

WRITTEN STATEMENTS
SPECIAL MEETING OF COUNCIL
29 June 2021

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1. Mr George Reynolds

Item 3.1
Adoption of the
Annual Budget 2021–22

1. Mr George Reynolds

SPECIAL COUNCIL MEETING TO BE HELD ON 29TH JUNE 2021.

HAVE YOUR SAY ON THE PROPOSED BUDGET 2021-22.

- 1, This submission is being made directly to the Council meeting,.
2. The Community and Stakeholder Engagement Policy 2021 commits Council to make evidence based decisions. (1. Policy Intent)
3. The document being submitted for approval, Annual Budget 2021/22, is not fit for purpose. It avoids the inclusion of estimates of expenditure which are necessary to correctly show “the estimated amount to be raised by general rates” as required by Part 3, s8(5)(c) of the Local Government (Planning and Reporting) Regulations 2020. (Reg 117/2020). A similar accounting requirement is necessary, to deal with the Municipal Charge (at s8(5)(h) Reg 117/2020). A separate income and expenditure statements is also mandatory, for each type of service rate or charge. (s8(5)(k).

The other functions of Council activity, Own-source Revenue, must also be prepared as separate income and expenditure statements. Schedule 3 of S R 117/2020 defines OsR as total revenue other than revenue that is not under the control of Council. i.e Rates and charges represent revenue that is raised in trust by Council. It is not under Council control. (See AASB 10). OsR is money which Council earns; Any surplus is Council Cash.

Hence, somewhere in the Annual Budget (probably in Note 4.1), a series of individual income and expenditure statements must be prepared, to cover:

- General Rates
- Municipal Charges
- Service Rates - Individually Applied.
- Own-source Revenue – Council owned ventures (Named in Schedule of Fees and Charges)
- Own-source Revenue – Beneficial Enterprises (See s111(2), LGA2020) -Individually Applied.

A similar separation by function must be applied to the Capital Works program. (s4.5 pp57-68).

Without the preparation of the individual accounting statements, the Council Procurement Policy cannot be adequately implemented. The true and fair treatment of surplus rate contributions is evaded. The consequent misappropriation of rate and charges contributions is shown, in the CIS, to exceed \$53MILLION. Evidence based support for the Bayside 2021-22 rate declaration, is absent.

Councillors, your proposed 2021-22 budget is a continuation of the systemic misappropriation of ratepayer contributions ,using false accounting. It has its parallel in the Robodebt scheme – recently judged to be a “shameful chapter” in the nation’s treatment of the poor. If you vote in favour of adopting the proposed budget, you will be authorizing a double value deduction of the General Rate. Following the legal precedent set by the Robodebt judgement, your general rate levy will be uncollectible. When the 2021-22 rates are subsequently judged to be an unlawful charge, the promotors risk incurring a personal liability.

Think again, Councillors.

Have your Say.

Submission to Special Meeting of Council. 29th June 2021.

Agenda Item 3.1. Proposed Annual Budget.

Submission 1.

Councillors, this proposed annual budget is not ready to be submitted to Council for adoption. The core document in the budget is the Comprehensive Income Statement. It is not a valid income and expenditure statement. It is a document which purports to aggregate all forms of revenue sources and balances them with all sinks of expenditure, which absorbs such revenue.

Council revenue is raised by three different forms of rates and charges and two different forms of earned income. These five different forms of revenue are different to each other and cannot be aggregated. It is necessary that five different income and expenditure statements must be made separately. This requirement is supported by the basic accounting standard, aaasb101.29, which requires that "An entity shall present separately items of a dissimilar nature or function, unless they are immaterial".

COUNCILLORS, YOUR BUDGET DOCUMENTS MUST SOMEWHERE PRESENT (SEPARATELY) FIVE DIFFERENT COMPREHENSIVE INCOME STATEMENTS. THIS IS NOT APPARENT.

Submission 2.

Municipal Authorities have a legal entitlement to collect revenue by two different methods.

- (a) Rates and Charges are to be collected by non-voluntary contributions. The expenditure which brings a benefit to the contributor(s) is first estimated. A materiality allowance may be added to this estimate and the resulting sum becomes the "estimated amount to be raised by general rates under s158 of The Act". (S.R. No 17/2014).
- (b) Own-source revenue. which is the revenue earned from the business activities of Council. (S. R. No 17/2014. Sch. 3).

The Municipal Authority is empowered to spend the money collected for the particular purpose set out in the budget estimates, only for the purpose of performing the functions identified in the budget. (s141(a) LGA1989). Indeed, the Procurement Policy of Bayside City Council, at 6.1.11 requires that all purchasers of goods and services must ensure that an adequate allocation of funds has been made, in an approved budget or source funds document. If insufficient funds have been allocated Council must prepare and approve a revised budget, before procurement is able to commence. Conversely, any money overpaid to Council for the purpose set out in the budget, must be returned to the ratepayer. (s141(c) and s142 of LGA89).

Rates and Charges are to be held in trust, by Council, acting as Agent for the rate or charge payer. The accounting standard AASB 1004 deals with this situation; in particular, AASB 1004.12-19 regulates the conditions precedent for the release of funds from the trust account. It is an unlawful act to avoid the requirements of AASB 1004.12.

COUNCILLORS, YOUR BUDGET DOCUMENT PROPOSES AGGREGATED SURPLUS INCOME OF \$53MILLION MORE THAN AGGREGATED OPERATING EXPENDITURE. THERE IS AN INFERENCE THAT THIS SURPLUS IS TRANSFERRED TO AN OWN-SOURCE REVENUE ACCOUNT. THIS IS UNLAWFUL. THE SURPLUS FROM UNSPENT RATES AND CHARGES MUST BE RETURNED TO THE RATEPAYER.

2. Mr Paul Langley

BAYSIDE COUNCIL -SPECIAL COUNCIL MEETING TO BE HELD ON 29TH JUNE 2021.

The Council Community and Stakeholder Engagement Policy 2021 invites submissions which are evidence based. There is little evidence of correct accounting procedures, in the proposed budget.

The core of the 2021 budget comprises the Comprehensive Income Statement (CIS) (Page 33) and the Capital Works Program (Note 4.5 Page 57 – 68). These financial statements deal with activities of different natures being estimated operating costs and identified capital costs, which are seen to be aggregated together into a single statement and not being detailed under all five functions as required and addressed by the Australian Accounting Standards for Local Government Authorities (aasb1004) and to which Council must comply.

The five necessary functions are:

1- The **General Rate**, where non-voluntary contributions are collected by the Council acting as agent; funds must be held in trust by Council, until spent on activities which bring a direct benefit to ratepayers; and

2- The **Municipal Charge**, where funds are also collected by the Council as agent and quarantined to be spent for the benefit of the payers/contributors; and

3- The **Waste Service Charge**, collected as a fee for service. It must be retained for the benefit of the contributors to the service; and

4- **Own Source Revenue** which is collected as a fee for the services identified in the Schedule of Rates and Charges (page 72-99). This function is where Council owns, in its own right, the assets forming the business; and

5- **Beneficial Enterprises**, established in accordance with the Local Government Act 2020 - s111. The assets may not be fully owned by Council, the profits and risks are shared. **Note that the budgeted Bayside Netball Centre (Page 58) must be treated as a Beneficial Enterprise.** Other businesses or entities who claim a right or benefit from the use of such assets, must also be treated in the manner set out in s111(2) of LGA2020.

The proposed budget statements in the Annual Budget are non-compliant with the Accounting Standards aasb 101 (particularly 101.29), aasb 1004 and aasb 116. The accounting statements shown are an uncontrolled mix of all five functions with capital entries mixed with operational costs.

Essentially it is non-compliant and incorrect accounting. The result of the random aggregation presented by the CIS, is that trust funds are misallocated from rates and charges and transferred to Own Source Revenue.

In particular, the surplus funds from trust activities are named Council Cash. The funds are used by Council to build assets some of which are provided to private groups.

THE FINANCIAL STATEMENTS IN THE BUDGET PROVIDE INSUFFICIENT AND INADEQUATE EVIDENCE TO SUPPORT THE RATE DECLARATIONS.

3. Mrs Sue Langley

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Item 3.2

Declaration of Rates and Charges

1. Mr George Reynolds

Have your Say.

Submission to Special Meeting. 29th June 2021.

Agenda Item 3.2. Declaration of Rates and Charges.

Submission 1.

The declaration of the General Rates made in the manner set out in Item 2.1 is not a valid declaration. The Local Government (Planning and Reporting) Regulations 2020 (S.R. No. 117/2020) set the requirements for declaring the General Rate. These are;

- (a) Council must estimate the amount of money to be raised in the budget to meet the planned expenditure on the general rate function, and
- (b) Council may estimate a materiality allowance (limited to 10%) to each entry in the source of funds document. and
- (c) Council must then add the materiality allowance to the planned expenditure to obtain “the estimated amount to be raised by the general rate”, as required to be declared by Part 3 Section 8(5)(c) of Reg. 117/2020. And
- (d) Council must obtain from the Valuer-General of Victoria the “estimated total value of all land rated under s158 of the Local Government Act 1989, as required by Section 8(5)(g) of Reg. 117/2020. And
- (e) The rate in the dollar of land value that is to be declared is calculated by dividing the “estimated amount to be raised by the general rate” by the estimated total value of all land rated under s158 of the LGA89/

As Council Proposed Budget 2021-22 does not publish an estimate of the planned expenditure on the general rate function, there is no verifiable public information on which to base a valid rate calculation.

Submission 2.

Similar considerations to those set out in Submission 1, apply to both the Municipal Charge and the Waste Service Charge.

The budget does not show an “estimated amount to be raised by municipal charges” as required by Section 8(5)(j) of Reg 117/2020. Additionally, there is no information on “the number of assessments” in the municipality. (Reg 117/2020 s8(5)(e)). As the municipal charge is shared equally on a “per assessment” basis, there is no verifiable information to support the declared charge.

The budget also fails to show the “estimated amount to be raised by each type of service charge” required by Section 8(5)(m) of Reg 117/2020.

Rates and charges cover separate functions and must be treated separately. They are also of a different nature to the day-to-day earnings of a business. The surplus from Rates and Charges cannot be treated as a profit. When collected the revenue raised must be held in trust. The accounting standard AASB 1004.12 sets a triple test which must be met before Council is allowed to use the money. Any amount unused at the end of the financial year must be returned to the contributor. Council is required to account for the surplus, in each of the separate functions. As Reg.

117/2020 at s14(1)(b) requires. Details of the sums held in trust must be reported in the balance sheet.

The Council Proposed Budget 2021-22 fails to show the key estimates needed to properly calculate the allowable sums able to be charged for each of the three functions of rates and charges. Other indicators lead to the conclusion that surplus rate collections are improperly transferred to Council owned funds known as Own-source Revenue. The concealment of individual income and expenditure statements for each of the five functions, conducted by Council, allows this improper transfer to remain undetected. Based on the recent Robodebt judgement there is sufficient evidence to justify the withholding of any rates which are declared in the manner of this proposed declaration.

Item 3.3
Procurement Policy 2021

1. Mr George Reynolds

Have your Say.

Submission to Special Meeting. 29th June 2021.

Agenda Item 3.3. Procurement Policy 2021.

Submission 1.

This item was placed on to the meeting agenda with undue haste, as a revision to the agenda post its publication. The requirements set out in Council's Community and Stakeholder Engagement Policy (February 2021) seem to have been wilfully forgotten.

Councillors, this is a change and/or review of a significant Council Policy. It is the statutory review of the policy necessary within the first six months of the tenure of the 2020 – 2024 Council. If it is delayed until after July 1st, it can also be the statutory review following the commencement of Division 2 Part 5 of the Local Government Act 2020. (s105(6) of LGA2020).

Councillors, there is an opportunity to conduct the review in a manner which will avoid further action for four years. It does require a formal Community Engagement Process to be completed before December 31st 2021.