



Submission in relation to:

Public Finance Bill

4 December 2008

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The Geelong Cemeteries Trust acknowledges the opportunity for public submissions to be presented on the discussion paper, "*Public Finance in Victoria: Practices and Legislation*" to address some of the issues causing concern for both this Trust and also within this industry with the myriad of legislation currently in existence in relation to Public Finances.

This submission will specifically address the relevant discussion points within Section 3 of the discussion paper available on the Department of Treasury and Finance website and, where applicable, offer suggestions for improvements, amendments to legislation or support for the proposals put forward in the discussion paper.

3.1.1 Planning

It is recognised that there is a need for future planning for all entities within the Public Sector as it is the opportunity for targeted outcomes to be developed and documented. As part of this process, there should also be included some form of measurement associated with the outcomes to ensure economies and/or efficiencies are achieved.

The development of a Strategic Plan and linking this to a Financial Plan, preferably with both covering a minimum of 5 years, would greatly assist the planning and development of the entity. These plans could incorporate a number of Key Performance Indicators (KPI's) to measure the success of the entity and to monitor the ongoing financial sustainability of the entity. The format of the Strategic Plan and Financial Plan should be similar across entities (particularly as this specific industry has developed a reporting system based on the Victorian Government Chart of Accounts, which has been implemented in the "Large 14" Cemetery Trusts for the 2007/08 financial year and beyond). It is also recommended that a "model" format for these Plans be developed for the Public Sector and this then could be adapted to suit each of the sub-sectors within the Public Sector i.e. Cemeteries and Crematoria.

The concern would be that embedding this in new legislation may place an administrative burden on a significant number of very small Public Sector entities, particularly those with little or no administrative support (generally run by volunteers). Cemetery Trusts run by volunteers would find this an extremely daunting task and of the 522 operational trusts within Victoria there is only a small percentage that has available resources, i.e. paid employees that would perhaps possess the skills and expertise to be able to satisfactorily carry out these projects. This potential burden on smaller entities could be addressed through a regime of differential reporting/compliance which will be further discussed in Section 3.2.1.

With regard to the development of KPI's, it is suggested that these be delegated to the sub-sector level i.e. in our case the Cemeteries and Crematoria sector, as this Trust feels it would be more relevant to work with the sector to canvas suggestions that directly reflect the industry and its operations and how these can be best measured and reported on.

Recommendation:

That five year Strategic and Financial Plans are to be prepared at an entity level, incorporating KPI's, and this is to be embedded in legislation, subject to the differential reporting/compliance regime to be discussed later within this submission. It is further recommended that a "model" format be developed and adapted to suit the specific sub-sector or entity.

3.1.2 Providing and allocating resources

This Trust will only be addressing the provision and allocation of resources as this is seen as very relevant to the Trust operations but will not be commenting in relation to government appropriations, as financial support to this sector from the government is minimal.

This issue was touched on in the previous discussions and, again, the Trust supports this process as it should create efficiencies in resource allocation if a Strategic and Financial Plan have been developed by the entity. By developing a plan based on required outcomes rather than existing inputs an entity would be identifying the needs of its community and citizens and then matching existing resources against such a plan to determine whether additional short term resources are required or an ongoing increase in permanent resources will be necessary to continue to provide the service levels required.

If developed correctly it should also support the need for growth in the resource base if it is an expanding sub-sector, such as the Cemeteries and Crematoria sector is. The number of burials and cremations is increasing each year and coupling this with the need to maintain existing and closed cemeteries in perpetuity will require an increase in resources required at some stage in the future and this could be tied to a five year Strategic and Financial Plan.

The approval of the annual budget is part of this ongoing process and consideration to an extended budget period or development of a rolling budget process could also be considered.

As detailed previously, KPI's could also be developed as part of the Annual Budget to link in with the longer term Strategic Plan and by monitoring and recording these KPI's the entity could track their "success" against their longer term plans. The key issue here is that the development of the KPI's needs to be given due consideration to ensure they are both useful and meaningful as too often KPI's are developed hastily to appease certain sections of the community or the entity and do not really provide relevant and useful information.

Recommendation:

That five year Strategic and Financial Plans are based on desired outcomes rather than relying on existing inputs. The plans are to be developed, inclusive of relevant KPI's, to further assist in the allocation of available resources to satisfy the demands of the community and the entity itself. These well-constructed plans would also assist in determining the need for growth in an entity's available resource base if it were part of an expanding industry – as the Cemeteries and Crematoria sector is.

3.1.3 Accountability

One of the key criteria for the Public Sector is accountability and this Trust strongly supports the reporting of performance against pre-set targets from the Strategic Plan. The ongoing review and reporting process based on proposed outcomes would keep the community informed of the progress on each specific target. This reporting process should be incorporated into the entity's Annual Report with ongoing historical information provided for comparison over time.

It is felt that this should be reported at the entity level given that a number of outcomes and outputs will be industry specific but there should also be a requirement for each specific industry sector to develop a number of key performance outcomes (generally financial as all Cemetery Trusts may have differing operational goals) that can be reported on at an industry level to the relevant government department (in this case, the Department of Human Services).

The development of a Strategic Plan incorporating proposed outcomes for the entity over the life of the Plan is seen as mandatory and the review and monitoring of these outcomes can then be carried out by the community, the entity itself or even the greater Public Sector. The advantages of reporting on these outcomes are that both the community and the entity are regularly informed of the progress of these longer term plans and an ongoing record of actual performance against pre-set targets is provided in the entity's Annual Report.

The important factor for consideration is the development of the outcomes – they need to be both financial and non-financial. Caution needs to be taken when determining these outcomes as financial targets are generally very predictable and hence are usually set conservatively, making them often easily achievable but in a lot of cases may not provide any guidance to the long term financial sustainability of the entity. In the case of this sector, pre-paid sales of Rights of Interment are possible in many cases providing additional revenue for a Trust but not necessarily coinciding with any expenditure outlays. Over time this may result in relatively significant cash inflows for a Trust with no corresponding outlays which may distort financial targets. However, to link this increased revenue with a reduction of available grave sites and hence a need for future development works involving significant outlays may portray a more accurate picture of the Trust and its operations over the longer term.

Recommendation:

That legislation is introduced requiring entities to provide both financial and non-financial targets within its Strategic Plan and also within its Annual Report to Parliament and that these are developed over time by the industry sector to allow comparison between entities where possible. Further, that outcomes of a non-financial nature be clearly identified within an entity's Strategic Plan and these be reported and monitored over the life of the plan to determine progress towards fulfilling the pre-set targets. It is proposed that the financial indicators be reported to the relevant government department by all reporting entities in an effort to ensure the specific entity is financially viable and sustainable in the long term. With regard to reporting it is suggested that the legislation only require the reporting of financial and non-financial information but that the extent of what is reported is initially developed by the industry sector and "approved" by the relevant government department.

3.2.1 Entities

There are currently in excess of 500 cemetery trusts throughout Victoria with the vast majority of them being managed by a dedicated group of volunteers with only the larger ones being in a position of having paid employees to carry out both the administrative and operational duties of the Trust. The reporting requirements of trusts currently varies significantly with the smaller trusts required to complete an Abstract of Accounts on an annual basis, which is prepared on a cash basis, through to the larger trusts which are required to prepare full and detailed Financial Statements together with explanatory notes and subject to audit by the Victorian Auditor-General's Office (VAGO). Although this is technically in breach of the *Financial Management Act 1994* this practice has continued so as not to place an administrative burden on those trusts run by volunteers.

This aspect of the Act requires a major overhaul with the introduction of differential reporting across entities. The suggestion is:

- Include within the legislation the different reporting requirements for entities based on either their annual revenue or Assets to ensure similar reporting requirements currently experienced by Trusts continues i.e.
 - ~ Trusts with annual revenue less than \$30,000 or Assets less than \$200,000 are only required to complete an “Abstract of Accounts” with an audit certification being provided by a qualified auditor.
 - ~ Trusts with annual revenue equal to or greater than \$30,000 and less than \$1 Million or Assets equal to or greater than \$200,000 and less than \$10 Million are required to complete a modified version of the existing Financial Statements (excluding the explanatory notes) and audit certification being provided by either the Victorian Auditor-General’s Office or a contractor for VAGO.
 - ~ Trusts with annual revenue equal to or greater than \$1 Million or Assets equal to or greater than \$10 Million are required to complete a full set of Financial Statements (inclusive of explanatory notes) and audit certification being provided by either the Victorian Auditor-General’s Office or a contractor for VAGO.

In addition to the financial reporting, consideration should be given to these “smaller” entities in relation to a number of other requirements such as the financial management compliance framework, procurement, other reporting procedures etc.

Recommendation:

That legislation is introduced to support a staged level of reporting requirements, as detailed above, effectively introducing differential reporting for this industry sector (ensuring existing practices in relation to financial reporting continue in the future).

3.2.2 Accrual-based appropriations and flexibility

The cemetery and crematoria sector currently operates on a full accrual based system and therefore does not wish to offer any suggestions within this area of legislation amendment.

3.2.3 Reporting

The requirements are currently very onerous with a myriad of retrospective reports being provided that basically portray a position that is now past rather than looking forward to where the sector or specific entity either wants to be or expects to be. The concept of reporting on a forward basis would appear to be of more value than looking back at historical information – although it would still be necessary to provide the annual Financial Statements as this is the historical record of the year’s operations and the financial position at a specific point in time.

The key reports that should be maintained are:

- the Mid-Year Financial Report but this would be better structured to provide probable year end figures rather than the financial position at mid-year. To attempt to provide a relatively accurate picture of the first six months of operations so soon after the cut-off date is extremely difficult but would quite possibly be 90 - 95% accurate. To project out to the perceived year end position would appear to be of more value, particularly on a whole-of-government basis.
- The Annual Financial Statements at year end – as detailed in an earlier section, this would be on some sort of differential reporting basis.
- A relatively high level forward looking Financial Plan inclusive of revenue and expenditure assumptions together with some dialogue detailing any significant variations in the entity's operations over the coming years so as to provide a more accurate picture of exactly where the entity is proposing to be at a given point in time. This could also include the key points from the Strategic Plan so readers would be able to see the connection between the two Plans.

In relation to timeliness, it is proposed to retain the existing timelines i.e. that annual reports are to be presented to Parliament within four months of the end of the financial year. The reasoning behind this proposal is the difficulty currently experienced in preparing and receiving audit certification in a timely manner to allow sufficient time to present the annual reports to the relevant government department, for consolidation and ultimately presentation to Parliament. The current practice is to have the Financial Statements prepared, audited and signed off by the relevant officers and the Trust prior to 30 September and then forwarding them on to the Department of Human Services by the first week of October to collate into one consolidated report. There is however the potential to streamline this process through the development of an "Annual Report" template specific to the industry to minimise reviews by a number of government departments and thus giving more opportunity for entities to lodge reports within the specified time frames.

Experience over recent years has shown that audit clearance is often not received promptly after the audit field work has been done even though this has been completed late in July. Delays in clearance thereby impacts on the Trust's ability to approve and sign off the Financial Statements in a timely manner and forward to the relevant government department for consolidating into one report. It may be argued that this is a resourcing problem for VAGO to sort out but experience has shown that the existing timelines are difficult to adhere to.

Recommendation:

That a new reporting regime be legislated whereby entities produce a mid year financial report detailing year end projections and the existing Annual Reports (incorporating Financial Statements) continue to be produced. Further that a relatively high level forward looking Financial Plan inclusive of revenue and expenditure assumptions and explanatory dialogue be prepared, inclusive of targets/outcomes from the Strategic Plan, to allow readers the opportunity to understand the direction of the entity.

It is also recommended that an "Annual Report" template be produced for the sector to assist in streamlining the reporting processes prior to audit. A further potential benefit of this process would be that all reports would require less scrutiny by government departments prior to presentation in Parliament. This could also potentially reduce the time required for preparation and presentation of the reports.

3.2.4 Other public finance legislation

As detailed in the discussion paper, this would be an opportune time to consolidate a number of related Acts into this new legislation.

The Borrowing and Investment Powers Act 1987 should be repealed and all existing requirements of entities detailed in that legislation should be incorporated into the new Public Finance Bill. The one key thing that should not be ingrained in legislation is the concept of a central investment repository – it may be an option for entities to invest this way but they also should retain their autonomy to invest as they see fit.

The Monetary Units Act 2004 could similarly be repealed and existing legislation and requirements incorporated into this Public Finance Bill. As detailed in the discussion paper, the inclusion of the penalty unit structure would appear practical and there shouldn't be any impediments to this happening and at the same time providing a more consolidated document.

Similarly, the *Public Authorities (Dividends) Act 1983* should be repealed given its very limited applicability and incorporate the necessary clauses into the new Public Finance Bill to retain the concept of a dividend policy.

With regard to the Land and property functions and the various pieces of legislation currently in place it would appear somewhat difficult to propose removal of the relevant clauses from the Public Finance Bill until such time as it can be encapsulated into a revised Transfer of Land or Property Law Act. As these reviews will not be running concurrently it would seem difficult to remove certain requirements prior to being able to incorporate them into other specific legislation.

Recommendation:

That the aforementioned legislation is reviewed and, where appropriate and practical, the legislative requirements be incorporated into the new Public Finance Bill. The review of the land and property functions will require further consideration to develop some methodology whereby these aspects are incorporated into yet-to-be-reviewed legislation but still retained in the Public Finance Bill until such time as these further reviews are commissioned.

3.2.5 Procurement

Although this is potentially a key area in larger entities operations, to enshrine mandatory procurement policies in the new Public Finance Bill would possibly place an unnecessary administrative burden on smaller entities. The concept of the VGPB has always been seen as a major step forward in procurement as it incorporates the tendering process for all like services required by government departments. However, consideration needs to be given to rural and remote entities and the economies and efficiencies they may possibly be able to achieve in their local community/region rather than procuring through the VGPB.

As in most of the discussions outlined above, the legislation requires separate consideration for smaller entities, particularly those run by volunteers. For this reason, it is proposed that the legislative changes be enacted but allow discretion in which entities it applies to by either defining the size of an entity that the Bill applies to (i.e. with revenue greater than \$30,000 or Net Assets greater than \$200,000) or enshrining within the legislation that application of the legislation is optional for all entities – this option is the least preferred as it may allow too much discretion.

Recommendation:

That the procurement policies and procedures (inclusive of the current principles) should be included within the new Public Finance Bill but they are included as an optional choice for entities to comply with. This could be linked to the differential reporting levels discussed earlier in this submission.

3.2.6 Principles-based legislation

The concept of a principles-based Act does hold some merit as it would specify the fundamental principles to be followed in relation to finances but care would need to be taken when drafting any subordinate legislation to ensure we don't end up with a myriad of regulations to familiarise with. An example of where this has been done particularly well is the *Cemeteries and Crematoria Act 2003*, which is a relatively condensed Act setting the higher level operational requirements for the industry, and this is then complimented with the *Cemeteries and Crematoria Regulations 2005* which provides significantly more detail, where required.

Recommendation:

That the new legislation be principles-based but careful consideration needs to be taken when drafting subordinate legislation to ensure all detailed rules are encapsulated within the one document to eliminate unnecessary confusion. Entities must be able to initially refer to an over-arching document for guidance and direction and then, if additional detail is required, be able to access a second document to determine the processes to follow. The development of the subordinate legislation needs to be addressed as a single set of regulations to ensure streamlined processes are easily followed.

If you wish to discuss this submission further I can be contacted on 03 5221 1077.

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