District Council of Franklin Harbour

Draft Response to Local Government Rates Oversight Scheme Draft Framework and Approach Consultation paper

Section 2.3.1: Overarching intent of the legal framework

Question 2.1: Do stakeholders agree with this interpretation of the legal framework? If not, why not?

Disagree. A rates oversight scheme (ROS) is not mentioned anywhere in S122. The focus of S122 is on ensuring Councils maintain appropriate affordable LTFP & AMP with the ability to explain material changes in these plans over time.

E.g. S122 (1f) (as well as various other sections) – '…. provide advice to the council on the appropriateness of the relevant matters in the <u>context of the council's long term financial plan and infrastructure and asset management plan</u>….'

A ROS is completely at odds with this. In order to provide an oversight of rating a much deeper level of data is required from the Councils which would fall outside of the intent of the legal framework. LTFP & AMP are high level strategic documents that do not contain enough detail to draw the intended conclusions articulated in the DFA. This will become even more apparent in response to questions included later in this document.

Section 2.3.2: The scope and context of the advice

Question 2.2: Do stakeholders agree with this interpretation of the scope and context of the advice to be provided under the scheme? If not, why not?

Disagree. The scope of the ROS relies on a very broad interpretation the following sections:

S122 (1g) In providing advice under this section, the designated authority—

- (a) must have regard to the following objectives:
    - (i) the objective of councils maintaining and implementing long-term financial plans and infrastructure and asset management plans;
    - (ii) the objective of ensuring that the financial contributions proposed to be made by ratepayers under the council's long-term financial plan and infrastructure and asset management plan are appropriate and any material amendments made or proposed to be made to these plans by the council are appropriate; and
- (b) may have regard to any information or matter the designated authority considers relevant (whether or not such information or matter falls within the ambit of subsection (1e)).

S122 (1e) A council must, on or before 30 September in the relevant financial year for the council, provide to the designated authority all relevant information on the following matters (the ***relevant matters***) in accordance with guidelines determined by the designated authority (if any):

- (a) material amendments made or proposed to be made to the council's long-term financial plan and infrastructure and asset management plan and the council's reasons for those amendments;
- (b) **<u>revenue sources outlined in the funding plan</u>** referred to in subsection (1a)(a);
- (c) any other matter prescribed by the regulations.

The intent of these sections is clear and consistent with reviewing LTFP & AMP. It is not consistent with facilitating an ROS in the format proposed or any other format for that matter. The focus should be on AMP & LTFPs only.

Any future regulations would also need to be consistent with the intent of these sections of the act.

Further to this, the requirement to prepare the funding plan referred to in S122(e)(b) above does not come into effect until 30 June 2023.

Office of Local Government

Statutes Amendment (Local Government Review) Act 2021

The following reforms are to commence on 30 June 2023:

- Amendments to the *Local Government Act 1999* (the LG Act) to require long-term financial plans to include a funding plan that outlines the council's approach to funding services and infrastructure, sets out the council's projected total revenue, and outlines the intended sources of that revenue.
- This commencement date will give councils sufficient time to develop and adopt a funding plan as part of their long-term financial plan.

79—Amendment of section 122—Strategic management plans

(1) Section 122(1a)(a)—delete "for a period of at least 10 years; and" and substitute:

that relates to a period of at least 10 years and **includes a funding plan** that—

(i) outlines the council's approach to funding services and infrastructure of the council; and

(ii) sets out the council's projected total revenue for the period to which the long-term financial plan relates; and

(iii) outlines the intended sources of that total revenue (such as revenue from rates, grants and other fees and charges); and

Section 4.2: The principles underpinning the analytical framework Question 4.1: Do stakeholders consider these principles appropriate for the analytical framework? If not, why not? How should they be changed and why?

4.2 The principles underpinning the analytical framework

The Commission proposes that the analytical framework should have regard to the following principles:

Table 1: Principles underpinning the analytical framework

Principle	Reason
Principle 1: Monitoring, not regulating	The scheme relates to monitoring, not economic regulation. As such, the design focuses on providing evidence-based and useful advice. The objective being, through time, to develop a record of a council's performance, relative to its long-term planning, and its response to advice, as the basis for changing behaviours and outcomes over time. The scheme does not provide the Commission with powers to enforce compliance measures, set service standards or regulate any council's rates. In those respects, it differs from other States' council rates regulation frameworks, such as those in Victoria and New South Wales.
Principle 2: Long-term planning focus	While councils can provide a diverse range of services, they are generally delivered through infrastructure and operations that require long-term planning. As such, in the absence of significant shocks outside of a council's control, its long-term plans would not be expected to exhibit significant variation through time (replacement/renewal expenditure should not materially vary due to political cycles, or short-term transient operational or financial concerns).

District Council of Franklin Harbour

Draft Response to Local Government Rates Oversight Scheme Draft Framework and Approach Consultation paper

The AMP & LTFP should be used to inform the Annual Business Plan & Annual Budget (ABP & AB). The ABP & AB are monitored via the strategic financial reporting cycle. As the LTFP is updated each year how is principal 1 (section in yellow) even practically possible. Which years plan will be assessed and compared to performance?

In relation to principal 2 (section in yellow) Disagree with the assertion above, what is suggested above would not be relevant if there is an uneven spread of asset renewal intervention dates. Some years there may be a large number of renewals required other years not so. The LGA financial sustainability papers suggest that rather than evening out capital spend, borrowings or other sources of funds should be used so as to replace assets in a timely matter that is neither to early nor too late.

An overall observation is that the principals used to make assessment contain a high level of subjectivity and do not refer to a ‘source of truth’ that Councils have agreed to follow in relation to these matters.

Section 4.3.4: Applicability to the analytical framework

Question 4.2: Do stakeholders consider this an appropriate analytical framework? If not, why not? How should it be changed and why?

Cautiously agree. There is a large amount of subjectivity here and much of the literature in this section of the FDA is of a general nature.

An assessment of financial sustainability based on the three key financial indicators (KFI) is sound however any attempt to draw a conclusion about the value for money or otherwise ratepayers are obtaining from their rates would most likely be flawed due to a lack of qualitative information having been considered.

Intergenerational equity is from a particular subjective school of thought and should not be referred to in such analysis.

The intention to use fixed target ranges for the assessment of the KFI’s is extremely flawed as there are often perfectly acceptable reasons for Councils to operate outside of these ranges. For example, the 0% to 100% NFLR range means that Council should always have more liabilities than financial assets. Having more liabilities than financial assets may not be the will of the Council (particularly small regional Councils) so hence it should not be seen as a poor result if smaller regional Council’s were to have a level of cash reserves, given its limited ability to generate income outside of its existing ratepayer community.

4.4 Applying the analytical framework

General comments

1. **Pages 19-40 of the FDA are extremely academic in nature and will be next to impossible to implement and highly unlikely to achieve the objectives of the ROS.**
2. **Many hours of Council staff time would be needed to fully understand what is actually being required of Councils and what much of the information contained in these pages means.**
3. **As Council believe the ROS and much of the FDA is outside of the intent of S122 it is not intended at this stage to undertake the level of work required to fully expose the flaws in this detail. The LGA will be putting in a submission on behalf of the sector which this Council fully supports.**
4. **The answers to Questions 4.3 to 4.9 are the best Council can provide given the complexity of the FDA, we do however raise some appropriate items for your consideration.**

District Council of Franklin Harbour

Draft Response to Local Government Rates Oversight Scheme Draft Framework and Approach Consultation paper

Section 4.4.1.1: The relevance of historical trends

Question 4.3: Do stakeholders consider it necessary to consider historical trends when applying the analytical framework? If not, why not? How should it be changed and why?

Historical trends could be used at a strategic level such as KFI level. However if these KFI were not adjusted to remove abnormal and extraordinary items then incorrect assessments could be made.

E.g. If Council were to receive a large grant to fund renewal of assets, the income would be reported in the statement of comprehensive income whereas the expenses would be capitalised thereby creating an overstated operating result that could be shielding the reader from an underlying operating deficit.

Similar issues exist in relation to the prepayments of Financial Assistance grants.

Going back in time is counter-productive. The focus should be on moving forward ensuring that Councils have clearly documented asset renewal and maintenance programs that are demonstrably funded by the LTFP that is underpinned by a solid financial strategy and clearly articulated assumptions. The key financial indicators (adjusted for any abnormal items) should be trending within the KFI target ranges set by Council.

The level of detail proposed in the GFDA amounts to micro-management from incomplete data and will not achieve the S122 legislative objectives.

Section 4.4.1.2: What historical information is needed from each council?

Question 4.4: Do stakeholders consider this to be an appropriate approach for the collection of historical information? If not, why not? How should it be changed and why?

Not appropriate. Should the FDA become a reality in its current format then the information requested is already available from the Grants commission data base. This data has already been cross checked by Grants Commission staff with the audited financial statements of every Council. Any additional work proposed in this area is a double or a triple up of work to obtain data that will be of little use for assessment purposes anyways.

Section 4.4.1.3: Account for scale

Question 4.5: Do stakeholders agree that, where it is useful to do so, information should be normalised on a per rateable property basis? If not, why not? How should it be changed and why?

Absolutely not. Such an approach treats rates as a fee for service, rates are a tax. What would be the purpose of undertaking such an activity, particularly if not comparing Councils with each other.

One Council might have a very high level of Industrial & Commercial ratepayers whilst other may have only primary producers and township rate classes. How would you set an appropriate yardstick to assess this?

Again, such data is outside of the realm of the LTFP and would need significantly more detailed information at both a qualitative and quantitative level in order for someone to make a subjective (most likely meaningless) assessment. This is not the intention of S122 of the legislation.

Section 4.4.1.4: Accounting for inflation

Question 4.6: Do stakeholders agree that use of the CPI is an appropriate index to utilise when considering a council’s operating income and expenditure growth over time? If not, why not? How should it be changed and why?

If cpi were used as part of a number of pieces of assessment information, cpi might have some purpose. Cpi is part of the quantitative assessment that needs to be considered in conjunction with qualitative matters. The existing or various versions of the existing financial strategies that underpin LTFP’s would be of more use.

Any assessment based on cpi would be subjective, simplistic and prone to being made without a full set of facts.

District Council of Franklin Harbour

Draft Response to Local Government Rates Oversight Scheme Draft Framework and Approach Consultation paper

Section 4.4.2: The key questions to address

Question 4.7: Do stakeholders consider these to be appropriate questions for implementing the analytical framework? If not, why not? How should they be changed and why?

Further from responses already provided in this consultation survey. It is felt that these questions are totally inappropriate, overly detailed and unlikely to be answerable with any degree of reliability.

The conclusions will be subjective and looking backwards.

The questions are not consistent with the intent of S122.

Section 4.4.5: Comparison of historical trends to any revised SMP

Question 4.9: Do stakeholders consider this an appropriate approach to the analytical framework to assess the key questions in Table 5? If not, why not? How should the approach be amended and why?

Not appropriate for same reasons as mentioned elsewhere in this response.

Primarily what has been included in the FDA is largely quantitative and without the qualitative side of the discussion incorrect assessments will be made.

Section 4.5.1: Content of the advice

Question 4.10: Do stakeholders consider this an appropriate approach to developing the content of the advice that the Commission provides to each council? If not, why not? How should the approach be amended and why?

Given the concerns raised throughout this response Council do not believe an appropriate methodology or focus has been established for Escosa to provide any reliable advice.

Section 4.5.2: Publication of the advice

Question 4.11: Do stakeholders consider this an appropriate approach to adopt for the publication of the advice, given the legal framework? If not, why not? How should the approach be amended and why?

Council strongly objects to having to publish any advice provided by Escosa in its Annual Business Plan or any other document. The potential for such advice to be misused, out of context, by Council agitators is extreme.

The advice may not be accurate as it may well be based on incomplete information or information taken out of context.

Council may act on the advice in which case what would be the point in including the advice in the next 4 years versions of ABP’s. This would be unfair.

Section 4.6.1: Alignment with the legal framework

Question 4.12: Do stakeholders consider the analytical framework aligned with the legal framework? If not, why not? How should the approach be amended and why?

No, for the reasons previously included.

Section 4.6.2: Alignment with the overarching principles for the analytical framework

Question 4.13: Do stakeholders consider the analytical framework to be aligned with the overarching principles for its development? If not, why not

No, as it is overly academic, difficult to understand and will be very hard to implement.

Section 5.2: Guidelines and information provision

Question 5.1: Do stakeholders consider publishing the guidelines and proforma Excel template no later than the start of each the Relevant Financial Year appropriate? If not, why not?

This would depend on how much they change from year to year. The peak time for financial staff is from July to September/October as this is when the Annual Financial Statements are required to be prepared. The current timeline clashes badly with these dates.

How should the approach be amended and why?

End of May with a due date of 31 December might work.

Section 5.3: Timing of information provision

Question 5.2: Do stakeholders consider the proposed timing for information provision appropriate? If not, why not? How should the approach be amended and why?

Can be as late as May the following year in most cases. Reiterate however this information should not go in the ABP.

Section 7.2: Reasonable costs

The following extract from the Act addresses reasonable costs.

S122(1k) The designated authority may recover from a council (as a debt due from the council) the costs reasonably incurred by the designated authority in performing its functions under this section in relation to the council.

Question 7.1 to 7.5 are responded to as follows:

If Escosa were to abide by the intention of S122 then the significant forecast expenditure suggested would not be required. Further if a process were developed that focused on the future and was set at a strategic level instead of the micro/operational level the current FDA is set at, then costs would be further minimised.

Accordingly Council does not intend to answer the following questions. Hopefully an affordable amended process will be established with a commencement date well into the future.

Question 7.1: Do stakeholders agree with the Commission's approach to allocating its projected indicative costs across the first cycle of the scheme? If not, why not? How should the approach be amended and why?

Question 7.2: Do stakeholders agree with the Commission's approach to addressing any material difference between its actual costs and its projected indicative costs? If not, why not?

How should the approach be amended and why?

Section 7.3.1: Should councils be billed directly of via the LGA?

Question 7.3: Do stakeholders agree that the Commission should bill the LGA the total yearly cost associated with the scheme, noting that any such scheme would require unanimous agreement between the LGA and member councils covering at least the first four-year cycle? If not, why not?

Section 7.3.2: When should councils be billed and with what frequency?

Question 7.4: Do stakeholders agree with the Commission's approach to the timing and frequency of billing? If not, why not? How should the approach be amended and why?

Section 7.3.3: How should costs be allocated between councils?

Question 7.5: If the Commission were to bill each of the 68 councils separately, do stakeholders agree with its proposed approach to allocating the total yearly cost between councils?

If not, why not? How should the approach be amended and why?