

Your ref:
Our ref: 10484



16 September 2014

Mr S Davies MP
Chair
Finance and Administration Committee
Parliament House
George Street
BRISBANE QLD 4000



Dear Mr Davies

Inquiry into the Queensland Plan Bill 2014

The following comments are provided for consideration by the Committee in their inquiry on the *Queensland Plan Bill 2014*. In particular, I provide comment on the operation of clauses 10 and 12 of the Bill and their potential application to, and impact on, the Queensland Audit Office (QAO).

Clause 10 of the Bill requires the chief executive of a 'public authority' to ensure the authority's policies, programs and services are consistent with the government response to the Queensland Plan. The chief executive is also required by clause 12 to include a statement in the authority's annual report identifying the progress in developing the policies and programs, and delivering the services.

'Public authority' is defined in the Bill as a 'department' or 'statutory body'. While 'statutory body' has been defined by reference to s.9 of the *Financial Accountability Act 2009* (FA Act), the term 'department' is not defined. The QAO is deemed to be a 'department' for the purposes of the FA Act but not for the purposes of the *Public Service Act 2008* (PSA). The QAO is a 'public service office' for the purpose of the PSA. Accordingly the definition of 'department' to be applied in interpreting the Bill will impact on whether it applies to the QAO or not.

In my opinion applying the requirements of the Bill to the QAO would be inappropriate as they impact on the independence of the Auditor-General and the QAO. In particular, the requirement in clause 10 of the Bill to ensure policies, programs and services are consistent with the government response to the Queensland Plan is inconsistent with the discretion and autonomy provided to the Auditor-General in the AG Act. This autonomy is presently reflected in s.8 of the AG Act which identifies that the Auditor-General is not subject to direction by any person about –

- (a). The way in which the Auditor-General's powers in relation to audit are to be exercised; or
- (b). The priority to be given to audit matters.

The AG Act also provides the Auditor-General with complete discretion for determining the way in which audits are conducted.

As outlined in my submission to the Committee's inquiry into the legislative arrangements assuring the Queensland Auditor-General's independence, to be fully effective the Auditor-General must be independent from the Executive. Any limitations on the independence of Auditors-General, real or perceived, diminishes the level of assurance that Parliament obtains from their work.

As an independent officer of the Parliament, it would be more appropriate for the Auditor-General to consider the priorities of the Parliament, not the government, in developing policies and programs, and delivering services. This is presently provided for in s.38A of the AG Act which requires the Auditor-General to consult with, and consider comments made by, the Committee in developing the QAO's strategic audit plan. However, the Auditor-General would have regard to the Queensland Plan, and the government response, in identifying potential performance audits for inclusion in the strategic audit plan.

Accordingly, I would encourage the Committee to consider whether the Bill is intended to apply to the QAO as an adjunct to the work being undertaken in the inquiry into the legislative arrangements assuring the Queensland Auditor-General's independence. Independence is also an important factor in considering whether the Bill is to apply to other integrity offices and officers of the Parliament.

Alternatively, the Committee may wish to consider whether the AG Act should be amended to include a provision similar to s.7C of the *Audit Act 1994* in Victoria. This provision gives the relevant Parliamentary Committee power, by resolution, to vary any obligation or requirement imposed on the Victorian Auditor-General or the Victorian Auditor-General's Office by the *Financial Management Act 1994* or *Public Administration Act 2004*.

On a separate matter I note that at the Committee's recent public briefing by the Department of Premier and Cabinet there was discussion on the extent to which local governments must 'have regard to' the Queensland Plan in developing their corporate plans. The term 'have regard to' is not presently defined in the Bill and may represent an area where the final legislation could provide further clarity.

The term 'must have regard to' is used in the financial accountability legislation and has previously been the subject of debate. In particular, s.6 of the Financial and Performance Management Standard 2009 (FPMS) identifies that provisions of the FPMS may require an accountable officer, former accountable officer, statutory body or administering department to have regard to another document. Section 6(b) of the FPMS further identifies that an officer, statutory body or department would comply with these provisions if they considered the contents of the other document and decided whether the contents apply in the circumstances.

An example of this is contained in s.43 of the FPMS which requires a statutory body to have regard to the Financial Reporting Requirements for Queensland Government agencies (FRRs) in preparing their annual financial statements. Some agencies have previously argued that this provided them with discretion in determining the extent to which they needed to comply with the FRRs. It is now commonly accepted that s.43 should be read as a requirement for statutory bodies to comply with the FRRs unless the requirements are either not relevant to the authority's circumstances or are not otherwise intended to apply to the authority.

Including a definition for 'have regard to' or varying the formulation of the wording used would provide greater clarity to local governments as to what is expected of them and would assist in ensuring greater consistency in the interpretation and application of the requirements.

Please contact me if you would like any further information, or have your officers contact Mr Paul Christensen, Director (Policy), Audit Policy and Standards [REDACTED]

Yours sincerely



Andrew Greaves
Auditor-General