



Council Rate Cap Compliance 2020–21

Compliance Report

December 2020



An appropriate citation for this paper is:

Essential Services Commission 2020, Council Rate Cap Compliance 2020–21: Compliance Report, December

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Introduction

We monitor and report on council compliance with the rate caps under the Fair Go Rates system (see Appendix A and B for more information).

In this paper, we report on:

- whether each council, in setting its rates for 2020–21, was compliant with the average rate cap or a higher cap (if applicable)
- the introduction of new waste service charges for 2020–21.

Compliance with the rate caps for 2020–21

How rate caps are set

The Fair Go Rates system limits the maximum amount a council can increase its average rates in a year without seeking approval for a higher cap. 'Average rates' refers to the rates paid by the notional average ratepayer, and is calculated as total revenue from general rates and municipal charges divided by the number of rateable properties.

Each year the Minister for Local Government sets the average rate cap for the following rating year by general order. A council may apply to us for a higher cap. If we are satisfied that the proposed higher cap meets legislative requirements, we set a higher cap by special order.

To comply with the rate cap, the percentage change in a council's average rates must not exceed the rate cap specified in a general order or special order that applies to it.¹

Most councils were compliant with the rate caps

The Minister for Local Government set the average rate cap at 2.00 per cent for the 2020–21 rating year, which all but three councils were required to comply with. We approved a higher cap for the following councils:²

- Towong Shire Council: 5.55 per cent (approved in July 2017)
- Warrnambool City Council: 4.50 per cent (approved in May 2019)
- West Wimmera Shire Council: 3.50 per cent (approved in July 2017).

Based on the data councils provided to us in their annual compliance information for 2020–21³:

- 76 councils were compliant with the average rate cap or higher cap (Appendix C)
 - Sixteen of these councils set rate increases to 0
 - The three councils with approved higher caps set lower rate increases, forgoing the higher rate caps
- three councils were immaterially non-compliant with the average rate cap (Table 1)⁴.

¹ The definition for the average rates is shown in Appendix A.

² The approved higher caps are inclusive of the minister's average rate cap.

³ We run a range of checks on the data submitted by councils to validate their compliance, but do not independently verify the underlying data submitted by each council. However, each council's submission is certified as accurate by the council's chief executive officer.

⁴ We generally consider that non-compliance is 'immaterial' if it is negligible and of no immediate concern.

Table 1: Immaterially non-compliant councils

Council	Average rate cap	Average rate increase	Impact on average ratepayer in 2020–21
Darebin City Council	2.00%	2.01%	\$0.16
Frankston City Council	2.00%	2.04%	\$0.53
Pyrenees Shire Council	2.00%	2.07%	\$0.94

We gave these councils an opportunity to explain why they were non-compliant with the rate cap for 2020–21. Their statements are shown in the next chapter.

Some councils adjusted rates in the dollar after adopting their budgets

Councils are required to declare their rates in the dollar and adopt their budgets by 30 June of each year (this was extended to 31 August for the 2020–21 budget). To ensure they are compliant with the rate cap, some councils amend their rates in the dollar after adopting their budgets. A property's general rates are calculated by multiplying the valuation of the property by the rate in the dollar. If a council decreases its rate in the dollar, it decreases its general rates revenue and average rates.

We note that councils have increasingly taken the approach of changing the rate in the dollar to avoid non-compliance. Some councils do this in July or August before issuing rate notices to their ratepayers, while others do this after issuing rate notices to their ratepayers. Councils that delay changing the rate in the dollar may face increased costs associated with corrective actions (such as reissuing rates notices).

Councils should ensure that they have systems and processes in place to identify potential non-compliance with the rate cap as early as possible to minimise costs and confusion for ratepayers.

For 2020–21, Mansfield Shire Council initially incorrectly set a 3.5 per cent average rate increase. Upon identifying the error, the council decreased the rate in dollar to become compliant with the two per cent rate cap.

In future years, following the implementation of the Local Government Act 2020, councils that adjust their rates in the dollar will be required to adopt a revised budget.⁵

⁵ Sect 95(1), Local Government Act 2020

Changes to individual rate notices may be different from the rate cap

A council can comply with the rate cap even if individual ratepayers experience increases in rate notices that are higher than the rate cap.

The total amount shown on an individual rate notice includes general rates, municipal charges, and other charges and levies. Changes in individual rate notices may be different from the rate cap for three reasons:

- The value of a property may increase or decrease relative to other properties in the municipality.
- Different rates in the dollar (called 'differential rates') may apply depending on whether a property is classified as residential, commercial, industrial or rural. If the classification of a property changes, the differential rate that applies to that property may change.
- Other charges and levies that are not included in the rate cap, such as waste charges, may increase or decrease. The rate cap applies to general rates and municipal charges only.

Council statements of explanation

As part of our compliance monitoring and reporting, we give councils an opportunity to explain why they were non-compliant. Statements from councils that were non-compliant with the rate cap for 2020–21 are shown below. For more information on these statements, readers should contact their council.

Darebin City Council's statement of explanation

The reason for the immaterial non-compliance was due to one rate assessment incorrectly coded in VM-Online at the time of developing the Budget 2020/21 that was then corrected by the contracted valuers which increased the total Residential Capital Improved Valuation (CIV) by \$60,000. The impact to total rate revenue was an increase of \$814.00. Due to the amount being minor council is not proposing to take any further action to rectify the immaterial non-compliance.

To ensure the non-compliance does not happen again and as the error occurred as a result of incorrect coding of data in VM-Online, staff will ensure that further scrutiny of the valuation data will be done prior to developing the budget.

Frankston City Council's statement of explanation

Whilst preparing the 2020-2021 ESC return officers discovered that Council was not technically compliant with the rate cap. The return shows that on average Council has collected 2.04 per cent rates income which is .04 per cent above the Victorian Government legislated rate cap of 2.00 per cent equating to a total of \$33,300 in rate income (0.00033 of total rate income \$101,935,498). This is considered an immaterial non-compliance.

It is important to note that Council's rate in the dollar and valuations are correct and reconciles to the rate revenue adopted in the 2020–2021 Annual Budget. The error occurred through an adjustment in the number of assessments moved from 63,259 to 63,232 which adjusted our average rates per assessment. Officers had made an untimely correction to 27 commercial assessments that impacted on the revaluation figure on 1 July. As a result, Council's average rate per assessable property is .53 cents over-recovered, equating to a total of \$33,300 in rate income.

Council will undertake the required adjustments and return the over-recovery to each ratepayer in the next quarterly rates notice due in February 2021.

Procedures have been revised to ensure this error will not occur in the future. Once the annualised rates are calculated for the annual budget process, no further adjustments will be made to the valuation database or the number of assessments. Any valuation changes required will only be actioned after the rates generation for the new financial year and Council figures will be verified using the Essential Services Compliance Return.

Pyrenees Shire Council's statement of explanation

The reason for non-compliance: The non-compliance was due to an error in Council's rating database that meant twelve (12) properties added in 2019/20 were not attributed a value as at 1 July 2020 in the system. The value that should have been attributed was \$1,101,000.

Rates modelling for 2020/21 was based on this inaccurate data which resulted in the average rate increase applied being 2.07% instead of the rate cap of 2%. The additional 0.07% rate increase resulted in an additional \$6,046 being collected.

How Council might rectify the non-compliance: To rectify the additional rates obtained in 2020/21, Council proposes to reduce the 2021/22 rate increase applied by a proportionate amount – i.e. by 0.07% below the level set by the Minister. This will return ratepayers to the same position by the time 2021/22 rate notices are issued.

As the error impacts all properties, the cost imposed on Council of re-issuing all of the 2020/21 rates notices is considered prohibitive as a corrective measure.

In the interests of transparency, the non-compliance will be reported to the Pyrenees Shire community via a Council report presented at the December meeting of the Pyrenees Shire Council.

How council might improve internal processes to prevent non-compliance in future years: Council officers have reviewed processes around calculating its rate increases and implemented additional safeguards to ensure this error will not be repeated.

New waste service charges for 2020–21

Service charges are not included in the rate cap. Seventy-one councils levy service charges to recover the cost of providing kerbside waste services.

We monitor and report on councils that change the structure of their service charges to identify any unexplained or unusual increases in service charge revenue. We report more broadly on trends in waste service charges in our biennial outcomes report. Our first report was released in May 2019. The second report will be released in 2021. Interested readers may access the report, as well as individual council fact sheets, on our website.⁶

Four councils made changes to their waste charges for 2020–21

We ask councils that introduced service charges to give us information about their rating strategy, community consultation, and the impact the change has on ratepayers. Four councils changed their waste charge structure or introduced a new waste charge for 2020–21 and provided this information.

Hobsons Bay City Council

Hobsons Bay City Council revised its service charges to fund expanded waste services. These service changes have been occurring since 2019 and include the introduction of food and organics and glass collection services. The base-level waste charges have increased by around two per cent. Council consulted its community on changes to the waste charges during the budget process.

Macedon Ranges Shire Council

Macedon Ranges Shire Council introduced a food and organics service to replace their kerbside garden bin. To fund the inclusion of the new service, council removed a separate \$70 green bin charge and increased the standard waste charge for ratepayers receiving the food and organics service by \$92. Council reports that the introduction of the new service is cost neutral to council. Council conducted a trial program and consulted the community prior to introducing the service.

⁶ <https://www.esc.vic.gov.au/local-government/studies-and-reviews/local-council-outcomes-report-2019>

Mildura Rural City Council

Mildura Rural City Council introduced a new service charge to recover the costs of kerbside organics collection and processing. The waste charge is increasing by \$58 for ratepayers receiving the service. Council reports that the charge is cost reflective. Council consulted its community throughout 2019–20 and conducted a trial program before rolling out the service.

Southern Grampians Shire Council

Southern Grampians Shire Council introduced a compulsory food and organics service that was previously provided on an optional basis. The waste charge will increase by \$120 for ratepayers receiving the service for the first time (of which \$65 is a one-off cost to fund the new bins). For ratepayers already receiving the service, the waste charge will decrease by \$30. Council consulted its community on the new service as part of the budget process.

Limits to our reporting on waste charges

We report on changes to waste charges to ensure councils shifting revenue between uncapped and capped revenue sources are transparent and accountable to their ratepayers. While we also report on approaches to cost recovery and how councils engage their communities, we do not independently verify this information or form a view on the appropriateness of each council's approach.

As councils work toward achieving the State Government's circular economy goal of four waste services, there will likely be more changes to how councils are funding their waste services.

Next steps

We will release updated guidance for councils in early 2021

We will release the updated annual compliance information template and guidance for councils in early 2021. We will publish this on our website and notify councils by email.

We encourage councils to contact us to discuss any queries regarding the annual compliance information. Councils can call us on (03) 9032 1300 or email us at localgovernment@esc.vic.gov.au.

Information for ratepayers

For more information on our role under the Fair Go Rates system or to access past compliance reports, you can visit our website www.esc.vic.gov.au/local-government.

Appendix A: How average rates are calculated

Base average rate^a

BAR = R_b/L where

- BAR is the base average rate
- R_b is the total annualised revenue leviable from general rates and municipal charges as at 30 June in the base year (2019–20)
- L is the total number of rateable properties as at 30 June in the base year (2019–20)

Capped average rate^b

CAR = R_c/L where

- CAR is the capped average rate
- R_c is the total annualised revenue leviable from general rates and municipal charges as at 1 July in the capped year (2020–21)
- L is the total number of rateable properties as at 1 July in the capped year (2020–21)

^a Section 185B, Local Government Act 1989. ^b Section 185C, Local Government Act 1989.

Appendix B: Our role in monitoring and reporting compliance

Under section 10E(1)(a) of the Essential Services Commission Act 2001, we must monitor and review council compliance with the rate caps set under Part 8A of the Local Government Act 1989. Under section 10E(2) of the Essential Services Commission Act 2001, we must prepare an annual report on council compliance with the rate caps.

How we assess compliance with the rate caps

To assess council compliance with the rate caps:

1. all councils must submit annual compliance information to us in September each year. This includes the annual compliance information template and rating system reports certified by each council's chief executive officer
2. we ask each council to explain any differences between the template and rating system reports and any other anomalies
3. the template uses each council's data to calculate its base average rate, capped average rate and average rate increase (rounded to two decimal places)

$$\text{Average rate increase} = (\text{capped average rate} - \text{base average rate}) / \text{base average rate} \times 100$$

4. we assess whether each council's capped average rate does or does not exceed its base average rate by more than the rate cap.
 - A council is compliant if its capped average rate does not exceed its base average rate by more than the rate cap (i.e. its average rate increase does not exceed the rate cap).
 - A council is non-compliant if its capped average rate does exceed its base average rate by more than the rate cap (i.e. its average rate increase does exceed the rate cap).

We generally consider that non-compliance is 'immaterial' if it is negligible and of no immediate concern.

Appendix C: List of compliant councils

Based on annual compliance information as at 9 December 2020

Council	Council
Alpine Shire Council	Greater Geelong City Council
Ararat Rural City Council	Greater Shepparton City Council
Ballarat City Council	Hepburn Shire Council
Banyule City Council	Hindmarsh Shire Council
Bass Coast Shire Council	Hobsons Bay City Council
Baw Baw Shire Council	Horsham Rural City Council
Bayside City Council	Hume City Council
Benalla Rural City Council	Indigo Shire Council
Boroondara City Council	Kingston City Council
Borough of Queenscliffe	Knox City Council
Brimbank City Council	Latrobe City Council
Buloke Shire Council	Loddon Shire Council
Campaspe Shire Council	Macedon Ranges Shire Council
Cardinia Shire Council	Manningham City Council
Casey City Council	Mansfield Shire Council
Central Goldfields Shire Council	Maribyrnong City Council
Colac Otway Shire Council	Maroondah City Council
Corangamite Shire Council	Melbourne City Council
East Gippsland Shire Council	Melton City Council
Gannawarra Shire Council	Mildura Rural City Council
Glen Eira City Council	Mitchell Shire Council
Glenelg Shire Council	Moira Shire Council
Golden Plains Shire Council	Monash City Council
Greater Bendigo City Council	Moonee Valley City Council
Greater Dandenong City Council	Moorabool Shire Council

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Based on annual compliance information as at 9 December 2020 (continued)

Council	Council
Moreland City Council	Swan Hill Rural City Council
Mornington Peninsula Shire Council	Towong Shire Council
Mount Alexander Shire Council	Wangaratta Rural City Council
Moyne Shire Council	Warrnambool City Council
Murrindindi Shire Council	Wellington Shire Council
Nillumbik Shire Council	West Wimmera Shire Council
Northern Grampians Shire Council	Whitehorse City Council
Port Phillip City Council	Whittlesea City Council
South Gippsland Shire Council	Wodonga Rural City Council
Southern Grampians Shire Council	Wyndham City Council
Stonnington City Council	Yarra City Council
Strathbogie Shire Council	Yarra Ranges Shire Council
Surf Coast Shire Council	Yarriambiack Shire Council