in a prescribed form) that the council's final adopted budget complies with all legislative requirements.

Additionally, the 2017-18 report recommended that the department develop resources and tools for councils on:

- best practice community engagement approaches to strengthen community understanding of, and input into, the rates decisions required to ensure continuation of services
- the budget documents and overdue rates and charges provisions of the *Local Government Act 2009* (or equivalent) and the Local Government Regulation 2012 (or equivalent), and
- chapter 4 part 12 of the Local Government Regulation 2012 (or equivalent).

Question 17

Are there any factors that the department should take into account when considering the Queensland Audit Office's recommendations?

5.2.1 Adoption of annual budget

The LGR provides that a local government must adopt its annual budget after 31 May, but before 1 August in the relevant financial year or a later date decided by the Minister.

The COBR provides that BCC must adopt its annual budget before 1 August in the relevant financial year or a later date decided by the Minister. The COBR includes additional requirements for BCC, including public scrutiny sessions and councillor-led information sessions.

The LGR and COBR provide that a local government may, by resolution, amend the annual budget at any time before the end of the relevant financial year.

Question 18

Should councils be able to adopt their budgets earlier, for example from 'after 30 April', to reduce complexity and ensure better alignment with other financial planning documents?

5.3 Financial accountability documents

Chapter 5, Part 3 of the LGR and COBR outline several financial accountability documents which council must prepare or maintain, for example:

- **General Purpose Financial Statement** (GPFS) – provides a clear and comprehensive overview of the council's financial performance and position for the financial year. The GPFS must be prepared in compliance with Australian Accounting Standards Board requirements and are subject to audit. Councils must publish the GPFS in their annual report and make it available for public inspection at their office and on their website.
- **Financial Sustainability Statement and Long-Term Financial Sustainability Statement** – assesses the council's financial health and sustainability over the long term, covering nine financial years. It must include financial sustainability measures and an explanation of the council's financial management strategy, consistent with the Long-Term Financial Forecast. The statement is also submitted to the Auditor-General for audit (current-year statement) or information (long-term statement), as applicable.
- **Community Financial Report** – summarises and analyses the council's financial performance and position, includes applicable sustainability measures and is written in a way that is easily understood by the community. This report does not introduce new information but simplifies existing financial data for public accessibility, and
- **Asset registers** – records a local government's non-current physical assets.

5.3.1 Annual report

Councils are also required to prepare annual reports each financial year, providing a comprehensive overview of their operational achievements, service delivery and progress in meeting community needs.

The LGR and COBR provide that the annual report must contain various mandatory information, including:

- Financial statements and relevant audit reports by the Auditor-General
- Community financial report
- Resolutions on expenses reimbursement and asset value
- Councillor information (e.g. remuneration, expenses, meeting attendance and conduct issues)
- Administrative action complaints and competitive neutrality complaints

- Overseas travel
- Grants to community organisations and discretionary funds, and
- Financial contributions under the *Planning Act 2016.*

Additional content includes the council CEO's assessment of progress on the 5-year corporate and annual operational plans, a list of council registers, internal audit reports and a summary of rate and charge concessions.

Councils must adopt their annual report within one month of receiving the Auditor-General's report on their financial statements. Once adopted, the report must be published on the council's website within two weeks.

Question 19

Could the annual reporting requirements for local governments be simplified, whilst still ensuring accountability and transparency? For example, by providing for this information to be published on a council's website instead of the annual report?

Question 20

Is the requirement for a council's long-term financial sustainability statement to be included in both their budgets and annual reports burdensome? If yes, can you suggest a way to capture essential information without the duplication in reporting, e.g. the use of templates or tables?

Question 21

Is there any duplication within the financial accountability documents which could be removed or streamlined to reduce unnecessary red tape or regulatory burden? If so, where is the information otherwise available?

5.4 Financial policies

Chapter 5, Part 4 of the LGR and COBR provide that councils must prepare and adopt the following financial policies:

- **Investment policy** – outlines the council's investment objectives, risk philosophy and procedures for achieving its investment goals
- **Debt policy** – specifies planned new borrowings for the current and next nine financial years, as well as the repayment periods for both existing and new borrowings, and
- **Revenue policy** - details the principles the council will apply for levying rates and charges, granting concessions, recovering overdue rates and charges and recovering costs.

5.5 Community grants

A local government must prepare and adopt a community grants policy, which sets out the criteria for community organisations to be eligible for grants from the local government.

The LGR and COBR provides that grants can only be provided if they serve the public interest and align with the council's community grants policy. A community grants policy ensures that councils operate transparently and responsibly in managing public funds.

5.6 Spending

Chapter 5, Part 6 of the LGR and COBR provide that councils must prepare and adopt policies to govern their spending on entertainment, hospitality, advertising and procurement:

- **Entertainment and hospitality policy** - outlines acceptable expenses such as hosting public events to promote council projects, providing food and beverages for official visitors or council-organised events and covering costs for councillors or employees attending functions as part of their official duties.
- **Advertising spending policy** – a local government may only spend money on advertising if the advertising aims to provide information or education to the public in the public interest and complies with the adopted advertising spending policy. Advertising is defined as promoting ideas, goods, or services to the public for a fee.
- **Procurement policy** - details the principles, including *sound contracting principles*, to be applied when purchasing goods and services during the financial year. This policy must be reviewed annually to ensure it remains relevant and effective.

5.7 Public access to particular documents

Chapter 5, Part 7 of the LGR and COBR state that councils must make key financial and planning documents publicly accessible.

These documents include the 5-year corporate plan, annual budget, financial statements, community financial report, annual report and policies on investment, debt, community grants and procurement. The public must be able to inspect these documents at the local government's office and on its website. Copies must also be available for purchase, with the price limited to the cost of producing the copy.

5.8 Local government funds and accounts

Chapter 5, Part 8 of the LGR and COBR require councils to establish a trust fund and deposit trust money into a financial institution account. The reconciliation of the trust fund's assets with its liabilities must be conducted at least monthly and strict requirements apply to the transfer of money to or from a trust fund.

5.9 Discretionary funds

Discretionary funds are local government operating funds that are budgeted for community purposes and allocated by a councillor at the councillor's discretion. The LGA and COBA provide that a councillor must ensure that their discretionary funds are used in accordance with the requirements in the LGR and COBR.

The LGR and COBR include detailed provisions about how local governments may make discretionary funds available, the requirements for councillors using discretionary funds and information to be included in Annual Reports.

5.9.1 Availability of discretionary funds

The LGR and COBR provide that local governments may budget discretionary funds for use by councillors for capital works of the local government that are for a community purpose, or other community purposes.

The amount of discretionary funds for a financial year is capped at a prescribed amount (0.1% of the local government's revenue from general rates for the previous financial year). The amount of discretionary funds allocated must be the same for each councillor.

Local governments must publish an 'Availability Notice' within 20 business days of adopting its budget stating:

- the total amount budgeted for the discretionary funds
- the prescribed amount
- the total amount of discretionary funds budgeted for: (i) capital works of the local government that are for a community purpose and (ii) other community purposes
- the amount of discretionary funds budgeted for use by each councillor for: (i) capital works of the local government that are for a community purpose and (ii) other community purposes, and
- how community organisations may apply for allocation of the funds.

5.9.2 Use of discretionary funds

A councillor may allocate their discretionary funds in the following ways:

- for capital works of a local government for a community purpose, other than BCC – subject to approvals – for the mayor, approved by the deputy mayor and CEO and for other councillors, approved by the mayor and CEO – and if the amount does not exceed the maximum allocated to the councillor for capital works. For BCC, the COBR provides that a councillor needs approval from the Establishment and Coordination Committee.
- to a community organisation for a community purpose – if a community organisation has applied for the funds in the way stated in the Availability Notice, the allocation is consistent with the local government's community grants policy; and the amount does not exceed the maximum allocated to the councillor for community purposes, or
- for another community purpose – if the amount does not exceed the maximum allocated to the councillor for community purposes.

A councillor may allocate their discretionary funds only in the financial year for which the funds are budgeted and must not allocate their discretionary funds for supplying administrative or support services for performing the councillor's responsibilities.

The councillor must notify the council's CEO, within 7 business days of allocating discretionary funds, of:

- the amount allocated
- date of allocation, and
- way the amount was allocated, (i.e. capital works, community organisation or another community purpose).

If the amount was allocated to a person or organisation, the notification must include:

- the name of the person or organisation to whom the allocation was made, and
- the purpose for which the amount was allocated (including sufficient details to identify how the funds were, or are to be, spent).

A failure to comply with these requirements attracts a maximum penalty of 10 penalty units. Within 7 business days after the chief executive officer is given a notice, the local government must publish the notice on its website.

Question 22

Do the discretionary fund provisions strike an appropriate balance between enabling councillors to provide funds for community purposes and ensuring public funds are allocated in a transparent and accountable way?

Question 23

Given the maturity of contemporary council grant programs and increasing expectations regarding transparency and equitable decision-making, what role should councillor discretionary funding mechanisms play alongside broader council community funding programs?

Question 24

Is there a more effective way of ensuring that discretionary funds allocated to capital works are consistent with the local government's objectives?

5.10 Accounting records

Chapter 5, Part 9 of the LGR and COBR provide that local governments are required to maintain separate accounting records for their operational activities and trust funds generally to ensure clear financial accountability and transparency. The accounting records for a financial year must give a comparison with its annual budget for the financial year.

Within the scope of these accounting records, a local government must prepare a financial report that is presented by the CEO at each local government meeting (if the local government meets less frequently than monthly) or at the local government meeting once a month.

The regulations require that the financial report must detail the progress made in relation to a local government's budget for the period of the financial year up to a day as near as practicable to the end of the month before the meeting is held.

In addition to this, a statement of estimated financial position must be presented by the CEO at the local government's annual budget meeting. This statement details the local government's financial operations and financial position for the previous financial year.

Question 25

Should the regulations prescribe minimum content requirements for council monthly financial reports to improve consistency, transparency and comparability across the sector? If so, should the monthly income and expenditure statement be aligned, where practical, with the line items used in annual financial statements to improve consistency between periodic and annual reporting?

5.11 Asset accounting

Chapter 5, Part 10 of the LGR and COBR provide the requirements for the valuation of non-current physical assets such as land, buildings, infrastructure, equipment and water and sewerage infrastructure noting that this is calculated using prescribed accounting standards.

The local government is required to set an amount, by resolution, for each different type of non-current physical asset below which the value of an asset of the same type must be treated as an expense. This amount is to be included in the local government's general purpose financial statement by way of a note.

Assets that are controlled by the local government and do not have a value for the general purpose financial statement are: reserve land under the *Land Act 1993*; and a road that is not owned by the local government.

The provisions in the regulations will be reviewed in response to the recommendations in the Local Government Depreciation Taskforce report.

5.12 Auditing

Chapter 5, Part 11 of the LGR and COBR outlines the internal audit and external audit requirements for local governments, as well as obligations related to controlled entities.

5.12.1 Internal auditing

Local governments are required to establish an internal audit function, which involves preparing an annual internal audit plan, conducting internal audits, producing progress reports and assessing compliance with the plan.

The audit plan must evaluate operational risks, identify significant risks and outline control measures to address them. Summaries of audit recommendations, actions taken and any outstanding actions must be provided to the audit committee at least twice a year. A progress report must also be provided to the committee.

If the local government is not required to have an audit committee, these documents must be submitted to the council's CEO.

Audit committee

The LGA provides that *large local governments*, as listed at schedule 3A of the LGR, must establish an audit committee (see **Appendix II**).

An audit committee must consist of three to six members, including one to two councillors and at least one member with significant financial experience and skills. The CEO cannot be a member but may attend meetings and one member must be appointed as chairperson.

Audit committees are required to meet at least twice per financial year to review the internal audit plan, progress report, draft financial statements and the Auditor-General's audit and observation reports. After each meeting, the audit committee must provide a written report with recommendations to the local government, which the CEO must present at the next local government meeting. A quorum for meetings is at least half the number of committee members and the committee may seek advice from the internal auditor as needed.

Internal controls assurance framework for councils

The QAO recommended, in its *Report 8 - 2023-24 - Local government 2023* that the LGR should be amended to require a council's head of finance to confirm whether the financial controls used to prepare the annual financial statements are effective each year.

The QAO recommended that the confirmation should be provided to the mayor and CEO each year before they sign the financial statements and should include:

- a summary of the council's internal control framework – the people, systems and processes that council uses to prepare reliable financial reports – and whether these controls were effective for the period the financial statements relate to
- any significant areas of concern and their potential impact, and what action council has taken to address them
- the status of issues reported in previous years, and
- changes and improvements to internal controls during the year.

Question 26

What provisions should the LGR include in relation to a council's internal controls assurance framework?

Question 27

Given the role of audit committees in supporting good governance and accountability, should all councils be required to establish an audit committee?

Question 28

Are the current legislative settings in relation to internal audit appropriate to manage risk and ensure appropriate assurance over internal controls, or should they be scaled, for example, based on the tier of local government?

Question 29

Should audit committees be required to be fully independent to avoid actual or perceived conflicts of interest?

5.12.2 External auditing

Local governments must submit their general-purpose financial statements, and current-year financial sustainability statements to the Auditor-General for auditing. Local governments must submit long-term financial sustainability statements to the Auditor-General for information.

These submissions must include a certificate signed by the mayor and CEO, confirming compliance with legal and accounting standards. The audit and report must be completed within four months of the financial year's end unless the Minister grants an extension due to extraordinary circumstances. The Auditor-General's observation report must be presented by the mayor at the next ordinary meeting of the local government.

5.12.3 Controlled entities

Local governments must notify the Minister within 14 days of any significant event, such as the establishment, abolition, or change in the status of a controlled entity. The notice must include the entity's name, a description of the event and the date it occurred. The local government must also provide relevant governing documents. If a governing document is amended, the local government must notify the Minister within 14 days and provide a copy of the updated document.

Local governments are also required to obtain audited financial statements of their controlled entities and present them at the next ordinary meeting. These statements, or a link to them, must be published on the local government's website within 14 days of being presented.

Question 30

Should the LGR be updated to further clarify the operation of beneficial enterprises?

5.13 Insurance and payment of notional GST

Chapter 5, Part 12 of the LGR and COBR specify the minimum required insurance amounts for local governments as $30 million for public liability insurance and $10 million for professional indemnity insurance. Local governments are required to notify the department by 15 September each financial year that they have paid notional GST for the previous financial year.

6. Contracting

Chapter 6 of the LGR and COBR include detailed provisions about local governments entering into contracts for the supply of goods or services and the disposal of non-current assets (for example, land).

These provisions are underpinned by the *sound contracting principles* embedded in the LGA and COBA:

- value for money
- open and effective competition
- the development of competitive local business and industry
- environmental protection, and
- ethical behaviour and fair dealing.

Under the LGR and COBR, local governments are able to choose from the following approaches when undertaking contracting activities:

- strategic contracting procedures, or
- default contracting procedures.

6.1 Strategic contracting procedures

Chapter 6, Part 2 of the LGR and COBR outline the *strategic contracting procedures* that allow a council to take a strategic approach to its contracts.

The strategic contracting procedures allow a local government to develop its own detailed procedural arrangements for procurement contracts and contracts for the disposal of non-current assets other than land.

A council may, by resolution, decide to take this approach with its contracts but can only do so after it has considered the costs and benefits of complying with the related provisions and has given the public notice of the proposed resolution.

The notice must state the proposed resolution and day and time of the meeting where the resolution is to be considered and must be published on the council's website and in another way the chief executive officer considers appropriate, at least 4 weeks before the meeting.

If a council resolves to apply the strategic contracting procedures, it must comply with the relevant provisions from the date stated in the resolution. This includes preparing and adopting:

- **Contracting plan** – outlining types of contracts, principles and strategies for performing contracts, delegation policy, a market assessment for each type of contract, significant contracts and the policy for making a significant contracting plan. The plan must be consistent with the strategic direction in the council's 5-year corporate plan and must not be adopted before the adoption of the annual budget.
- **Significant contracting plan (for each significant contract)** – stating the objectives of each significant contract and how they are to be achieved and measured, any alternatives for achieving the objective and why they have not been adopted, the proposed contractual arrangements and a risk analysis of the relevant market.
- **Contract manual** – sets out how the local government is to carry out all contracts. The manual must apply the *sound contracting principles*, be consistent with, and support, the council's 5-year corporate plan, be consistent with any contracting plan adopted by the council, and include a policy about how the council is to deal with any non-current assets

with a value of less than $7,300 (plant or equipment) or $14,600 (another type of non-current asset).

A council may, by resolution, amend a contracting plan or significant contracting plan at any time before the end of the relevant financial year.

A council must allow the public to inspect and buy copies of the contracting plan at the local government public office.

Question 31

Are you aware of any barriers to councils adopting the strategic contracting procedures? Do you have any suggestions for how these barriers may be removed?

Question 32

To achieve consistency and reduce red tape, do you support the removal of the requirement for a council resolution to amend a contracting plan or strategic contracting plan, noting that the initial decision to make a plan does not require a resolution or do you consider this would reduce transparency and accountability?

Question 33

Should market assessments only be required as part of the analysis required for a significant contracting plan? Are there any negative consequences to this approach?

6.2 Default contracting procedures

Chapter 6, Part 3 of the LGR and COBR provide that all local governments that do not resolve to adopt strategic contracting procedures must comply with the default contracting procedures when entering into a contract. The procedures to be followed depend on the type and size of the contractual arrangements.

Local governments may set their own contracting procedures for contractual arrangements for services and goods worth less than $21,900 in their contracting or procurement policy.

However, where contractual arrangements are worth $21,900 or more, the LGR and COBR prescribe the procedures a local government must follow, unless an exception applies (see section 6.2.6 of this paper).

6.2.1 Medium-sized contractual arrangements

A *medium-sized contractual arrangement* is a contractual arrangement with a supplier that is expected to be worth $21,900 or more, but less than $292,000, over the proposed term of the contractual arrangement (exclusive of GST).

Subject to a range of exceptions, a council is required to invite written quotes from at least three persons before entering into a medium-sized contractual arrangement. The council does not have to accept any of the quotes; however, if it does, the council must accept the quote most advantageous to the council having regard to the *sound contracting principles*.

6.2.2 Large-sized contractual arrangements

A *large-sized contractual arrangement* is a contractual arrangement with a supplier that is expected to be worth $292,000 or more, over the proposed term of the contractual arrangement (exclusive of GST).

Subject to a range of exceptions, a council must invite written tenders before entering into a large-sized contractual arrangement.

6.2.3 Valuable non-current asset contract

A *valuable non-current asset contract* is a contract for the disposal of a valuable non-current asset (i.e. land or another non-current asset with an apparent value equal to, or more than a limit set by the council).

Currently, the limit set by the council may not exceed $7,300 for plant or equipment and $14,600 for another type of non-current asset. Subject to a range of exceptions, a council is required to invite written tenders for the contract or offer the non-current asset for sale by auction.

6.2.4 Automatic indexation of contracting thresholds

Recent amendments to the LGR and COBR increased the thresholds by CPI and introduced an automatic indexation mechanism to provide for the thresholds to increase annually (each financial year on 1 July) by CPI ('All groups' Brisbane).

Question 34

Are the thresholds for medium and large-sized contractual arrangements set at an appropriate level?

Question 35

Is the requirement to obtain three written quotes for medium-sized contracts practical/achievable in your council's local market?

6.2.5 Prescribed tender process – large-sized contractual arrangements and valuable non-current asset contracts

The LGR and COBR prescribe the process local governments must follow when inviting written tenders for *large-sized contractual arrangements* and *valuable non-current asset contracts*. A local government must either:

- invite written tenders, or
- invite expressions of interest (EOI) before considering whether to invite written tenders from the persons who respond to the invitation (i.e. a closed tender process), if the council determines, by resolution, it would be in the public interest to invite EOIs and records its reasons.

The invitation must be published on the local government's website for at least 21 days and in another way to notify the public, e.g., an industry publication or the QTENDERS website. The department understands that local governments use electronic tendering platforms to invite EOIs and tenders from the market.

If a local government invites EOIs, it may prepare a short list and invite tenders from those persons.

If there is a change to the tender specifications, the local government may invite all persons who submitted a tender to change their tender to take account of the change, before the local government makes a decision.

The local government may decide not to accept any of the tenders it receives however, if it decides to accept a tender, the local government must accept the tender most advantageous to it, having regard to the *sound contracting principles*.

Question 36

Could the Expression of Interest process be improved to support market engagement and outcomes and reduce red tape and unnecessary regulation?

6.2.6 Exceptions – medium-sized and large-sized contractual arrangements

There are several exceptions to the requirements for local governments to invite written quotes for medium-sized contractual arrangements or written tenders for large-sized contractual arrangements:

- **Quote or tender consideration plan -** a document that outlines the objectives of a proposed procurement, how those objectives will be achieved and measured, the proposed contract arrangements, alternative options considered and the reasons they were not selected, and an assessment of market risks. The department understands that local governments use this exception for council operated events, for example, to enter into contractual arrangements with contractors, suppliers and sponsorship.

  To initiate this process, a council must decide, by resolution, to prepare such a plan; and then prepare and adopt the plan.
- **Approved contractor list - contracts for services only** – a list of persons the local government considers appropriately qualified to provide the service (e.g. general services such as lawn mowing, arborists and graffiti removal).

  To establish an approved contractor list, a local government must publish an invitation for written expressions of interest from suitably qualified persons for at least 21 days on the local government's website and take all reasonable steps to publish the invitation in another way to notify the public about the making of the list.
- **Pre-qualified suppliers register - contracts for goods or services** – a register of suppliers who have been assessed by the local government as having the technical, financial and managerial capability necessary to perform contracts on time and in accordance with agreed requirements (e.g. professional services, such as accountants, legal services, engineers and town planners).
  The use of pre-qualified supplier registers is restricted to certain circumstances, including where the preparation and evaluation of invitations every time the goods or services are needed would be costly, the capability or financial capacity of the supplier of the goods or services is critical or the supply of the goods or services involves significant security considerations.

  To establish a pre-qualified supplier register, a local government must invite suppliers to tender to be on a register by publishing the invitation on the local government's website for at least 21 days and take all reasonable steps to publish the invitation in another way to notify the public about the making of the register.
- **Preferred supplier arrangements - contracts for goods or services –** arrangements for the supply of goods and services needed on a regular basis and councils are able to obtain better value for money by aggregating the demand for those goods and services (e.g. petrol supply for local government vehicles).

  A local government may only establish such an arrangement if it needs the goods or services in large volumes or frequently, is able to obtain better value for money by accumulating the demand for the goods or services, and is able to describe the goods or services in terms well understood in the relevant industry.

A local government must invite suppliers to tender for a preferred supplier arrangement by publishing the invitation on the local government's website for at least 21 days and take all reasonable steps to publish the invitation in another way to notify the public about tender process. The invitation to tender must describe the terms of the arrangement.

The local government must ensure the terms of the preferred supplier arrangements allow the contract to be cancelled for the poor performance of the preferred supplier. In addition, a preferred supplier arrangement may be entered into for a term of more than 2 years only if the local government is satisfied the longer term will result in better value for the local government.

Question 37

Should the existing three categories of contractor panels be replaced with one single process for contracting all goods and services to reduce red tape? If not, can you suggest an alternative process that will achieve a streamlined approach?

Question 38

Should the requirement for a council resolution to approve certain medium-sized or large-sized contractual arrangements without quotes or tenders be reviewed to allow greater use of delegated authority, particularly for low risk or routine procurement activities (such as contract renewals), and what safeguards would be necessary if this approach were adopted?

Other exceptions

The LGR and COBR includes other exceptions applying to medium-sized and large-sized contractual arrangements, namely if:

- the local government is satisfied that there is only one supplier reasonably available
- due to the specialised or confidential nature of the services, it would be impractical or disadvantageous to invite quotes or tenders
- there is a genuine emergency
- the contract is for the purchase of goods at auction
- the contract is for the purchase of second-hand goods, or
- the contract is made with, or under an arrangement with, a government agency.

LGA arrangements – Local Buy – pre-qualified or preferred suppliers

A local government may enter into a medium-sized or large-sized contractual arrangement without inviting written quotes or tenders, if the contract is entered into under an LGA arrangement.

An LGA arrangement:

- can only be established by the LGAQ, or a company that is wholly owned by the LGAQ, such as Local Buy, and
- may take the form of a register of pre-qualified suppliers or preferred supplier arrangement.

The LGR allows an LGA arrangement to include a relevant subsidiary of LGAQ if it is approved by the Minister for Local Government. For example, Local Buy and Peak Services are relevant subsidiaries of LGAQ.

In deciding whether to approve an LGA arrangement, which includes a relevant subsidiary of LGAQ, the Minister must have regard to the *sound contracting principles*.

To compile a register of pre-qualified suppliers, LGAQ or the relevant subsidiary must undertake a tender process in accordance with the requirements of the LGR, including tender publication requirements and in reference to the supplier's ability to deliver the goods or services.

Local governments are under no obligation to use an LGA arrangement when contracting.

Question 39

Should the LGA arrangements be expanded to enable local governments to use other contractor panels?

6.3 Exceptions – valuable non-current asset contracts

The LGR and COBR provide that a local government may not enter into a contract for the disposal of land, or another valuable non-current asset, unless it first invites written tenders or offers the asset for sale by auction.

However, a range of exceptions may apply. These exceptions apply only if, before the disposal, the local government has decided by resolution that the exception may apply to the local government on the disposal.

When applying the following exceptions, a local government may only dispose of land, or an interest in land, other than by tender or auction, if the consideration for the disposal would be equal to, or more than, the market value of the land, or interest in the land, including the market value of any improvements on the land.

This restriction does not apply to disposing of the land or interest to a government agency or community organisation, a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom, or where the local government considers the disposal is in the public interest and otherwise in accordance with the *sound contracting principles*.

6.3.1 Disposal of valuable non-current asset

The local government may dispose of a valuable non-current asset (including land) other than by tender or auction, if the valuable non-current asset:

- was previously offered for sale by tender or auction but was not sold, and is sold for more than the highest tender or auction bid that was received, or
- is disposed of to a government agency or a community organisation.

6.3.2 Disposal of land or an interest in land

The local government may dispose of land, or an interest in land, other than by tender or auction, if:

- the land will not be rateable land after the disposal
- the land is disposed of to a person whose restored enjoyment of the land is consistent with Aboriginal tradition or Island custom
- the disposal is for the purpose of renewing the lease of land to the existing tenant of the land
- the land is disposed of to a person who owns adjoining land, if the land is not suitable to be offered for disposal by tender or auction for a particular reason (e.g. size of the land), there is not another person who owns other adjoining land who wishes to acquire the land, it is in the public interest and the disposal is in accordance with *sound contracting principles*

- all, or some, of the consideration for the disposal is consideration other than money, e.g. other land given in exchange for the disposal, if it is in the public interest and otherwise in accordance with the *sound contracting principles*
- the disposal is for the purpose of a lease for a telecommunication tower
- the disposal is of an interest in land that is used as an airport or for related purposes, if it is in the public interest and otherwise in accordance with the *sound contracting principles*.

6.3.3 Disposal of a valuable non-current asset, other than land, by way of trade-in

The local government may dispose of a valuable non-current asset, other than land, by way of trade-in for the supply of goods or services to the local government, if the supply is, or is to be, made under Chapter 6, Part 3 of the LGR and COBR, and the disposal is, or is to be, part of the contract for supply.

6.3.4 Disposal of a valuable non-current asset by the grant of a lease

The local government may dispose of a valuable non-current asset by the grant of a lease, if the grant of the lease has been previously offered by tender or auction, but a lease was not entered into.

6.3.5 Disposal of a valuable non-current asset otherwise in the public interest

The local government decides, by resolution, to dispose of a valuable non-current asset, if none of the above exceptions apply and it considers the disposal is in the public interest and otherwise in accordance with the *sound contracting principles*.

The resolution must state why the local government considers the disposal of the asset, other than by tender or auction, is in the public interest and in accordance with the *sound contracting principles*.

The local government must give a copy of the resolution to the Minister for Local Government, within 5 business days, and must not dispose of the asset within 56 days after making the resolution.

Question 40

Are the exceptions for disposal of an interest in land, other than through an auction/tender process fit for purpose and are the processes identified for application of the exceptions practical and effective?

6.4 Publishing details of particular contractual arrangements

Chapter 6, Part 4 of the LGR and COBR provide that a local government must, as soon as practicable after entering into a contractual arrangement worth $200,000 or more (exclusive of GST):

- publish on the council's website the name of the person with whom the council has entered into a contractual arrangement, the value of the contractual arrangement and the purpose of the contractual arrangement, and
- display the above details in a conspicuous place in the council's public office.

These details must be published or displayed for a period of at least 12 months.

6.5 Entering into a contract under a delegation

Chapter 6, Part 5 of the LGR and COBR provide the circumstances in which a local government delegate may exercise a delegated power to make, amend or discharge a contract on behalf of the local government. It establishes conditions that must be satisfied before contractual action can be taken under a delegation and clarifies how delegated contractual powers interact with other legislative requirements, including:

- a requirement that expenditure arising from the contractual action is provided for in the approved annual budget, including where the delegation resolution sets expenditure limits
- an alternative basis for taking contractual action where it arises due to genuine emergency or hardship
- confirmation that a delegate may make, amend or discharge a contract in the same way as an individual and
- clarification that the exercise of delegated contractual power does not remove the need to comply with other laws requiring approvals, consents or prescribed procedures.

Question 41

Are the current restrictions on the delegation of powers in relation to contractual actions still appropriate?

7. Administration

Chapter 8 of the LGR and COBR establish the administrative and governance framework that supports the day-to-day functioning of local governments.

These provisions give practical effect to the governance principles in the LGA and COBA, focusing on transparency, accountability and effective decision-making.

7.1 Councillors

Chapter 8, Part 1 of the LGR and COBR make provisions regarding councillors, including:

- approving the Code of Conduct for Councillors in Queensland
- payment of councillor remuneration, including the role of the Local Government Remuneration Commission (Remuneration Commission)
- requiring councils to adopt an expenses reimbursement policy providing for the payment of reasonable expenses incurred by councillors for discharging their duties and responsibilities and the provision of facilities to councillors
- the content of councillors' declaration of office, and
- prescribed mandatory training for councillors in relation to the code of conduct, register of interests and dealing with personal interests.

7.2 Local government meetings and committees

Chapter 8, Part 2 of the LGR and COBR outline the requirements for local government meetings and committees, including:

- publication of annual notices of meeting schedules for both ordinary council meetings and standing committee meetings
- notification of meetings, including agendas, at least two days in advance (or four days for Indigenous regional councils), unless impracticable, and
- publication of agendas and related reports, except for confidential information.

Meetings must have a quorum to conduct business, and decisions are made by majority vote, with the presiding officer having a casting vote in the event of a tie. Minutes must be recorded, confirmed at subsequent meetings, and made publicly accessible within 10 days unless confirmed earlier.

Advisory committees may be exempted from taking minutes but must provide written reports of their deliberations and recommendations.

Question 42

Given that the LGR and COBR rely on reports being made publicly available with the agenda, should the regulations specify minimum timeframes for retaining agendas and minutes on council websites?

Meetings are generally open to the public unless resolved to be closed. A local government may resolve that all, or part, of a meeting be closed to the public in the following circumstances only:

- the appointment, discipline or dismissal of the CEO (or senior executive employee for BCC)
- appointment of a senior contract employee (BCC only)
- industrial matters affecting employees
- local government's budget

- rating concessions
- legal advice obtained by the local government or legal proceedings involving the local government
- matters that may directly affect the health and safety of an individual or group of individuals
- commercial matters for which public discussion would be likely to prejudice the local government's interests
- the acquisition of land, or
- a matter the local government is required to keep confidential.

The local government must state the reason for closing a meeting and provide an overview of the discussion.

Question 43

What considerations should inform the circumstances in which a council may resolve to close a meeting to the public, and are there any opportunities to improve clarity or consistency in the existing framework?

Councillors may participate in meetings via audio or audiovisual links, provided they maintain simultaneous communication with other attendees.

Local governments (other than BCC) must meet at least monthly unless deemed impracticable or unnecessary, and meetings are typically held at public offices or other designated locations. Resolutions can only be repealed or amended with prior notice to councillors.

For committees, local governments may appoint standing, special, or advisory committees, with advisory committees allowed to include non-councillors as members. Committees may appoint alternate members and chairpersons, and meetings are held at times and places determined by the committee. Quorums for committees are defined as a majority of members, or half if the number is even.

Meetings may be adjourned if a quorum is not present within 15 minutes of the scheduled start time.

The COBR provides that BCC must meet regularly, with the frequency determined by the council, and extraordinary or special meetings must be held if requested by the mayor or at least nine councillors. Meetings are typically held at public offices or other designated locations, and a quorum, defined as a majority of councillors, is required to conduct business

The COBR also governs council committees, allowing the appointment of standing, special, or advisory committees.

Advisory committees may include non-councillors as members, and all members, whether councillors or not, may vote on committee business. The council may appoint alternate members to committees to act in the absence of regular members, with specific provisions for the mayor's role in standing committees. Committees determine their own meeting schedules and locations, and a quorum is required to conduct business, defined as a majority of members or half if the number of members is even.

The CEO and mayor have defined responsibilities for maintaining these registers, depending on the role to which the register relates.

Appendix I – Summary of Questions

Local Governments / City of Brisbane
Question 1 - Are the criteria that the Change Commission must consider still appropriate to determine whether a local government change is in the public interest? **Question 2** - Do the criteria in the LGR to categorise a city, town, shire or region need to be updated to reflect contemporary variations, such as large local government areas with multiple urban population centres?
Business of local governments
Question 3 - Do the regulations appropriately operationalise the *National Competition Policy* and competitive neutrality principle and provide sufficient options for local governments to address competition issues? **Question 4** - Does your council apply the 10,000 premises threshold to water and sewerage services combined, or separately to water and sewerage service connections? Is this threshold still fit for purpose given Queensland's growth? **Question 5** - Do the thresholds for significant business activities create an administrative burden to comply with the *National Competition Policy* framework, or are the thresholds for significant business activities fit for purpose? **Question 6** - Is the current $340,000 (or more) threshold for the Code of Competitive Conduct for prescribed business activities adequate? If not, please explain. **Question 7** - Are any further amendments required to ensure the competitive neutrality complaints process is efficient and responsive? **Question 8** - Are there any gaps or challenges in the implementation of the provisions on roads, malls, marine and aquatic matters, or the management of other infrastructure? **Question 9 -** To reduce red tape should the regulations be amended to remove the requirement for local governments to record details of all their existing and proposed malls in their planning schemes?
Rates and charges
Question 10 - Does the current rates and charges framework appropriately support the needs of local governments, their communities and businesses? If not, what changes should be considered including to remove any unnecessary red tape?
Financial planning and accountability
Question 11 - Are the current legislative requirements for councils to keep a record of risks to their operations suitable and fit for purpose? **Question 12** - Should the annual budget be required to separately disclose an operating surplus/deficit before capital revenue is incorporated into the overall net result, to improve transparency regarding a council's underlying operating performance and long-term financial sustainability?

Question 13 - Should the LGR be amended to require the percentage change in rates and utility charges to be calculated against the estimated actual rates and utility charges levied in the previous financial year, instead of the budgeted amount for that year?

Question 14 - Are the current requirements for financial planning documents sufficient to ensure the financial sustainability of local governments? Are any additional provisions required, for example, to ensure risks are adequately assessed? Are any of the current financial planning documents (or requirements relating to the financial planning documents) surplus to requirements?

Question 15 - Is the current legislative position in relation to the development and adoption of a corporate plan fit for purpose – including, but not limited to:

- Is the current 5 year term of the corporate plan requirement appropriate?
- Should there be a change in requirements in relation to the stage in a local government's term that the corporate plan will commence?
- Are reporting arrangements on the corporate plan fit for purpose?
- Would additional prescriptive requirements in relation to the corporate plan's purpose and contents be of benefit?
- Should any alternatives to a corporate plan in its current form be considered?

Question 16 - Is there a need for more guidance in the legislation in relation to the contents of an operational plan? Can any improvements be made with respect to operational plan reporting?

Question 17 – Are there any factors that the department should take into account when considering the Queensland Audit Office's recommendations?

Question 18 - Should councils be able to adopt their budgets earlier, for example from 'after 30 April', to reduce complexity and ensure better alignment with other financial planning documents?

Question 19 - Could the annual reporting requirements for local governments be simplified, whilst still ensuring accountability and transparency? For example, by providing for this information to be published on a council's website instead of the annual report?

Question 20 - Is the requirement for a council's long-term financial sustainability statement to be included in both their budgets and annual reports burdensome? If yes, can you suggest a way to capture essential information without the duplication in reporting, e.g. the use of templates or tables?

Question 21 - Is there any duplication within the financial accountability documents which could be removed or streamlined to reduce unnecessary red tape or regulatory burden? If so, where is the information otherwise available?

Question 22 - Do the discretionary fund provisions strike an appropriate balance between enabling councillors to provide funds for community purposes and ensuring public funds are allocated in a transparent and accountable way?

Question 23 - Given the maturity of contemporary council grant programs and increasing expectations regarding transparency and equitable decision-making, what role should councillor discretionary funding mechanisms play alongside broader council community funding programs?

Question 24 - Is there a more effective way of ensuring that discretionary funds allocated to capital works are consistent with the local government's objectives?

Question 25 - Should the regulations prescribe minimum content requirements for council monthly financial reports to improve consistency, transparency and comparability across the sector? If so, should the monthly income and expenditure statement be aligned, where

practical, with the line items used in annual financial statements to improve consistency between periodic and annual reporting?

Question 26 - What provisions should the LGR include in relation to a council's internal assurance frameworks?

Question 27 - Given the role of audit committees in supporting good governance and accountability, should all councils be required to establish an audit committee?

Question 28 - Are the current legislative settings in relation to internal audit appropriate to manage risk and ensure appropriate assurance over internal controls, or should they be scaled, for example, based on the tier of local government?

Question 29 - Should audit committees be required to be fully independent to avoid actual or perceived conflicts of interest?

Question 30 - Should the LGR be updated to further clarify the operation of beneficial enterprises?

Contracting

Question 31 - Are you aware of any barriers to councils adopting the strategic contracting procedures? Do you have any suggestions for how these barriers may be removed?

Question 32 - To achieve consistency and reduce red tape, do you support the removal of the requirement for a council resolution to amend a contracting plan or strategic contracting plan, noting that the initial decision to make a plan does not require a resolution or do you consider this would reduce transparency and accountability?

Question 33 - Should market assessments only be required as part of the analysis required for a significant contracting plan? Are there any negative consequences to this approach?

Question 34 - Are the thresholds for medium and large-sized contractual arrangements set at an appropriate level?

Question 35 - Is the requirement to obtain three written quotes for medium-sized contracts practical/achievable in your council's local market?

Question 36 - Could the Expression of Interest process be improved to support market engagement and outcomes and reduce red tape and unnecessary regulation?

Question 37 - Should the existing three categories of contractor panels be replaced with one single process for contracting all goods and services to reduce red tape? If not, can you suggest an alternative process that will achieve a streamlined approach?

Question 38 - Should the requirement for a council resolution to approve certain medium-sized or large-sized contractual arrangements without quotes or tenders be reviewed to allow greater use of delegated authority, particularly for low risk or routine procurement activities (such as contract renewals), and what safeguards would be necessary if this approach were adopted?

Question 39 - Should the LGA arrangements be expanded to enable local governments to use other contractor panels?

Question 40- Are the exceptions for disposal of an interest in land, other than through an auction/tender process fit for purpose and are the processes identified for application of the expectations practical and effective?

Question 41 - Are the current restrictions on the delegation of powers in relation to contractual actions still appropriate?

Administration
Question 42 - Given that the LGR and COBR rely on reports being made publicly available with the agenda, should the regulations specify minimum timeframes for retaining agendas and minutes on council websites? **Question 43** - What considerations should inform the circumstances in which a council may resolve to close a meeting to the public, and are there any opportunities to improve clarity or consistency in the existing framework?

Appendix II – Large local governments – Audit committees

- Bundaberg Regional Council
- Cairns Regional Council
- Cassowary Coast Regional Council
- Central Highlands Regional Council
- Fraser Coast Regional Council
- Gladstone Regional Council
- Gold Coast City Council
- Gympie Regional Council
- Ipswich City Council
- Isaac Regional Council
- Livingstone Regional Council
- Lockyer Valley Regional Council
- Logan City Council
- Mackay Regional Council
- Maranoa Regional Council
- Moreton Bay City Council
- Noosa Shire Council
- Redland City Council
- Rockhampton Regional Council
- Scenic Rim Regional Council
- South Burnett Regional Council
- Southern Downs Regional Council
- Sunshine Coast Regional Council
- Tablelands Regional Council
- Toowoomba Regional Council
- Townsville City Council
- Western Downs Regional Council
- Whitsunday Regional Council

Acknowledgement of Country

The Department of Local Government, Water and Volunteers respectfully acknowledges the Traditional Custodians of Country. We recognise the ongoing spiritual and cultural connection Aboriginal Peoples and Torres Strait Islander Peoples have with land, water, sea and sky.

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