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SF/1406 ma/tf

15 May 2015

Your Reference

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Dear Dr Ben-David,

**Re: Submission to Consultation Paper – Local Government Rates
Capping and Variation Framework**

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Please find attached Council's submission to the above Consultation Paper. If there are any matters which require further clarification, please feel free to contact me.

In your presentation to the Rural Council's Victoria Forum yesterday, you indicated that Commission staff have been visiting a number of Councils to discuss the principles that may guide the framework for any rate capping model. I am pleased to invited Commission staff to visit Murrindindi Shire Council and we would be keen to discuss further the matters raised in this submission.

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Yours sincerely,

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Introduction


Murrindindi Shire Council welcomes the opportunity to provide comment on the Essential Services Commission's Local Government – Rates Capping and Variation Framework Consultation Paper. Council has participated in the development of the submissions made by the various local government sector representatives and does not intend to replicate these, apart from registering its concern regarding a number of the assumptions which seem to underlie this policy proposal. In particular, Council reinforces the views put in the various sector submissions that CPI is not an appropriate indicator of local government costs.

Rather Council's submission seeks to highlight the significant and unique circumstances faced by small local government authorities that have had the responsibility of dealing with exceptional circumstances arising from natural disasters, the unintended financial consequences of decisions made by State Government agencies such as the Victorian Bushfire Reconstruction and Recovery Authority and the Victorian Bushfire Appeal Fund as well as other cost shifting decisions of Federal and State Governments.

In February 2015 Murrindindi Shire Council marked the sixth anniversary of the 2009 bushfires, which were Australia's greatest natural disaster. This Shire was the municipality most affected. The scale of the impact was unprecedented with 95 of the 173 lives lost and 1,397 of the over 2,000 homes. 75 businesses and shops were also lost, 16 community facilities destroyed (and a further 9 damaged) and 234 sheds on vacant land destroyed. While 40% of the Murrindindi Shire was burnt, 100% of the Murrindindi Shire was affected.

The Shire received very generous assistance from the community and successive governments, mainly in the form of construction of new and improved assets throughout the Shire (parks, sporting facilities, trails and buildings). However, the State Government then gifted those assets to Council (around \$33 million worth) without providing funding support to pay for their management, maintenance, insurance and renewal. The extraordinary amount of donated money meant that the size and standard of the new and gifted assets has been considerably greater than facilities normally developed and managed by small rural municipalities. As a result of this 'over engineering' of projects, the operating and maintenance costs of these new assets are considerably greater than any project with a similar role and function in another small rural municipality and has resulted in significant unintended consequences.

No Council - much less a small rural Council such as Murrindindi - has ever had to take on a burden of this magnitude, and it is unreasonable to expect a small rural Council to absorb these additional costs without further assistance. Council is left with the practical reality of having to find an additional \$1.76 million annually to manage these assets against the backdrop of a community which is still recovering from the long term effects of the devastation wrought by the fires.



In the absence of a decision by the State Government to assist, Council has had no choice but to talk to the community about other options available to either cut spending or increase revenue. Council has already gone through an extensive services review and cut costs internally in order to address this shortfall. Therefore Council strongly believes that in the development of a model for the introduction of rate capping, far greater priority, than is currently outlined in the Consultation Paper needs to be given to the extraordinary circumstances faced and the already best practice work that is undertaken by local government – work undertaken in response to cost shifting that is continuing to occur on an unprecedented scale from Federal and State Governments. Therefore Council believes that the issue of rate capping cannot be considered in isolation of these other cost pressures being faced by local government.

Council's submission will address the relevant Principles (and relevant questions) as they relate to Murrindindi Shire.

Principle 1 – Local communities differ in their needs, priorities and resources


Council believes that any rate capping model must be tailored to reflect the differing capabilities, requirements and priorities of the communities that a Council represents. It also needs to reflect that within municipalities there are differing communities of interest that are represented by that Council. To consider a 'one size fits all' approach would be detrimental to the democratic principles that are the cornerstone of local government.

Council strongly supports the principle that any framework needs to take into account distinguishing features of the municipality. In particular there is a need to ensure that individual exceptional circumstances of a municipality are taken into account in developing the model as well as the sector wide cost shifting issues such as the freeze on the indexation of the Financial Assistance Grants. The model also needs to reflect the fact that these sector wide issues have differing impacts upon individual Councils.

This Principle also links very closely to Principle 4 where the Consultation Paper flags that the Commission will need to develop working definitions and criteria to be applied for the exceptional circumstances specified in the Terms of Reference for this review.

Because of the differing capabilities across councils there is a need to ensure that any process and model that is developed reflects the differing financial and human resources existing across councils. This is particularly evident in small rural municipalities. Those least able to commit the resources to seek a variation above the cap under the adopted model should not be penalised by their limited resources. In actual fact, such Councils ought to be specifically supported to prepare their case for a variation.

This principle includes the comment that councils should be able to show that they have engaged with their communities on both rate levels and service priorities. The Commission should develop clear guidelines as to the level of engagement with the community that would be expected and how much weight would be expected to be given to those community views. Council's view on this question is outlined in response to Principle 2.



Because of the differing needs and capabilities of councils it is submitted that any process for seeking a variation above the cap should not be onerous and that there should be a clearly defined timetable that either reflects or seeks to adjust currently mandated consultation and reporting processes and timelines. There is a clear difference in capability for metropolitan and regional councils to raise additional revenue compared with small rural councils. And, as indicated above, the process for seeking a variation above the cap should reflect the capacity of the council. (Response to Question 11 and 17)


Likewise it is Council's submission that, given the differing capabilities of councils to respond to the impact of rate capping, Council believes that the implementation of the new model needs to be phased in over a timeframe of 12 months from when the decision is made on the model to its introduction. (Response to Question 18)

Again reflecting the varying capacity of councils to generate non-rate revenue, Council proposes that the rate cap be based only upon that proportion of the general rate that relates to operating costs. Rate increases relating to infrastructure renewal should be exempt from the rate cap. For example, in its Strategic Resource Plan and annual budgets Council has been holding its annual rate increases to 6% and maintaining its operations and service delivery to two thirds (4%) of that each year. The remaining one third (2%) has been put into the Infrastructure Reserve to contribute towards bridging its asset renewal gap, which is substantial. Council's Strategic Resource Plan (SRP) has a 10 year financial plan which continues this strategy but also makes provision for the rate increase to be reduced steadily over that time. It is Council's strong contention that any rate capping model should only relate to its allocation to operations and service delivery and not the provision for the Infrastructure Reserve.

Further, as the Municipal Charge is set under S159 of the Local Government Act, 1989, it is considered that by virtue of this provision, the Municipal Charge is already capped and therefore should not be included within the model adopted for rate capping.

Council submits that Special Rates and Charges should also be excluded from the rate capping model as these are also subject to their own provisions under S163 of the Local Government Act, 1989. ,

For the same reason, Supplementary Rates should not form part of the rate capping model. As a council that is yet to recover from natural disaster (with as yet only just over 50% of properties destroyed during the 2009 bushfires having received building approval), supplementary rates are expected to remain above the historical average of Murrindindi Shire as our communities slowly come to terms with the recovery and reconstruction of their properties. Including supplementary rates in any overall rate capping model also penalises any council that is undertaking growth, which provides broader economic benefits to communities.



Finally it is Council's submission that waste charges and other fee-for-service income from Council should not form part of the rate capping model. These charges reflect the cost of the service being provided, and would therefore reflect the fact that, due to the absence of economies of scale and the additional costs incurred in rural areas, the cost for providing services is significantly higher in rural communities. (Response to Question 6, 7 and 8)

Principle 2 – local communities and ratepayers are entitled to hold their councils to the highest standards of accountability and transparency when setting rates

Council does not believe that the DELWP's Local Government Performance Reporting Framework provides adequate indicators to inform the community concerning any link between rates, service levels and critical infrastructure investment. The variability between councils (even within defined categories of councils) means that these indicators, without adequate explanation, will be of limited value in providing a clearly defined link between rates and service levels.

In holding councils to 'the highest standard of accountability and transparency' it should be noted that unlike state and federal governments, local governments place their draft budgets and council plans on public exhibition for community comment prior to adoption. In this regard, minimum standards for that consultation and comment are already established through the S223 process under the Local Government Act, 1989 and this should remain the benchmark for that consultation. (Response to Question 22)

Principle 3 – the framework should support the autonomy of councils to make decisions in the long term interests of their community and ratepayers


Council strongly supports this principle and, unless the role of the Commission is advisory rather than that of a decision maker, councils' autonomy will be severely compromised. (Response to Question 19)


There is no mention in the Consultation Paper of the council election processes and how the rate capping process will link to this. The planned introduction date for rate capping of 2016-17 is already an onerous first year for a council with the development of its Council Plan and Strategic Resource Plan, the preparation of its first budget and the completion of various other statutory obligations as set out in the Local Government Act, 1989.

Local governments, especially in rural areas, often struggle to attract candidates who are prepared to undertake the role of a councillor. The Commission needs to consider whether additional funding obstacles to implementing priorities for their communities will discourage would-be candidates from standing for office.

Principle 4 – councils will need to satisfy the burden of proof outlined in the framework when seeking a variation above the cap

Council strongly supports the principle of aiming to minimising the burden on councils that seek a variation to the cap. As indicated above in response to Principle 1 and Question 18, it is submitted that any new requirements be phased in over a 12 month period.





In relation to the two suggested grounds for submitting a case for a variation above the cap , it is essential for the Commission to define what it means by a 'critical infrastructure gap' and how that might be distinguished from a 'normal' infrastructure gap.

Furthermore, the first ground of 'more or improved services' suggests that councils should be able to continue to provide current services within a rate cap. This is unrealistic given that many factors influence the capacity to provide services. These are included within the Consultation Paper and include such matters as population growth, population and business decline, decreased grants, increased statutory responsibilities, cost shifting from State and Federal Governments, extraordinary circumstances and loss or absence of alternate revenue sources.

Likewise the proposal that a variation above the rate cap is justified on the basis of a community being willing to pay is unrealistic. This proposal is in effect forcing local councils seeking an exemption to undertake an additional burden; that of engaging with their communities to explain their reasons for seeking an exemption from the cap. This is likely to drive an unwelcome wedge between those councils and their communities. Again, this is likely to have a disproportionately large effect on the small rural councils that are least able to manage these consequences.


While there may be a burden of proof to seek a variation above the cap, the Consultation Paper is silent on what appeal mechanisms will be put in place should a council believe that it has not been heard and its application has not been adequately and appropriately considered.


Principle 5 – rate increases should be considered only after all other viable options have been explored

It is important that when the Commission considers the concept of 'viable' options it should consider it within the context of broader social and economic considerations and not just financial parameters.

It is also important that the Commission acknowledge that the assessment of options other than rate increases is a matter which councils undertake every year in the development of their annual budgets, their review of their Strategic Resource Plan, their participation in continuous improvement programs such as the STEP programs, their participation in shared services arrangements and the review of services which they provide to the State Government. Hence, rather than implying that this is a new role for local government as a result of the assessments of requests for variations above the cap, it is essential for the Commission to acknowledge that this is already a regular and routine function of local government business.

It is also important for the Commission to explicitly acknowledge that for rural councils (in comparison to metropolitan Councils) there are very few funding alternatives to state and federal government grants and rates. With the reduction of grant programs and the freezing of the indexation of the Financial Assistance Grants, the options for rural councils for alternative income sources are continuing to diminish.





The definition of what constitutes “all other viable options” also requires further clarification. Do all other options include councils undertaking additional debt to fund the revenue gap that would be generated by any mandated gap in rate revenue to ensure ongoing delivery of services, as highlighted previously. If so, this would raise council’s indebtedness levels as well as restricting council’s working capital, debt servicing and debt management ratios, which are all key indicators reviewed by the Victorian Auditor General’s office in assessing the prudent financial management and sustainability of the local government sector.

Principle 6 – the framework should support best practice planning, management systems and information sharing to uphold council decision making

The Commission should acknowledge that councils already have a legislative responsibility to engage with their communities in relation to their annual budgets and Council Plans (including their Strategic Resource Plan). This was dealt with above in response to Principle 2.

Council believes that the Commission should establish and define what it means by ‘effective engagement’. For small rural councils with a dispersed community, that engagement will necessarily be very different to that which occurs in a metropolitan context. (Response to Question 14)

The Commission should also define what it means by ‘continuous efforts’ to keep costs down. This is a regular part of local government’s budget preparation and long term financial planning. Should the Commission expect a higher level of these current activities, it should clearly recognise this.


Should some councils not meet the standards set out in this Principle these should be dealt with by other procedures, rather than through the proposed rate capping proposal.

Principle 7 – the framework should be flexible and adaptable

As indicated in responses to the preceding principles, it is Council’s submission that the framework will need to be reviewed iteratively. Council strongly agrees that there should be a 12 month transition for its implementation.

If best practice is for councils to have 10 year financial plans in place, then the variance to the rate cap should be for a similar period, with some provision for further variance due to exceptional circumstances.

Financial sustainability challenges following the 2009 bushfires have meant that it has been essential for this Council to prepare a 10 year long term financial plan, a robust Strategic Resource Plan and very detailed asset management plans and costings of the operating, maintenance and renewal costs of its infrastructure. It is Council’s submission that provided that a Council has undertaken proper long term financial planning, there should be no need for increased levels of justification when seeking a variation from the cap.



It is contended that if there was not a multi-year rate variation, it would be difficult for any Council to undertake this long term planning. (Response to Question 3)

As indicated in this submission, it is essential that the Commission take into account separate variation processes for differing categories of councils and also that the framework should be flexible to take into account cost burdens that have been shifted from the State and Federal governments to local government. (Response to Question 4)

In recognition of the challenges faced by local government, and the additional imposition of having to seek a variation from rate capping, it is Council's submission that the State Government should cover 100% of both the Commission's costs and also the costs to councils that participate in any request for variation. Without that commitment, as indicated in the response to Principle 1, those councils that are in greatest need of a variation will be least able to afford to seek that variation. (Response to Question 21)

Principle 8 – there should be few surprises for ratepayers and councils in the implementation of the framework

Council strongly agrees that the roles, responsibilities, information requirements and expectations of councils should be clearly spelled out. Council also believes that the roles and responsibilities of the Commission in this process should be clearly articulated. As indicated in response to Principle 3, the role of the Commission should be advisory only. However, if the Commission is to take on a decision-making role, it is noted that the Consultation Paper is silent on how the Commission will deal with the backlash to a decision of Council (for example to reduce service levels) in response to the level of rate capping required / imposed by the Commission. Will the Commission be prepared to accept responsibility for the outcome of its decisions?

Conclusion

As indicated in the introduction to this submission, Council does not intend to duplicate the matters which will be dealt with by the local government peak bodies, nor its fundamental disagreement with the assumptions that inform this policy proposal.

Council has sought through this submission to: emphasise the significant challenges faced by small rural councils; highlight the work that is already being undertaken to address their financial sustainability (especially in the face of extraordinary costs and reduced income placed on them by the State and Federal Government) and the importance of ensuring any new framework provides support to councils in relation to their ongoing financial sustainability rather than acting as a further impediment.

Finally, Council stresses the importance of the principle that any framework that is implemented should not penalise those councils that are least able to seek a variation to the rating cap.