



Summary—Market-led proposals

Report 12: 2018–19



Your ref:
Our ref: 9172P

13 December 2018

The Honourable C Pitt MP
Speaker of the Legislative Assembly
Parliament House
BRISBANE QLD 4000

Dear Speaker

Report to parliament

This report is prepared under Part 3 Division 3 of the *Auditor-General Act 2009*, and is titled Market-led proposals (Report 12: 2018–19).

In accordance with s.67 of the Act, would you please arrange for the report to be tabled in the Legislative Assembly.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Brendan Worrall".

Brendan Worrall
Auditor-General

Content

Audit objective and scope	1
Key facts	2
Introduction	3
Summary of audit findings	5
Is the market-led proposal initiative designed well?	5
How well are market-led proposals assessed?	7
Audit conclusions	10
Recommendations	11

Audit objective and scope

The objective of this audit was to determine the extent to which the market-led proposals initiative is meeting its objectives of creating jobs and stimulating the economy.

We assessed how well agencies have designed and applied the market-led proposals process to achieve the initiative's objectives.

The scope of the audit included:

- Queensland Treasury
- Department of State Development, Manufacturing, Infrastructure and Planning (the department).

In December 2017, responsibility for the market-led proposal initiative moved from Queensland Treasury to the department.

We consulted with some of the proponents of proposals we examined. We also consulted with other state government departments involved in the market-led proposals we examined.

Appendix B contains further details about the audit scope, and our methods.

Recent announcement of proposed changes

On 30 November 2018, two weeks before we tabled this report, the Minister for State Development, Manufacturing, Infrastructure and Planning announced changes to the market-led proposals initiative.

The proposed changes include the establishment of a new unit called the Investment Facilitation and Partnerships Group to manage future 'major' proposals, with 'smaller department-specific' proposals being directed to relevant government departments for assessment.

Given the recency of the announcement, we have not audited or formed an opinion on these proposed changes or assessed their potential to address our audit findings and recommendations.

Reference to comments

In accordance with s.64 of the *Auditor-General Act 2009*, we provided a copy of this report to relevant agencies. In reaching our conclusions, we considered their views and represented them to the extent we deemed relevant and warranted. Any formal responses from the agencies are at Appendix A.

Omission of sensitive information

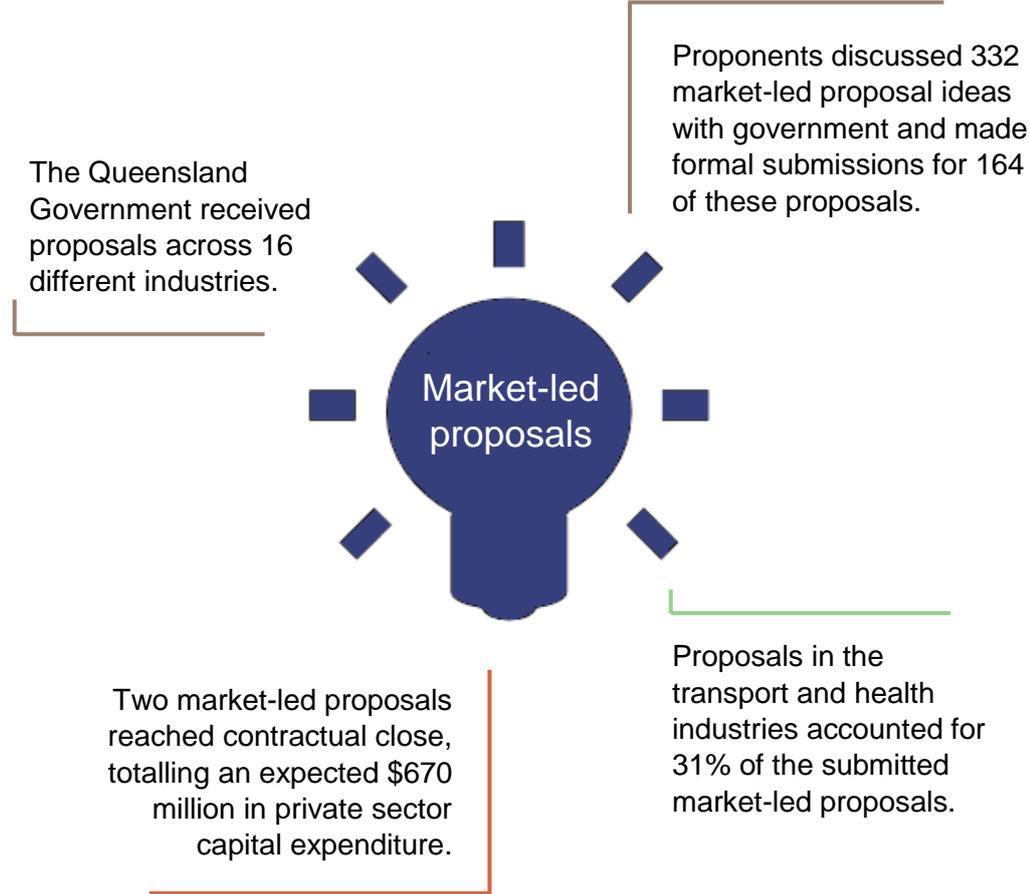
In accordance with s.66(1)(a) of the *Auditor-General Act 2009*, the Auditor-General has determined to omit certain information from this report. The information could have an adverse effect on the commercial interests of entities and disclosing it would not be in the public interest.

In accordance with s.66(1)(a) of the *Auditor-General Act 2009*, a report including the omitted information has been prepared and given to the parliamentary committee.



Key facts

Between July 2015 and August 2018:



Source: Queensland Audit Office, using data provided by Queensland Treasury and the Department of State Development, Manufacturing, Infrastructure and Planning.



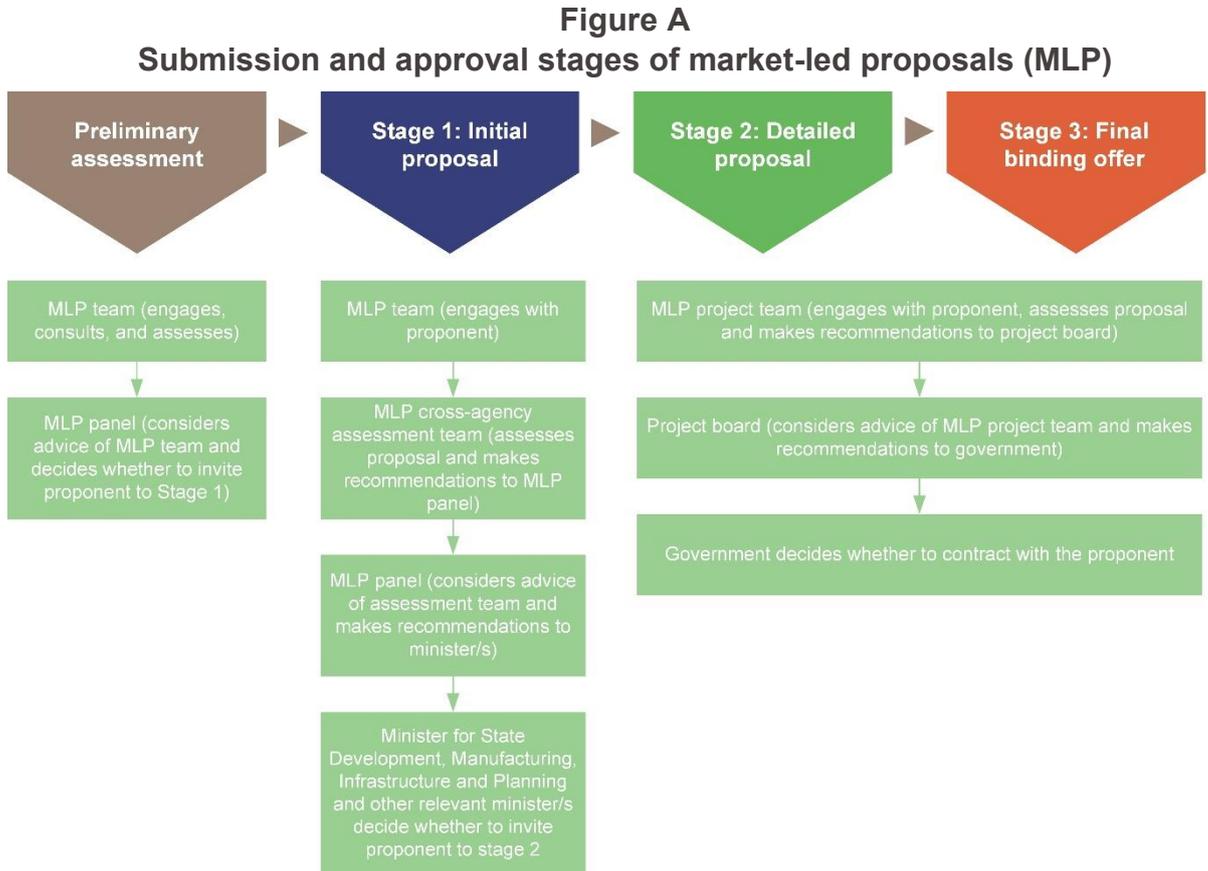
Introduction

Market-led proposals are proposals from the private sector that seek an exclusive commercial arrangement with government to deliver a service or infrastructure to meet a community need. They always include a role for government, such as providing access to government land, assets, information, or networks. In return, market-led proposals are expected to provide benefits to government and/or the Queensland community.

Market-led proposals are suited to projects that can be funded by the private sector and that are of low cost and low risk to the Queensland Government.

Market-led (or unsolicited) proposal frameworks are now in place in every Australian state and territory. They are also used in many other countries around the world, including the United States, the United Kingdom, and New Zealand.

Queensland’s market-led proposal assessment and approval process involves four stages. Figure A shows the stages and the various assessment teams and panels involved.



Source: Queensland Audit Office.



Private sector benefits

Market-led proposals provide benefits for those who propose them (the proponents) because:

- they result in government contracting directly with proponents, rather than through the government's usual competitive tender process
- the proponent receives some level of assistance from government for the project. This is usually not funding, but can include access, lease, or provision of government land, changes to legislation, provision of government information, or rezoning of land.

Government benefits and challenges

Market-led proposals offer several benefits to governments. They enable the delivery of innovative solutions to service and infrastructure challenges at no or low cost to taxpayers. In some cases, they may allow for planned future projects to occur earlier.

In addition to the benefits, market-led proposals present government with challenges. Governments need to demonstrate that they are protecting public and private interests by presenting a clear case for directly negotiating with proponents rather than opening the project up to the broader competitive market. Failing to do so, or not being transparent about its decision-making, can create perceptions of favouritism, bias, or impropriety.

If not managed well, market-led proposals can result in missed opportunities (if the government incorrectly rejects suitable proposals) or expose the state to unnecessary cost and liability (if the government incorrectly approves unsuitable proposals).

For these reasons, government agencies responsible for assessing market-led proposals must ensure there is clear alignment with the market-led proposals assessment criteria and therefore clear justification for their decisions.

To address these challenges, governments assign responsibilities to specific departments and establish policy, guidelines, and criteria to ensure there is clear governance and accountability over market-led proposal initiatives. If effectively designed and applied the policy, guidelines and criteria help mitigate the risks of fraud and corruption.



Summary of audit findings

Is the market-led proposal initiative designed well?

Structured process

Queensland Treasury has developed a structured and logical process for assessing market-led proposals.

There has been one internal review and an update of the market-led proposal process. These have led to refinements.

The process is designed to capture, assess, and filter ideas for their suitability to be a market-led proposal. It is designed to include all relevant state government agencies needed to assess each specific proposal. If applied as intended, it should be effective in progressing only suitable proposals and encouraging referral of unsuitable market-led proposals to other government procurement processes, such as tender or grants processes, where appropriate.

The market-led proposal process generally aligns with the Queensland Government's Project Assessment Framework, to the extent relevant. Its design, however, could better recognise the important role of local government for many proposals by consulting them earlier in the process, especially for infrastructure developments.

Another important gap is that it does not have a project stage at which it assesses the actual benefits derived from approved projects. As a result, Queensland Treasury and the Department of State Development, Manufacturing, Infrastructure and Planning (the department) have not sought sufficient information from the projects that have reached contract close to assess whether intended government and community benefits have been achieved.

This made it challenging for us to assess, as part of this audit, the extent to which the market-led proposals initiative delivers on its stated benefits of creating jobs and stimulating the economy.

Guidance for proponents

The department provides detailed information to guide proponents throughout the market-led proposal process. Proponents' responsibilities and expectations are clearly set out in the guidance material, including the fact that they will bear all their own risk and costs during the assessment stages (preliminary to stage 3 in Figure A).

It provides opportunities for potential proponents to seek further information, guidance, or advice if they need it.

The department does not, however, provide proponents with information on common reasons why proposals are unsuccessful. Nor does it provide clear direction outlining government priorities to assist proponents in targeting their ideas.



The government's recent release of its *Our Future State: Advancing Queensland's Priorities* provides an opportunity for the department to provide better guidance to potential proponents about government priorities. This is important for proponents, as alignment with government priorities is a key requirement for their proposal to be assessed as suitable. It is also a common reason for proposals being unsuccessful.

Governance and reporting

The governance arrangements of the market-led proposals are designed to ensure a separation between those assessing the proposals and those making approval recommendations and decisions.

Ministerial level approval is required for proposals at stages 1 and 2, following assessment by the market-led proposals team and review and recommendation from the panel or the project board. These decisions are documented in minutes.

Quality assurance, conflicts of interest and reviews

The design of the market-led proposal process includes controls intended to ensure the process is efficient, effective, and applied as intended. This includes checklists, templates, gateways (decision points), and a separation of assessment and decision-making roles.

The market-led proposals initiative could be improved by including external quality assurance processes. An external quality assurance process would test and provide reasonable assurance that market-led proposal elements and internal controls are functioning and applied as intended. This would reduce potential risks and perceptions of inconsistency, error, bias, and manipulation.

Staff responsible for assessing and making decisions about market-led proposals currently complete conflict of interest declarations once a proponent progresses to stage 2. Requiring staff to complete conflict of interest declarations when a proposal is initially submitted would strengthen the process, in line with the requirements of the Queensland Government's Project Assessment Framework.

In July 2016, Queensland Treasury undertook an internal review of the market-led proposal initiative. This resulted in a review of the market-led proposal guidelines and in some improvements, such as setting up project boards to oversee stage 2 and 3 assessments.

Reporting

The department publicly reports on the status of all proposals on its website once they reach stage 2, excluding those it deems to be commercially sensitive. Its public reporting does not provide information on common reasons why proposals are unsuccessful. The department also does not report on reasons why publicly-announced market-led proposals were unsuccessful. This information (in aggregated form) would provide public transparency and would be useful for potential proponents.

The department's performance indicators for the market-led proposal initiative are not linked to the initiative's overall objective (create jobs and stimulate the economy) and do not accurately reflect the entire market-led proposal initiative. The measures do not monitor whether the initiative is effective in approving proposals that meet community and infrastructure needs and provide value for money outcomes for the state, specifically by creating jobs and stimulating the economy.



How well are market-led proposals assessed?

Applying the process

Queensland Treasury has developed clear criteria for assessing proposals. The criteria are logical and relevant and have been improved over time. If applied as intended, the criteria should be effective in progressing only suitable proposals through each stage.

However, effective application of the assessment criteria is hampered by inconsistent guidance on the extent (threshold) to which the criteria must be met. The *Market-Led Proposal Guidelines—Bringing good ideas to life* and the supplementary guidelines are inconsistent on whether, at stage 1, each criterion needs to be ‘met’ or ‘met in principle’. As the market-led proposal assessment team apply the ‘in principle’ threshold, this contributes to ambiguous language in the assessment reports.

The department can improve the way it applies the process by:

- being more specific and consistent with the language they use in assessment reports
- ensuring their justification for including projects in the market-led process and progressing projects within the process is clear.

Assessing against the criteria

The rate of ideas and submissions that government has received from industry for market-led proposals has decreased since the market-led proposal initiative began in July 2015.

From July 2015 to August 2018, Queensland Treasury and the department recorded 332 proposal ideas. Of these, 164 were submitted as proposals and began the market-led proposal approval process. From the 164 proposals submitted, a total of 141 proposals have closed and 23 remain active (total across all stages) as of August 2018.

The department can improve on how it applies (and previously Queensland Treasury applied) the process to ensure there is clear and sufficient justification for including proposals in, and progressing them through, the market-led proposal initiative.

For the proposals we examined, the recorded outcomes of assessments included vague language and, in some cases, provided weak justification for including the proposal in the market-led proposal initiative or progressing it through the stages.

We concluded that some proposals could have been referred to other procurement processes to be dealt with in that way rather than be considered a market-led proposal.

From the proposals we examined, we did not find evidence of proposals being inappropriately rejected.

Timely assessments

The market-led proposal team aims to complete its stage 1 assessments within four months. We examined the 15 active proposals (as at August 2018), that had reached or passed stage 1. On average, the market-led proposal team took longer than the four months targeted (a median of 4.7 months and an average of 5.8 months) to assess these proposals (excluding time the proposal was with the proponent, other government agencies or with the minister/s).



The average duration of active proposals (as at August 2018):

- at the preliminary stage is 6.8 months (203 days)
- at stage 1 is 14.3 months (428 days)
- at stage 2 is 9.8 months (293 days).

Not all of this time is within the control of the market-led proposal team.

It is important for the department to facilitate timely resolution of decisions and issues to ensure proposals are not delayed unnecessarily.

Announcing proposals

Governments can be understandably eager to publicly announce proposals with the potential to create jobs and community and economic benefits. These announcements can create proponent and community expectations about the viability and likely success of the proposals, so the timing of the announcements is important.

The Queensland Government has publicly announced proposals when they have progressed from stage 1 to stage 2. At that stage of the process, the information and analysis on the proposal is still largely conceptual and not sufficiently developed for a fully informed announcement to be made.

At present, there are no guidelines within the process to ensure announcements are made at an appropriate stage.

Targeted 'market-led' proposals

In 2017, Queensland Treasury started to consider applying the market-led proposal process to a list of potential targeted proposals generated by government departments. Since taking responsibility for market-led proposals, the Department of State Development, Manufacturing, Infrastructure and Planning has not progressed with targeted market-led proposals.

A targeted market-led proposal is an initiative that has been identified:

- by government as a priority
- as a candidate for a non-traditional approach to obtain a better value-for-money outcome for government.

Proposals that the government targets in this way would be government-led rather than market-led. This would fundamentally change the premise and structure for market-led proposals.

If the department considers this approach in future, it should reconsider the suitability of applying the market-led process to targeted proposals.

Managing costs

Market-led proposals are intended to result in low or no cost to government. Inevitably, there will be some costs, as government invests resources in the screening and assessment of proposals. Some proposals may also require a level of action or financial commitment by government agencies. Government agencies recover their costs where possible in accordance with the market-led proposal guidelines, usually by the proponent reimbursing them. The market-led proposal guidelines specify that the proposed allocation of costs and risks between the proponent and the government must be acceptable to the government.



Process deeds (government's confirmed legal intention) outline how and to what extent the government will seek reimbursement of its costs. Currently, the government does not consistently document its rationale for whether it seeks reimbursement of internal costs or not. It is unclear why it includes the cost of staff in some circumstances and not others. In some cases, no funds are recovered from proponents.

Delays and uncertainties impacting on decision-making and communication have resulted in costs being incurred unnecessarily. One proposal we audited has not progressed and the government is in negotiations with the proponent.

Evaluating success

Two market-led proposals have successfully completed the market-led proposal process and reached contractual close. The two projects are expected to result in \$670 million in private sector capital investment in public infrastructure. Both projects are at the implementation stage but are not yet fully implemented. One of the proposals had identified ways of measuring benefits as part of the contract.

Government does not have a consistent approach to assessing the realisation of benefits after market-led proposals are implemented. An approach of this sort should be included in the contracts at stage 3 and should tie into the government's objective of meeting community and infrastructure needs, through creating jobs and stimulating the economy.

Without these measures, the government cannot fully assess and report on whether the market-led proposals are achieving the intended economic, government, and community benefits.



Audit conclusions

The market-led proposals initiative is a valuable initiative for the Queensland Government to have, but the Department of State Development, Manufacturing, Infrastructure and Planning (the department) cannot yet demonstrate that value is being realised. Only two projects have reached contract closure to date (and are currently being implemented) and only one is measuring benefits.

Queensland's market-led proposal initiative has been appropriately designed to provide a means of attracting and objectively assessing private sector proposals. Queensland Treasury developed clear criteria for assessing the suitability of proposals to meet government objectives and justify dealing exclusively with proponents.

While Queensland Treasury has refined this process over time, other improvements can be made to further enhance the design. Now that it has responsibility for the initiative, the department needs to be clearer on the threshold required to meet assessment criteria at each stage of the process. Better incorporating local government earlier where relevant, establishing quality assurance processes, and clearly identifying and assessing the government's expectations of benefits would also strengthen the process.

The department can improve the way it applies the process. Both its, and previously Queensland Treasury's assessment against the criteria and justification for including or progressing some of the proposals we examined was unclear or weak. We concluded some of these proposals could have been referred to a competitive or other procurement process rather than be considered a market-led proposal. Consequently, decisions about the inclusion and progression or non-progression of proposals lack defensibility. Progressing unviable or unsuitable proposals exposes government to costs and risks, undermining the value of the market-led proposals initiative. Decisions must be defensible, and agencies must improve their process.

The timeliness of the application of the process is also an area for improvement. Speed of decision-making and the experience of engaging with government can influence a proponent's desire to take an opportunity to government. Moving forward the department needs to ensure that the declining number of proposals flowing into the market-led proposals initiative is not due to inefficient processes deterring potential proponents.

Proposals are currently being announced at concept stage before detailed proposals or business cases have been developed. This can create risk and lead to undue pressure for the proposal to progress. Progressing with a proposal further through the process than warranted has proven costly to the government, further demonstrating why strict protocols for announcements are necessary.

To be competitive, the government needs to attract ideas from industry and filter and distribute them to agencies accordingly. These ideas can play a key role as an alternative funding mechanism for much needed or improved community infrastructure and services. Government needs to continue to welcome these ideas. But it also needs to strengthen its guidelines and assessments to ensure the right ones get through and to make sure public and private sector time and money are not spent on unviable or unsuitable propositions.



Recommendations

Department of State Development, Manufacturing, Infrastructure and Planning

We recommend that the Department of State Development, Manufacturing, Infrastructure and Planning:

1. provides additional information to better inform proponents about how to improve their chances of success in the market-led proposals process (Chapter 2)

This should include:

- publishing the reasons why market-led proposals are not successful
- publishing the government's priority areas
- updating the submission templates to prompt proponents to self-assess their proposals against the government's priorities.

2. improves the effectiveness and efficiency of the market-led proposal initiative by strengthening the guidelines for assessors and decision-makers and introducing quality assurance processes (Chapters 2 and 3)

This should include:

- removing inconsistencies in the guidelines and supplementary material on the extent (threshold) to which assessment criteria must be met to justify proposals becoming market-led proposals and progressing through the stages
- requiring all staff involved in the market-led proposal process to make conflict of interest declarations when proposals are first submitted for assessment
- requiring assessment teams and decision-makers to use definitive language in justifying decisions about whether a proponent has met each criterion before progressing proposals to the next stage and decisions about proponents reimbursing government costs
- having an external quality assurance process to provide reasonable assurance that process controls are effective and the policies and guidelines are applied consistently and appropriately at all stages of the market-led proposal process
- setting clear target timeframes for decisions and resolving issues to ensure proposals are not delayed unnecessarily.

3. consults local government (where relevant) earlier in the assessment process for the market-led proposal initiative (Chapter 2)

4. establishes clear protocols for communication about market-led proposals, ensuring that announcements occur once sufficient assessment has been undertaken to determine the project is suitable and sufficiently viable (Chapter 3)



5. improves the performance evaluation and reporting framework for the market-led proposal initiative (Chapters 2 and 3)

This should include:

- developing more outcome, effectiveness, and efficiency focused performance measures aligned to the initiative's high-level economic objective/s
 - monitoring and reporting on the costs of government's contribution to market-led proposals at all stages and on the recovery of costs from proponents
 - implementing a process for assessing the realisation of benefits with proponents.
6. thoroughly assesses the benefits and risks of applying the market-led proposal process to any future policy on government targeted initiatives (Chapter 3).



qao.qld.gov.au/reports-resources/parliament



Suggest a performance audit topic

Contribute to a performance audit in progress

Subscribe to news

Connect with QAO on LinkedIn

T: (07) 3149 6000

M: qao@qao.qld.gov.au

W: qao.qld.gov.au

53 Albert Street, Brisbane Qld 4000

PO Box 15396, City East Qld 4002

● *Queensland*
● ● **Audit Office**

Better public services

