Parliamentary Committees

Queensland Future Fund Bill 2020

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Economics and Governance Committee
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Economics and Governance Committee

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Acknowledgements

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Contents

Abbreviations

Bill	Queensland Future Fund Bill 2020
Debt Retirement Fund	Queensland Future (Debt Retirement) Fund
FA Act	*Financial Accountability Act 2009*
FLP	Fundamental legislative principle
HRA	*Human Rights Act 2019*
LSA	*Legislative Standards Act 1992*
MYFER	Queensland Government, *2019-20 Mid-Year Fiscal and Economic Review*, December 2019
NSW	New South Wales
POQA	*Parliament of Queensland Act 2001*
QAO	Queensland Audit Office
QIC	Queensland Investment Corporation
QNMU	Queensland Nurses & Midwives' Union
Standing Orders	Standing Rules and Orders of the Legislative Assembly (Queensland)
SSPSA	*Superannuation (State Public Sector) Act 1990*
Treasurer	Treasurer and Minister for Infrastructure and Planning

All Acts are Queensland Acts unless otherwise specified.

Chair’s foreword

This report presents a summary of the Economics and Governance Committee’s examination of the Queensland Future Fund Bill 2020.

The committee’s task was to invite feedback from the Queensland public on the proposed legislation and seek a response from the Queensland Treasury on the issues raised. The committee also considered the policy to be achieved by the legislation and the application of fundamental legislative principles – that is, whether the Bill has sufficient regard to the rights and liberties of individuals, and to the institution of Parliament. Further, the committee examined the Bill for compatibility with human rights, in accordance with the *Human Rights Act 2019*.

On behalf of the committee, I thank those stakeholders who made written submissions on the Bill. I also thank the Queensland Treasury, Queensland Investment Corporation, and our Parliamentary Service staff for their assistance.

I commend this report to the House.

Linus Power MP

Chair

Recommendations

The committee recommends the Queensland Future Fund Bill 2020 be passed.

1 Introduction

1.1 Role of the committee

The Economics and Governance Committee (committee) is a portfolio committee of the Legislative Assembly which commenced on 15 February 2018 under the *Parliament of Queensland Act 2001* (POQA) and the Standing Rules and Orders of the Legislative Assembly (Standing Orders).[1]

The committee's primary areas of responsibility include:

- Premier and Cabinet, and Trade
- Treasury, and Infrastructure and Planning, and
- Local Government, Racing, and Multicultural Affairs.[2]

The committee is responsible for examining each bill in its portfolio areas to consider the policy to be given effect by the legislation, the application of fundamental legislative principles, and the compatibility of the legislation with the *Human Rights Act 2019* (HRA).[3]

1.2 Inquiry process

The Queensland Future Fund Bill 2020 (Bill) was introduced into the Legislative Assembly by the Treasurer and Minister for Infrastructure and Planning, the Hon Cameron Dick MP (Treasurer), on 14 July 2020. In accordance with Standing Order 137, the Bill was declared an urgent bill and was referred to the committee for consideration and report to the Assembly by 7 August 2020.

During its examination of the Bill, the committee:

- invited written submissions on the Bill from the public, identified stakeholders and email subscribers,[4] and received two submissions (a list of submitters is provided at **Appendix A**)
- received a written briefing on the Bill from the Queensland Treasury, prior to a public briefing from Treasury officials (via videoconference) on 27 July 2020 (a list of the officials who appeared at the briefing is provided at **Appendix B**), and
- held a public hearing (via videoconference) with the Queensland Investment Corporation (QIC), also on 27 July 2020 (the witness who appeared at the hearing is listed at **Appendix C**), and
- requested and received written advice from Queensland Treasury on issues raised in submissions.

Copies of the material published in relation to the committee's inquiry, including the submissions, transcripts and written advice, are available on the committee's inquiry webpage.[5]

1.3 Policy objectives of the Bill

The objectives of the Bill, as outlined in the explanatory notes, are to:

- establish a Queensland Future Fund under an Act of Parliament, replicating, as far as possible, the legislative model set up by the *NSW Generations Funds Act 2018* (NSW)

1 *Parliament of Queensland Act 2001* (POQA), s 88; Standing Rules and Orders of the Legislative Assembly (Standing Orders), SO 194.

2 POQA, s 88; Standing Orders, SO 194, Schedule 6.

3 POQA, s 93(1).

4 The committee contacted over 100 identified stakeholder groups and individuals and over 1,000 email subscribers to invite submissions on the Bill.

5 https://www.parliament.qld.gov.au/work-of-committees/committees/EGC/inquiries/current-inquiries/QFFB2020 (as at 5 August 2020).

- establish the first Queensland Future Fund, the 'Queensland Future (Debt Retirement) Fund' (Debt Retirement Fund), to quarantine funding to reduce the debt of the State
- enable the establishment of other Queensland Future Funds and provide for the ongoing administration of any Queensland Future Funds, and
- provide an additional guarantee of the State's defined benefit liabilities.[6]

1.4 Government consultation on the Bill

The explanatory notes advise that the following entities were consulted during the drafting of the Bill:

- Department of the Premier and Cabinet
- Queensland Audit Office (QAO)
- Queensland Treasury Corporation
- QIC
- Standard & Poor's, Moody's and Fitch
- Office of Best Practice Regulation
- Office of State Actuary, and
- QSuper.[7]

On 16 July 2020, the Queensland Treasury wrote to the committee to clarify that the QAO's engagement during the drafting process related to matters of governance, accounting and financial reporting rather than the policy intent of the Bill, and that the QAO was not consulted on the draft Bill itself. The Queensland Treasury advised that its officers intended to undertake further discussions with the QAO on the Bill, and on the asset classes proposed to be held by the Queensland Future Fund.[8]

1.5 Should the Bill be passed?

Standing Order 132(1) requires the committee to determine whether or not to recommend that the Bill be passed.

After examination of the Bill, including consideration of the policy objectives to be implemented, the information provided by stakeholders, and advice from the Queensland Treasury, the committee recommends that the Bill be passed.

Recommendation 1

The committee recommends the Queensland Future Fund Bill 2020 be passed.

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6 Explanatory notes, p 1.

7 Explanatory notes, p 3.

8 Queensland Treasury, correspondence, 16 July 2020.

2 Examination of the Bill

2.1 Background

In its *2019-20 Mid-Year Fiscal and Economic Review* (MYFER), published in December 2019, the Government announced plans to launch a Queensland Future Fund, to be used to pay down debt, as well as providing a new, 100 per cent guarantee of the state's future Defined Benefit liabilities,[9] strengthening protections already in place.[10] MYFER stated that the interest and investment returns from the Queensland Future Fund, which would be established under an Act of Parliament, would be quarantined and returned to the Fund, meaning it would grow over time to offset any borrowings.[11] Further, any withdrawals from the Fund 'would only be used for paying down debt'.[12]

The Fund was to be seeded with an initial $5 billion investment, consisting of '$2 billion redirected from the Government's existing debt retirement plan and a further $3 billion invested from the surplus in the Defined Benefit Fund', with the Government emphasising that the Defined Benefit Fund would 'continue to remain in surplus'.[13]

On releasing MYFER and announcing the news, the former Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships emphasised the important role the Queensland Future Fund would play in helping to maintain Queensland's credit rating and support sustainable long-term financial management:

> *The creation of the Queensland Future Fund aligns with the guidance of the independent ratings agencies by delivering a measured and responsible plan to address debt.*
>
> *With interest rates at record lows it makes sense to invest in a Queensland Future Fund because the returns from our investments are higher than the cost of interest payments.*
>
> *As returns from the Fund are used exclusively to pay down debt, we can continue to improve the key metric used by the ratings agencies, our debt to revenue ratio…*
>
> *Prudent financial management of our balance sheet means we can now start to provision for our future without compromising on the infrastructure and services we need now.*[14]

The announcement of the planned Future Fund followed New South Wales' (NSW) establishment of a dedicated debt retirement fund in the NSW Generations Fund,[15] which was seeded with $10 billion

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[9] Some current and former Queensland Government workers are able to contribute to, or receive payments from, a Defined Benefit superannuation scheme. Defined Benefit liabilities are the liabilities associated with funding the employee entitlements under the scheme, which are paid out from the Defined Benefit fund in which scheme assets are held. The assets held by this scheme are currently worth more than the liabilities it is exposed to, meaning it is in surplus.

[10] Queensland Government, *2019–20 Mid-Year Fiscal and Economic Review*, December 2019, p 3. Section 29 of the *Superannuation (State Public Sector) Act 1990* (SSPSA) already provides for the Government guarantee in respect of the defined benefit payments.

[11] Queensland Government, *2019–20 Mid-Year Fiscal and Economic Review*, December 2019, p 19.

[12] Queensland Government, *2019–20 Mid-Year Fiscal and Economic Review*, December 2019, p 19.

[13] Queensland Government, *2019–20 Mid-Year Fiscal and Economic Review*, December 2019, p 19.

[14] Hon Jackie Trad MP, Deputy Premier, Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships, 'Palaszczuk Government to establish Queensland Future Fund', ministerial media statement, 12 December 2019.

[15] Under the *NSW Generations Funds Act 2018* (NSW).

in late 2018, and had increased to $10.9 billion as at 30 June 2019.[16] Such future funds have also been in operation for some time at the Commonwealth level[17] and in Western Australia.[18]

2.2 Achievement of the Bill's policy objectives

The Bill seeks to deliver on the Government's MYFER commitments by:

- establishing a legislative framework for the creation of a Queensland Future Fund, including setting out the governance arrangements for the assets in a Queensland Future Fund and providing clarity on the purposes, administration and reporting processes for Future Funds
- creating the first Queensland Future Fund, the Debt Retirement Fund, the value of investments in which 'will be netted off against the debt of the state and operate as an offset to the state's debt for the purposes of credit rating assessments and credit metrics',[19] and
- strengthening the existing legislative guarantee of the State's future Defined Benefit liabilities with an additional guarantee.[20]

2.2.1 Establishing a legislative framework for Queensland Future Funds

The Bill proposes to establish a new *Queensland Future Fund Act 2020*[21] containing the legislative framework for establishing Queensland Future Funds (including the first such fund in the Debt Retirement Fund),[22] as well as making a series of related amendments to the *Financial Accountability Act 2009* (FA Act) to support the operation of Queensland Future Funds.[23]

The Bill specifies that the Treasurer is to administer any Queensland Future Fund established under the legislation,[24] and that any established Fund is not to form part of the consolidated fund or a departmental account under the *Financial Accountability Act 2009* (FA Act), but rather must be kept as a 'special purpose account' of the department (Treasury).[25]

The explanatory notes advise that Queensland Treasury considered establishing Queensland Future Funds as departmental accounts, similar to other government funds. However, it was determined that this would not provide sufficient 'ring fencing'[26] for the Debt Retirement Fund to satisfy the requirements of the rating agencies'.[27]

16 NSW Treasury, *NSW Generations Fund Annual Report 2018-19,* December 2019, p 2.

17 Under the *Future Funds Act 2006* (Cth).

18 Under the *Western Australian Future Fund Act 2012* (WA).

19 Leon Allen, Deputy Under Treasurer, Queensland Treasury, public briefing transcript, Brisbane (via videoconference), 27 July 2020, p 1.

20 Explanatory notes, pp 1-2; Queensland Treasury, departmental brief, 20 July 2020, p 1.

21 Bill, cl 1 ('This Act may be cited as the *Queensland Future Fund Act 2020*').

22 Bill, Parts 2 and 3.

23 Bill, Part 4.

24 Bill, cl 4 and cl 5(1). The Bill also provides that in performing a function or exercising a power under the proposed *Queensland Future Fund Act 2020*, 'the Treasurer may have regard to any information the Treasurer considers relevant, including, for example, information or advice provided to the Treasurer by another entity' (see Bill, cl 6).

25 Explanatory notes, pp 2, 4. See also Bill, cl 5(2)-(3).

26 A ring fence is a virtual barrier that segregates certain financial assets of an entity from the whole in order to protect the assets from losses incurred by riskier operations or, as in this instance, to reserve money for use for a specific purpose.

27 Explanatory notes, p 2.

On introducing the Bill, the Treasurer stated that requiring any Queensland Future Fund to be established as a special purpose account, separate to the consolidated fund and departmental accounts, would ensure the necessary 'ring fencing will be achieved', as provision can be made for interest and investment returns to be quarantined through specific limits on the type of withdrawals that can be made from such accounts (eg specific to the purpose of the account).[28]

As such accounts currently are not provided for in the *Financial Accountability Act 2009* (FA Act),[29] the Bill amends the FA Act to create a new category of 'special purpose accounts' and provide for 'special purpose financial institution accounts' to support their operation, including providing that:

- special purpose accounts are to be established where an Act establishes a fund that requires accounts for the fund to be kept as special purpose accounts[30]
- the accountable officer (the Under Treasurer)[31] must:
  - establish the special purpose accounts necessary to account for contributions made to the fund, moneys paid from the fund, and other transactions made in relation to the fund[32]
  - establish the accounts necessary[33] for administering the special purpose accounts (the 'special purpose financial institution accounts'), and conduct banking arrangements for the special purpose accounts with financial institutions approved by the Treasurer[34]
  - produce the financial statements of information required to be produced by the FA Act or under prescribed requirements, to the extent the statements or information must include matters in relation to the fund[35]
- if moneys for an investment were paid out of a departmental financial institution account for an investment relating to a special purpose account, then any moneys received from the investment must be paid into a special purpose financial institution account established for the purpose of the special purpose account (thereby 'ring fencing' investment earnings)[36]
- an amount may be paid from the special purpose financial institution accounts only if the payment is authorised under the Act that requires the keeping of the special purpose accounts,[37] and
- 'To remove any doubt', it is declared that 'special purpose accounts are not, and do not form part of, departmental accounts',[38] and that 'special purpose financial institution accounts are not departmental financial institution accounts'.[39]

28 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1527. See also explanatory notes, p 2.

29 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1527.

30 Bill, cl 19, s 69A(1)-(2) (amending the FA Act).

31 Bill, cl 19, s 69A(2)(a) (amending the FA Act); explanatory notes, p 5.

32 Bill, cl 19, s 69A(2) (amending the FA Act).

33 The Bill requires a financial institution account to be established if the interest is paid in the form of cash, or if cash is required to pay the administration expenses of the relevant fund. A financial institution account may not be necessary where the interest earned on investments held in a special purpose account is capitalised back to the special purpose account. See: explanatory notes, p 6.

34 Explanatory notes, p 6. Bill, cl 21, s 83A (amending the FA Act).

35 Bill, cl 19, s 69A(2)(b) (amending the FA Act).

36 Bill, cl 17, s 51(5) (amending the FA Act).

37 Bill, cl 21, s 83A(3) (amending the FA Act).

38 Bill, cl 19, s 69A(3) (amending the FA Act).

39 Bill, cl 21, s 83A(4) (amending the FA Act).

The explanatory notes advise that the legislative framework provided by the proposed *Queensland Future Fund Act 2020*, and supported by the FA Act amendments, will allow for new Queensland Future Funds to be established through a simple amendment to the parent legislation to insert a new division establishing the new fund, stating its purpose, and setting out the terms that apply specifically to the fund.[40]

This is similar to the approach taken in the NSW legislation,[41] with the explanatory notes advising that the provisions have been modelled on the legislative structure employed in the *NSW Generations Funds Act 2018* (NSW):

> *Rating agencies have accepted the model established by the NSW legislation. Accordingly, the NSW legislation has been replicated as far as possible to reduce the possibility of rating agencies not recognising the Debt Retirement Fund when undertaking Queensland's credit rating assessments.*[42]

Once established, the assets in any Queensland Future Fund will be managed by the QIC.[43]

Further, all established Future Funds will be subject to specific financial reporting requirements and to anti-privatisation provisions, which are discussed further in sections 2.2.1.1 and 2.2.1.2 below.

2.2.1.1 Financial reporting requirements for Queensland Future Funds

On introducing the Bill, the Treasurer stated that to provide for the 'transparency, openness and accountability of any Future Fund movements, including deposits and withdrawals from the fund',[44] the Bill will require such Fund movements to be:

> *… recorded and disclosed in Treasury's audited financial statements that form part of Treasury's annual report, which I table in this House.*[45]

Specifically, the Bill provides that the Treasury's audited financial statements prepared under the FA Act (s 62) for a financial year must include the following information about a Queensland Future Fund:

- details of contributions made to the fund in the financial year, and
- details of payments made from the fund in the financial year, including the purpose of each payment and whether the payment was made in compliance with the (proposed) *Queensland Future Fund Act 2020*.[46]

2.2.1.2 Public ownership requirements for assets in a Queensland Future Fund

The Bill also includes a requirement that any prescribed State assets[47] being given to a State entity[48] for the purpose of contributing to an investment in a Queensland Future Fund 'must be held, directly

40 Explanatory notes, p 1.

41 Explanatory notes, p 1.

42 Explanatory notes, pp 1-2.

43 Damien Frawley, Chief Executive Officer, QIC, public hearing transcript, Brisbane (via videoconference), 27 July 2020, pp 1, 3.

44 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1527.

45 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1527.

46 Bill, cl 7.

47 The Bill defines a 'prescribed State asset' as an asset or part of an asset, or an interest in an asset or part of an asset, that (a) immediately before being given to a State entity for the purpose of contributing an investment to a Queensland Future Fund, is held, directly or indirectly, by a State entity; and (b) is prescribed by regulation to be a prescribed State asset. See Bill, cl 8(3).

48 The Bill defines 'State entity' as a government entity under the *Public Service Act 2008* or a government owned corporation. See Bill, cl 8(3).

or indirectly, by a State entity in perpetuity'.[49] This effectively means that any Future Fund assets are not to be sold to the private sector and must remain government owned, either by a government entity under the *Public Service Act 2008*, or a government owned corporation.[50]

The Treasurer has described the effect of the provisions as allowing a Future Fund to operate as a 'locked box' into which 'strategic assets such as commercial power or water infrastructure will be put':[51]

> *Assets placed in the Fund that are deemed to be strategic assets will be placed in a unit trust and, by law, can only be sold or traded with other State Government entities.*
>
> *Queenslanders can rest easy knowing that there will be no benefit from privatising these strategic assets, and that they will be protected by law.*[52]

In his introductory speech on the Bill, the Treasurer described this 'further legislative protection to ensure that public assets remain in public hands' as 'one of the most significant provisions of the bill'.[53]

2.2.2 Establishing the Queensland Future (Debt Retirement) Fund

Within the proposed new legislative framework for Queensland Future Funds, the Bill establishes the Debt Retirement Fund[54] as the first of the State's such Funds, with the statutory purpose of the Fund being 'to provide funding for reducing the State's debt'.[55]

Consistent with the provisions of the FA Act which establish the responsibilities of the accountable officer in administering special purpose accounts, the Bill provides that the Treasurer may delegate the Treasurer's functions under the new legislation to the accountable officer (Under Treasurer), with the exception of 'a function or power in relation to the making of a payment from the Debt Retirement Fund to reduce the State's debt' (as this power is to be limited to the Treasurer only).[56]

To support the transfer of assets and money into the Debt Retirement Fund, the Bill makes express provision for contributions to be made to the Debt Retirement Fund, including stipulating certain contributions that *must* be contributed to the Fund.[57] Additionally, the Bill provides that payments out of the Debt Retirement Fund can only be made for two purposes:

- paying an amount to reduce the State's debt, or
- covering administrative fees or expenses of the Fund.[58]

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49 Bill, cl 8(2).

50 Explanatory notes, p 4.

51 Hon Cameron Dick MP, Treasurer, Minister for Infrastructure and Planning, 'Future Fund strengthened to support jobs and protect public assets from LNP sell-off', ministerial media statement, 9 July 2020.

52 Hon Cameron Dick MP, Treasurer, Minister for Infrastructure and Planning, 'Future Fund strengthened to support jobs and protect public assets from LNP sell-off', ministerial media statement, 9 July 2020.

53 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1527.

54 Bill, cl 9(1).

55 Bill, cl 9(2).

56 Bill cl 12; explanatory notes, p 5.

57 Clause 10(1) of the Bill requires that the following must be contributed to the fund: (a) an investment the Treasurer directs be contributed to the fund; (b) an amount that must be contributed to the fund under another Act; (c) and moneys from an investment contributed to the fund. Clause 10(2) of the Bill also provides that other amounts may be contributed to the fund 'if another Act states the amount may be contributed to the fund'.

58 Bill, cl 11; explanatory notes, p 5.

The QIC, in describing the planned operation of the Fund as a 'debt offset account',[59] explained the permitted options for debt repayment within these specific-purpose payment provisions as follows:

> *The idea is to grow an asset base that endures and continues to grow through time and the earnings from that and at certain points in time you can retire debt, either through taking principal from the Future Fund or redirecting the earnings from the Future Fund when they get to a significant size to reduce that debt.*[60]

In terms of the seeding of the Debt Retirement Fund, on 23 July 2020 the Treasurer announced plans to transfer the following assets valued at 'at least $5 billion' to the Fund on its establishment:

- Titles Registry (valuation at least $4 billion)
- Cross River Rail precincts (valuation at least $160 million), and
- $1 billion from the surplus in the State's Defined Benefit Scheme.[61]

While acknowledging the planned engagement of these assets in the Fund, however, Queensland Treasury advised during the public briefing on the Bill that:

> *These assets are still subject to comprehensive due diligence and the final decision as to which assets to transfer will be considered by the government prior to full details being made available in the COVID fiscal and economic review that is planned for September.*[62]

With respect to the planned contribution from the Defined Benefit Scheme, Queensland Treasury indicated that as at 30 June 2020, its best estimate of the Scheme's surplus was around $3.5 billion, such that the Defined Benefit Scheme would remain in surplus if $1 billion from the Scheme is transferred to the Debt Retirement Fund as planned.[63]

During the public briefing on the bill, Queensland Treasury advised that it had discussed the proposed Fund 'on a confidential basis with all three ratings agencies that rate Queensland', and that:

> *… they have provided in-principle support that the value of the Debt Retirement Fund will be deducted from the state's debt for the purposes of credit rating assessments and metrics, and we will continue to consult with ratings agencies on the Debt Retirement Fund to ensure it achieves its purpose. The ratings agencies have also noted the importance of this initiative given the fiscal impact of the COVID-19 pandemic. For example, in its credit report on Queensland of 22 April 2020 Moody's rating agency noted that the Queensland Future Fund will play a material role in the state's management of its debt.*[64]

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59 Damien Frawley, Chief Executive Officer, QIC, public hearing transcript, Brisbane (via videoconference), 27 July 2020, p 3.

60 Damien Frawley, Chief Executive Officer, QIC, public hearing transcript, Brisbane (via videoconference), 27 July 2020, p 3.

61 Hon Cameron Dick MP, Treasurer, Minister for Infrastructure and Planning, 'Update on Queensland fiscal position', ministerial media statement, 23 July 2020.

62 Leon Allen, Deputy Under Treasurer, Queensland Treasury, public briefing transcript, Brisbane (via videoconference), 27 July 2020, p 4.

63 Wayne Cannon, State Actuary, Queensland Treasury, public briefing transcript, Brisbane (via videoconference), 27 July 2020, p 2. This surplus is estimated using the 'funding basis' methodology.

64 Leon Allen, Deputy Under Treasurer, Queensland Treasury, public briefing transcript, Brisbane (via videoconference), 27 July 2020, p 4.

As the manager of proposed Debt Retirement Fund (and indeed any Future Funds that are to be established), the QIC advised:

> *We will have a very similar role to the one that we have in managing, for example, the Brisbane port or the Brisbane Airport. We are an investment manager. There is an asset management team that manages those assets. We as the investment manager hold the asset manager to account on behalf of our clients, and that is pretty much what we will be doing with the assets of the Future Fund: ensuring they continue to be managed appropriately and positively, looking to increase in value through time, to make sure they run efficiently. It most definitely will be very similar to what we have been doing with many of our direct assets on behalf of both government and non-government clients for many years.*[65]

While the Bill does not specify the expected life of the Debt Retirement Fund, Queensland Treasury advised the committee that it is 'expected to be a long-term fund',[66] and the QIC stated:

> *We are obviously building this for the future. This is a fund that will endure and so the return expectation will be thought of in the context of many, many years.*[67]

Overall, the Treasurer stated:

> *Under this bill, these assets will continue to deliver a dividend year after year that will be fully allocated to reduce state debt. Further, because the assets in the Future Fund can only be utilised for debt reduction, ratings agencies will accept the book value of the assets as a direct offset to debt. In other words, Queensland will harvest the financial benefit of the assets being transferred to the fund, whilst retaining public ownership and the ongoing dividends of the investment returns generated by the fund.*[68]

2.2.3 Providing an additional guarantee of the State's defined benefit liabilities

The government already guarantees the underlying benefits payable to Defined Benefit members, committing to the full payment of any scheme entitlements in s 29 of the *Superannuation (State Public Sector) Act 1990* (SSPSA). However, 'in line with a government commitment to provide a guarantee that the state's defined benefit liabilities will continue to be fully funded',[69] the Bill proposes to insert a new s 29A in the SSPSA, to bolster the existing s 29 guarantee.

The provisions of the proposed new s 29A will require the state to hold assets that are 'at least equal in value to the accrued liability of the State in relation to defined benefits, measured at least once every three years'.[70] This three-yearly measurement requirement aligns with the triennial actuarial investigation[71] undertaken by the State Actuary, as required by s 19 of the SSPSA.[72]

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65 Damien Frawley, Chief Executive Officer, QIC, Public hearing transcript, Brisbane (via videoconference), 27 July 2020, p 3.

66 Bill, cl 10(1).

67 Damien Frawley, Chief Executive Officer, QIC, Public hearing transcript, Brisbane (via videoconference), 27 July 2020, p 2.

68 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1528.

69 Queensland Parliament, Record of Proceedings, 14 July 2020, p 1528.

70 Bill, cl 24, s 29A (SSPSA).

71 Clause 24, s 29A defines an 'actuarial investigation' as 'an investigation of the state and sufficiency of the fund carried out by an actuary under the deed'.

72 Explanatory notes, p 7.

The Bill's provisions make it clear that the State's accrued liability in relation to defined benefits is not to include the value of the fund that is attributed to contributions made by defined benefit members.[73] Further, the methodology to be used to measure the guarantee is the:

> *… actuarial value of the accrued benefits of defined benefit members is to be determined using the assumptions that are used in the actuarial investigation to determine recommended contributions to the fund.*[74]

The explanatory notes advise that due to the 'high level of technicality and complexity surrounding superannuation and actuarial investigations':

> *… the new section was drafted in close consultation with the State Actuary and QSuper to ensure that the Government's commitment is met.*[75]

During the committee's public briefing, Queensland Treasury was asked what would happen if an actuarial investigation concluded that the Defined Benefit Scheme had fallen into deficit. In response, Queensland Treasury advised:

> *The triennial actuarial investigation, as has been noted, will report the fund position in the usual way, as the State Actuary has alluded to, which by the way is also publicly available on the QSuper website. The government will then respond to that report, ensuring that the guarantee of full funding is practically achieved*.[76]

2.3 Stakeholder views

The Queensland Nurses & Midwives' Union (QNMU) supported the passing of the Bill, submitting that they believed it would 'fulfil a similar function to the Commonwealth's *Future Fund Act 2006*'.[77] The QNMU also considered that the Bill's additional guarantee of the State's Defined Benefit liabilities 'provides ongoing certainty for Queensland and strengthens the Queensland Government's long-term financial position'.[78]

Mr Gene Tunny, Director of Adept Economics, in contrast raised a number of concerns with the Bill.

While commending the Bill's long-term goal of paying down debt as an 'admirable' objective, Mr Tunny described the proposed Queensland Future Fund as 'unnecessary and undesirable', arguing it would 'lock up funds and reduce the flexibility of the Government to manage its budget and balance sheet in the best interests of Queenslanders'.[79] By 'locking up so-called strategic assets' in this manner, further, Mr Tunny submitted that the Queensland Future Fund could 'tie the hands of future governments'.[80]

Mr Tunny also queried how the Debt Retirement Fund would 'reduce the reported net debt measure in the Uniform Presentation Framework Statements', characterising the planned movement of money into the Debt Retirement Fund as the Government effectively taking money from one jar and putting

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73 Explanatory notes, p 7.

74 Bill, cl 24, proposed s 29A(3) of the SSPSA. Page 7 of the explanatory notes advise that the methodology used to measure the guarantee of the defined benefits scheme is the 'funding basis'.

75 Explanatory notes, p 6.

76 Leon Allen, Deputy Under Treasurer, Queensland Treasury, public briefing transcript, Brisbane (via videoconference), 27 July 2020, p 7.

77 Submission 1, p 3.

78 Submission 1, p 3.

79 Submission 2, p 1.

80 Submission 2, p 1.

it 'in another jar with a different label on it'.[81] Mr Tunny questioned whether this was intended to 'trick' ratings agencies.[82]

Further, Mr Tunny emphasised that:

> *The Queensland Future Fund is no substitute for a medium-term fiscal strategy aimed at stabilising and (eventually reducing) the debt-to-revenue and debt-to-GSP ratios.*[83]

While acknowledging that responding to COVID-19 will inevitably result in governments recording large budget deficits in 2019-20 and 2020-21, Mr Tunny emphasised that:

> *Broadly speaking, if the Government wants to achieve anything more than one-time reductions in debt (by using funds set aside to offset its defined benefit superannuation liability) it needs to generate fiscal surpluses.*[84]

Mr Tunny submitted that 'it is still unclear what the Government's current medium-term fiscal strategy is, given a budget update has not been produced since December', and that it would be highly desirable for a budget update to be 'provided as soon as possible, and well before September'.[85]

2.4 Department's response

In response to Mr Tunny's concerns that Bill would 'lock up funds and reduce the flexibility of the Government',[86] Queensland Treasury emphasised that the Debt Retirement Fund is to be established for the specific purpose of reducing the State's debt, and thereby helping to alleviate the debt burden on future generations of Queenslanders.[87] Over time, Queensland Treasury advised:

> *… the Debt Retirement Fund will grow and will continue to operate as an offset to any State borrowings. All investment earnings will be returned to the Fund, and withdrawals can only be made for one of two purposes – either to pay down State debt or to cover administrative fees or expenses of the Fund.*[88]

Responding to Mr Tunny's query as to the impact of the establishment of the Debt Retirement Fund on the reported net debt measure in the Uniform Presentation Framework Statements, Queensland Treasury reaffirmed advice in the explanatory notes stating that the 'value of the Debt retirement fund would be netted off against the debt of the State':

> *That is, the value of investments in the Debt Retirement Fund will be deducted from the State's debt for the purposes of credit rating assessments and metrics.*[89]

As to whether credit rating agencies might not see the establishment of the Debt Retirement Fund as effectively just moving money 'from one jar to another', Queensland Treasury advised:

> *The purpose of the Debt Retirement Fund is to provide a mechanism for the credit rating agencies to take the historic full funding (and surplus) in the defined benefit scheme into account when undertaking credit rating assessments.*

[81] Submission 2, p 1.
[82] Submission 2, p 1.
[83] Submission 2, p 1.
[84] Submission 2, p 1.
[85] Submission 2, p 1.
[86] Submission 2, p 1.
[87] Queensland Treasury, response to submissions, 27 July 2020, p 1.
[88] Queensland Treasury, response to submissions, 27 July 2020, p 1.
[89] Queensland Treasury, response to submissions, 27 July 2020, p 1.

This has been acknowledged by Ratings Agencies who have considered similar structures in Australia and Canada.

In its credit report on Queensland of 22 April 2020, Moody's noted that "the QFF will play a material role in the State's management of its debt".[90]

With respect to Mr Tunny's statement that the Government needs to generate fiscal surpluses if it wishes to achieve more than a one-time reduction in debt, Queensland Treasury stated:

The 2019-20 Fiscal and Economic Review showed that the Budget was strong, with a forecast net operating surplus of $151 million in 2019-20 and surpluses totalling $2.122 billion over the forward estimates. This was despite significant reductions in forecast GST revenue and coal royalties.

Queensland has had a positive record of budget surpluses with the last six years from 2013-14 to 2018-19, posting budget surpluses.

Like all jurisdictions, COVID-19 is expected to have significant impacts on Queensland's operating results, and this was clearly outlined in the Treasurer's fiscal position update of 23 July 2020.[91]

Further, regarding Mr Tunny's call for a budget update to be provided as soon as possible, Queensland Treasury also advised that on Thursday 23 July 2020, 'the Treasurer provided an update on Queensland's fiscal position following the Fiscal and Economic Outlook provided by the Federal Treasurer', ahead of the Queensland COVID-19 Fiscal and Economic Review that is to be published in September this year.[92]

90 Queensland Treasury, response to submissions, 27 July 2020, p 1.

91 Queensland Treasury, response to submissions, 27 July 2020, p 2.

92 Queensland Treasury, response to submissions, 27 July 2020, p 2.

3 Compliance with the *Legislative Standards Act 1992*

3.1 Fundamental legislative principles

Section 4 of the *Legislative Standards Act 1992 (LSA)* states that 'fundamental legislative principles' (FLPs) are the 'principles relating to legislation that underlie a parliamentary democracy based on the rule of law'. The principles include that legislation has sufficient regard to:

- the rights and liberties of individuals
- the institution of Parliament.

The committee has examined the application of the FLPs to the Bill. No FLP issues were identified.

3.2 Explanatory notes

Part 4 of the LSA requires that an explanatory note be circulated when a bill is introduced into the Legislative Assembly, and sets out the information an explanatory note should contain.

Explanatory notes were tabled with the introduction of the Bill. The notes are fairly detailed and contain the information required by Part 4 and a sufficient level of background information and commentary to facilitate understanding of the Bill's aims and origins.

4 Compliance with the *Human Rights Act 2019*

The portfolio committee responsible for examining a bill must consider and report to the Legislative Assembly about whether the bill is not compatible with human rights, and consider and report to the Legislative Assembly about the statement of compatibility tabled for the bill.[93]

A bill is compatible with human rights if the bill:

(a) does not limit a human right, or

(b) limits a human right only to the extent that is reasonable and demonstrably justifiable in accordance with s 13 of the HRA.[94]

The HRA protects fundamental human rights drawn from international human rights law.[95] Section 13 of the HRA provides that a human right may be subject under law only to reasonable limits that can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom.

The committee's consideration of the human rights compatibility of the Bill, and of the statement of compatibility, is set out below.

4.1 Human rights compatibility

In his statement of compatibility on the Bill, the Treasurer stated:

> *In my opinion, the Bill is compatible with human rights because none of the rights that are protected are limited by this Bill.*
>
> *I have based my opinion on the fact that the purpose of the Bill is to establish the funds for the financial administration of the State. Further, to the extent that clause 24 of the Bill provides for the State to hold assets necessary to ensure funding of the State's liability for defined benefits, the right under section 24 of the* Human Rights Act 2019 *for all persons to own property and to have the right not to be arbitrarily deprived of their property may be enhanced by the Bill.*

<u>*Committee comment*</u>

The committee has reviewed the Bill for human rights compatibility and concurs with the Treasurer that the Bill is compatible with the HRA.

4.2 Statement of compatibility

Section 38 of the HRA requires that a member who introduces a Bill in the Legislative Assembly must prepare and table a statement of the Bill's compatibility with human rights. A statement of compatibility was tabled with the introduction of the Bill as required by s 38 of the HRA.

<u>*Committee comment*</u>

The committee considers that the statement contains a sufficient level of information to facilitate understanding of the Bill in relation to its compatibility with human rights.

93 HRA, s 39.

94 HRA, s 8.

95 The human rights protected by the HRA are set out in sections 15 to 37 of the Act. A right or freedom not included in the Act that arises or is recognised under another law must not be taken to be abrogated or limited only because the right or freedom is not included in this Act or is only partly included. See HRA, s 12.

Appendix A – Submitters

Sub #	Submitter
001	Queensland Nurses & Midwives' Union
002	Gene Tunny

Appendix B – Officials at the public departmental briefing

Queensland Treasury

- Leon Allen, Deputy Under Treasurer
- Cecelia Christensen, General Counsel
- Glenn Miller, Head of Fiscal
- Wayne Cannon, State Actuary

Appendix C – Witness at the public hearing

Queensland Investment Corporation

- Damien Frawley, Chief Executive Officer

DISSENTING REPORT

QUEENSLAND FUTURE FUND BILL 2020

It has been eight months since the Palaszczuk Labor Government's former Treasurer Jackie Trad announced her intention to establish a Queensland Future Fund. The announcement was made in a desperate attempt to provide a distraction to the soaring debt, lower growth and higher unemployment forecasts which were locked in by the 2019 Mid-Year Fiscal and Economic Review (MYFER).

Well before the fallout from the coronavirus pandemic, the 2019 MYFER revealed that key economic indicators in Queensland were heading in the wrong direction under Labor. At the time, Queensland had the nation's average highest unemployment, most bankruptcies and lowest businesses confidence. In the six months between last year's budget and mid-year fiscal update, Labor's former Treasurer Jackie Trad had blown the projected debt out by more than $1 billion.

Public reporting of the 2019 MYFER was scathing with headlines of Queensland's debt soaring towards $92 billion despite the former Treasurer Jackie Trad's raiding of public superannuation[1]. Tellingly, Labor's former Treasurer Jackie Trad even admitted in her own figures that it would take Future Fund more than 230 years to clear the Palaszczuk Labor Government's massive debt.

During an unprecedented economic crisis, Labor's abject failure to manage Queensland's economy has continued. Premier Annastacia Palaszczuk was the last Premier to announce an economic stimulus package in response to the coronavirus, yet she was the first and only Premier to cancel her budget. No budget means Labor is flying blind through the biggest economic crisis in almost a century.

Incredibly, the Palaszczuk Labor Government's new Treasurer Cameron Dick has proven to be no more fiscally competent than former Treasurer Jackie Trad.

Dwarfing former Treasurer Jackie Trad's $1 billion blowout in six months last year, Premier Annastacia Palaszczuk's new Treasurer Cameron Dick has set a record $17 billion debt blowout announcing last month that Queensland's debt will break through $100 billion in less than 12 months. Using the same logic as the former Treasurer Jackie Trad, Labor's new Treasurer Cameron Dick resurrected the Future Fund in the same press conference he announced Labor's $17 billion debt blow out.

Before coronavirus struck, Queensland had more debt than any other state or territory in the nation. Now under Labor's new Treasurer Cameron Dick, debt has skyrocketed further to be more than $100 billion in this financial year. It is clear that after five years of fiscal mismanagement from the Palaszczuk Labor Government, Queensland is in the same vulnerable position which led to the loss of the state's AAA credit rating under Labor Premier Anna Bligh in 2009.

In his submission to the Queensland Future Fund Bill 2020 (the Bill), eminent Queensland economist and former Federal Treasury Fiscal Group Manager, Mr Gene Tunny, observed that it is 'unclear what the Government's current medium-term fiscal strategy is'[2]. This observation affirms Premier Annastacia Palaszczuk's failure to provide the economic leadership that Queensland needs. For five years, Premier Annastacia Palaszczuk has abandoned her own fiscal principles that

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[1] https://www.theaustralian.com.au/nation/politics/queensland-debt-to-increase-again-despite-treasurer-jackie-trads-5bn-future-fund/news-story/8f103498a10b50e272ad0e7c4fae313c

[2] https://www.parliament.qld.gov.au/documents/committees/EGC/2020/QFFB2020/submissions/002.pdf

has resulted in nearly $4 billion of new taxes, more than $100 billion in state debt, the most bankruptcies in the nation and a record number of unemployed Queenslanders.

Since being elected in 2015 Premier Annastacia Palaszczuk has demonstrated her misguided economic principles to be higher taxes, wasteful government spending and the raiding of public servant employment benefits. Over the past five years Premier Annastacia Palaszczuk's Government has taken:

- $2 billion from public service superannuation;
- $2 billion from suspending employer contributions to public service superannuation; and
- $3.4 billion from raiding the long service leave benefits of public servants.

These public servant raids are in addition to the over $5 billion that was ripped out of Government Owned Corporations. Concerningly, as the Committee learned during the Bill's public briefing Labor is forging ahead to raid another $1 billion from the public service defined benefit scheme (DBS) even though the fund's surplus has halved in the past year. The Committee was informed that Premier Annastacia Palaszczuk was pursuing a further $1 billion raid of the DBS surplus before the State Actuary has undertaken updated future deficit probability modelling[3]. This is reckless accounting.

Worryingly for the many thousands of public servants in the state's DBS, during the public hearing the State Actuary also confirmed that reporting requirements of the fund's surplus will revert back to every three years. Disappointingly, this change in policy will end the annual reporting requirements that were introduced by the then Under Treasurer in 2016 after Premier Annastacia Palaszczuk's first DBS raid. Given the Palaszczuk Labor Government's track record, public servants should rightly be concerned about the decreased transparency regarding the management of their hard-earned retirement savings.

Further cracks in the new Treasurer's Future Fund emerged during the Committee's consideration of the Bill when the Deputy Under Treasurer Mr Leon Allen revealed that due diligence hadn't been undertaken on the fund's proposed assets. As the below excerpt outlines, the Palaszczuk Labor Government doesn't know what the value is of the assets proposed to be included in the fund or what return they'll provide.

> **Mr STEVENS:** Mr Allen, last week the Treasurer announced the Titles Registry would be included within the fund with a value of at least $4 billion. How is the Titles Registry valued and what is the asset's annual return to come up with a value of $4 billion?
>
> **Mr Allen:** As you have noted, the Treasurer has announced the government is considering infrastructure and commercial property assets for the Debt Retirement Fund, including the Titles Registry office at the estimated $4 billion and the Cross River Rail precincts estimated at about $160 billion. These assets are still subject to comprehensive due diligence and the final decision as to which assets to transfer will be considered by the government prior to full details being made available in the COVID fiscal and economic review that is planned for September. [4]

In a direct contradiction to Treasurer Cameron Dick's stated values of the Titles Registry being 'at least $4 billion' and the Cross River Rail precincts being 'at least $160 million'[5], the Deputy Under Treasurer confirmed that due diligence hadn't been undertaken and the prescribed values were estimates only with no detail of forecasted return. Given Treasurer Cameron Dick's record $17 billion debt blow out in six months, Queenslanders can have no confidence in his best guess

[3] https://www.parliament.qld.gov.au/documents/committees/EGC/2020/QFFB2020/trns-pb-27July2020-QFFB2020.pdf

[4] https://www.parliament.qld.gov.au/documents/committees/EGC/2020/QFFB2020/trns-pb-27July2020-QFFB2020.pdf

[5] http://statements.qld.gov.au/Statement/2020/7/23/update-on-queensland-fiscal-position

estimates. Even Labor's former Treasurer Jackie Trad could provide a forecasted return of her proposed fund that would take 230 years to pay off Labor's debt.

In light of the revelations that Labor's new Treasurer Cameron Dick doesn't know the true value of assets in the fund or the fund's estimated return, it's little wonder why the Under Treasurer was forced to take the exceptional step of writing to the committee to advise that the Queensland Audit Office (QAO) had not been engaged in consultation regarding the policy intent of the Bill. Incredibly, in this letter of admission the Under Treasurer stated that 'Officers from Queensland Treasury will undertake further discussions with QAO on the Bill and the asset classes proposed to be held by the Queensland Future Fund'[6].

This Bill confirms that only the LNP can provide the economic leadership that Queensland needs. As eminent economist Gene Tunny observed, the Palaszczuk Labor Government has no clear medium-term fiscal strategy.

Ray Stevens
Deputy Chair of Economics and Governance Committee
State Member for Mermaid Beach

Sam O'Connor
Member for Bonney

Trevor Watts
Member for Toowoomba North

[6] https://www.parliament.qld.gov.au/documents/committees/EGC/2020/QFFB2020/cor-16July2020-UT-QFFB2020.pdf