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25 November 2021

Attn: Council Governance Team
Office of Local Government
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NOWRA NSW 2541

BY EMAIL: olg@olg.nsw.gov.au

Dear Colleagues

DRAFT RISK MANAGEMENT AND INTERNAL AUDIT GUIDELINES

We refer to the above Guidelines provided under cover of circular 21-26 dated 24 August 2021. Please find set out hereunder our submissions in relation to same developed in consultation with our Audit, Risk and Improvement Committee ('Committee').

Tiered model

Core requirement 1 has adopted a tiered approach to determining size and composition requirements of a council's Committee, ostensibly to better reflect the size, risk profile, operational complexity and resources of individual councils.

Rous County Council ('Rous') has been classified within Tier 2 on the basis that it has higher revenue and operating expenses compared to other *county councils* [emphasis added].

However, the Guidelines apply to county councils the same classification scale used for general-purpose councils. This has led to Rous' constituent councils and adjoining Tweed Shire Council similarly being classified within Tier 2, while neighbouring Kyogle Council is classified as Tier 1.

As demonstrated in Figure 1, Rous' resourcing is more closely aligned with that of Kyogle Council. Notably, while revenue and expenses may be similar, the breadth of functions exercised by Kyogle Council far exceed the three functions exercised by Rous.

While a scaled approach has been taken to the size and composition requirements of a council's Committee, the increased planning and reporting requirements of the Committee proposed under the Guidelines remains the same for all councils (including county councils) regardless of their Tier.

It is expected that the increased planning and reporting requirements will be just as resource burdensome for councils as the proposed Committee size and composition requirements. It will also be difficult to justify lower fees if the duties and volume of work of Committee members are the same regardless of the Tier of the council, noting the Guidelines provide that the fees should "*reflect the time, commitment and responsibility involved in serving on the committee*".

Figure 1 – Comparison of council characteristics

2019/20	Rous County Council	Tweed Shire Council	Kyogle Council	Ballina Shire Council
Equivalent Full-Time Staff	86	711	117	331
Revenue (\$'000)	30,163	225,769	38,366	120,722
Expenses (\$'000)	27,779	184,968	25,257	91,514
Tier under the draft Guidelines	2	2	1	2

Source: Tweed, Kyogle and Ballina Council data for 2019-19 from the Office of Local Government 'Your Council' website (<https://www.yourcouncil.nsw.gov.au/>) accessed 10 November 2021.

Further, while the Guidelines do not prescribe the quantum of fees payable to Committee members, individuals sourced from the NSW prequalification scheme are engaged in accordance with the [Prequalification Scheme – Audit and Risk Committee Independent Chairs and Members – Conditions](#) ('Scheme Conditions') issued by NSW Treasury which do prescribe rates of remuneration. Without an amendment being made to the Scheme Conditions, what power or basis will a council have to refuse to pay the prescribed Scheme Condition rates? If an exception to the Scheme Conditions is intended to be made for councils, how will this change be communicated to individuals within the NSW pre-qualification scheme to reset their expectations when considering appointment to a council's Committee?

By way of reference, the fees currently paid by Rous to its Committee members compared to the rates payable under the Scheme Conditions are summarised below at Figure 2 (note: Rous' Committee meets 5 times each year).

Figure 2 – Fees currently paid by Rous compared to the NSW Prequalification Scheme

Member position	Rous County Council As at 1 July 2021	NSW Prequalification Scheme As at December 2020 (based on the 'small' fee category)
Chair	\$494.00 per meeting	\$12,552 per annum or \$2,510.40 per meeting (\$12,552/5)
Independent Member	\$300.00 per meeting	\$1,255 per meeting
Councillor Member	NIL (cl 2.3 Committee Charter)	Not applicable

Source: Rates of remuneration under the NSW Prequalification Scheme from the Scheme Conditions dated November 2021 issued by NSW Treasury.

It is our submission that the Office of Local Government should review the classification of Rous (and county councils in general) and either reclassify Rous as Tier 1 or develop two separate classification schemes for general-purpose councils and county councils.

Function rather than position

We note the advice of the Office of Local Government¹ that risk management and internal audit have been redesigned as functions rather than positions under the Guidelines to allow councils to fit these functions within existing roles in the organisation structure.

Although the term ‘function’ is utilised in the Guidelines, the requirements for satisfying core requirements 2 and 3 still appear very positional. For example, if a function can be assigned to existing roles within the council’s structure how does this align with the requirement that the risk management function be independent of line management?

It is our submission that the functions prescribed under Core Requirements 2 and 3 need further amendment to clarify the requirements and expectations for implementing a function rather than a position. Practical examples or case studies of what this may look like would be helpful.

Shared Arrangements

The Guidelines refer to the option for county councils, as a cost saving measure, to share a Committee and a risk management and an internal audit function with constituent councils.

However, the Guidelines also recommend that a shared internal audit function be hosted by one of the councils in the shared arrangement and that the “head” of the shared internal audit function be an employee of the host council.

Accordingly, the viability of this option for Rous will depend on the willingness of one of its constituent or other neighbouring councils to host the function given Rous would not be best placed or realise a benefit from hosting this function itself.

Preliminary, informal communications suggest that Rous’ constituent councils and other neighbouring councils have little to no appetite to utilise the shared function at this time.

It is our submission that the Office of Local Government should review the practicality of a shared risk management or internal audit function and consider other mechanisms that could be used to relieve the resourcing burden on county councils.

Comment

To enhance useability and for ease of reference, we encourage the Office of Local Government to consider numbering each paragraph or each section of the Guidelines.

We support the option to retain a connection between the Committee and the governing body through a non-voting councillor member.

We note that the Guidelines provide a statement that superannuation is payable on behalf of Committee members. We have not received any direction on this previously and it is unclear whether this is a new provision similar to that recently made in respect of councillors, or whether councils have always had an obligation to remit superannuation contributions on behalf of its Committee members. Clarification and further guidance on this point is needed.

¹ Refer to NSW Office of Local Government ‘[Summary Guide – changes made to original model proposed in discussion paper](#)’.

Conclusion

Rous, in partnership with its Committee members, make three key submissions in relation to the Guidelines proposed by the Office of Local Government:

1. Rous be reclassified as a Tier 1 council or a new classification scale applicable to county councils be developed;
2. Further detail be provided on the implementation of the Risk Management and Internal Audit 'function' and examples of what this may look like for councils provided; and
3. Re-evaluate the viability of the shared function option and develop an alternative mechanism to relieve the resourcing burden on county councils.

We appreciate the time taken to consider our submissions and the work of the Office of Local Government to date in developing and communicating the proposed changes to risk management and internal audit practices within councils.

Should you wish to discuss the above submissions further, please do not hesitate to contact Lauren Edwards, Governance and Risk Manager, on 0408 453 785 or by email at: lauren.edwards@rous.nsw.gov.au .

Yours faithfully



Phillip Rudd
General Manager