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Yarra Ranges Council

Dr. Ron Ben-David, Chairperson
Essential Services Commission
Level 37, 2 Lonsdale St
Melbourne VIC 3000

28 August 2015

Dear Dr. Ben-David,

Local Government Rates Capping & Variation Framework Review - Submission

Thank you for the opportunity to submit Council's response to the Commission's recommendations on the Local Government Rates Capping & Variation Framework.

Generally, the setting of the cap and the variation process appear to be straightforward. The ESC has provided explanation of how the cap will be calculated and its constituent components. It has also provided comprehensive guidance on the process for applying for a variation and on the information requirements for any application. Council's commentary on each of the draft recommendations is contained in the attached table.

Yarra Ranges also has some additional concerns which are not addressed in the draft recommendations and these are outlined below:

1. While not the explicit focus of the terms of reference, the role of the democratic system in reflecting the wants and needs of the community at large appears to be rejected completely. The imposition of the rate cap and variation framework almost completely removes the capacity of elected representatives to set the revenue and expenditure activities of their Council In addition, the principles in Box 1.1 talks about how the framework should support the autonomy of Councils. If the ESC was serious about this point, it wouldn't be recommending a rate capping framework, which by definition effectively puts the State Government in a position of controlling Councils, not supporting their autonomy.

2. The balancing of community want (for example, populist views about value for money) with longer term need (unpopular decisions and/or low visibility investment needs) is going to be very difficult for all Councils.

3. The current approach to develop the Long Term Financial Plan will need substantial change. This change will be required in order to accommodate the annual variation in CPI and WPI as well as the four year limitation on any successful variation application. The overall impact may well mean that the LTFP in effect is reduced in its ability to provide longer term fiscal guidance and certainty to the organisation's planning and delivery.

4. The timeframes for the first year of implementation are extremely tight. It is unfair of the Commission to expect Councils to turn around a variation request in such a short amount of time. Deferring the first year of implementation to 2017-18 would be a preferred option for many Councils.

5. The rate cap framework adds yet another level of bureaucracy to Local Government. The sector is already complying with VAGO & LGV reporting to ensure best value and value for money. In addition, we believe the use of commercial third party programs, such as the MAV Step program, to assist in the variation process is not appropriate and not supported. Any requirement such as this just adds further costs to the community.

6. The variation process as a mechanism for rural Councils is flawed, in that many rural Councils simply do not have the resource to submit the data required for a variation. This will potentially leave rural Councils burdened with a cap when they already financially unsustainable.

7. There are some fundamental contradictions in the draft report:

    a. Under section 1.1 where it mentions that ratepayers individually have limited capacity to engage with the decision making processes of Councils. This is untrue. On the Council Plan and Budget (and for some Councils like Yarra Ranges), the 10 year Long Term Financial Plan, the community has 28 days to engage under the statutory S223 process in the Act.
    b. In Section 2.4, it is implied Councils currently use CPI to estimate their budgets. This is not the case for the majority of Councils in the Victorian sector, the majority use wage and construction price indices.
    c. Also in Section 2.4, it is suggested that labour costs account for approximately 40% across the sector. That may well be the average, however it varies depending on how a Council chooses to deliver its services, based on community need. For Yarra Ranges, the figure is more like 55%.
    d. In Section 4.4, the ESC is considering adopting the utilization of the risk thresholds from VAGO & the LGPRF. Council would support this, as soon as these risk thresholds align and are calculated in the same way. They are currently disparate.
    e. In Section 5.1, the ESC acknowledges the timelines are tight, and proposes a later adoption of the budget (August). Not only is this poor financial practice and delays the commencement of service delivery, it is also currently in breach of the Act.

8. Council believes a recommendation should be included for the State Government to ensure that fee setting for statutory services maintains pace with the efficient cost of providing those services.

9. Lastly, Councils should not have to bear the cost of any variation process. The rate cap framework is a State Government election promise, therefore the implementation of the framework should be fully funded by the State. Otherwise it is just another classic case of State Government cost shifting, which many Councils already bear the burden of eg School Crossings, Libraries.

Thank you for considering Council's submission. Should you have any queries regarding this submission, please contact me on 9294 6114 or via email on t.edwards@yarraranges.vic.gov.au.

Finally, I would like to take this opportunity to formally thank Mr Andrew Chow of the ESC for giving up his Tuesday evening to present the draft report to our Councillors and participate in a productive and enlightening discussion. It was much appreciated.

Yours sincerely

Troy Edwards
Director, Corporate Services

Yarra Ranges Council - Commentary on draft recommendations

The Cap

#	ESC draft recommendation	Commentary
1	The Commission recommends that there should be one cap that applies equally to all Councils in Victoria.	Council acknowledges the Commission's rationale for equal application of a single cap to all councils, and that the most efficient and appropriate approach to addressing the many differing circumstances across Councils is to use the variation process.
2	The Commission recommends that: • Revenue from general rates and municipal charges should be subject to the rate cap • Revenue from special rates and charges, revenue in lieu of rates and the fire service levy should not be included in the rate cap • Service rates and charges should not be included in the rate cap but be monitored and benchmarked	Council accepts the Commission's recommendation that general rates and municipal charges should be included in the cap. Council agrees with the Commission's recommendations that special rates and changes and revenue in lieu of rates be excluded from the cap. The existing parameters for the imposition of special rates and charges schemes, primarily for road construction and trader marketing schemes, do provide for the participation of potential contributors to the decision-making and certainty on the financial impact. The legislative basis for these schemes is clear and well understood. Council agrees with the Commission's recommendation that service rates and change be excluded from the cap. The market provision of these services through a regular cycle of commercial procurement ensures prices are cost effective and represent the best possible value for ratepayers. Council believes that making these service charges subject to any cap, either now or in the future, would be inappropriate and counter-productive to the role of the market in setting price. Council agrees with the Commission's recommendation that supplementary rates be excluded from the cap.

3	The Commission recommends that that cap should be applied to rates and charges paid by the average ratepayer. This is calculated by dividing a Council's total revenue required from rates in a given year by the number of rateable properties in that Council area at the start of the year.	Council notes the Commission's desire to provide ratepayers with a consistent experience when it comes to the change in the 'amount owing' on their rate notice each year. As a result, Council accepts the Commission's recommended approach of applying the cap to rate revenue per assessment through the concept of the 'average ratepayer'. However, Council would comment that the concept of an average ratepayer can be misleading and could create uncertainty for the ratepayers when comparing any 'average ratepayer increase' to their own bill. Council would reiterate the Commission's observation that individual ratepayers may experience annual variations in their rate bills that are greater or lesser than the published cap. Council accepts that the rate cap should be applied to the rates and charges of the average ratepayer, and that this is calculated by dividing total required rate revenue in a given year by the council's total number of rateable properties. Council has verifiable data for total number of rateable properties and total required annual rate revenue. Council agrees with the Commission's current approach of not introducing 'rebalancing constraints' to the framework. Council believes that such an approach would be an inappropriate distortion of the role the property market plays in apportioning each ratepayer's amount payable.
4	The Commission recommends that the annual rate cap should be calculated as: Annual Rate Cap = (0.6 x increase in CPI) + (0.4 x increase in WPI) – (efficiency factor) With: CPI = DTF's forecast published in December	Council disagrees with the Commission's recommended approach to calculating the cap based on CPI and WPI. Council supports the inclusion of a WPI component in the cap in light of the large impact of wage costs on Council's operations. This is a position that the Commission's report clearly articulates.

	each year and WPI = DTF's forecast published in December each year The efficiency factor will initially be set to zero in 2016-17 but increasing by 0.05% points each year from 2017-18. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor.	However, Council believes the merits of CPI could be further debated given the limited impact of the goods within the CPI basket on a Council's cost drivers. While the Commission's draft report rejects the option of including a materials and construction inflator in the cap, Council believes that this approach is incorrect. A significant proportion of Council's annual expenditure is the delivery of a capital works and asset management program. This program is considerably exposed to price movements related to construction and material costs. The exclusion of material and construction prices places an unfair burden on the budgeting process. Council notes the Commission's recommendation to use the December forecast data to set the cap, however this will place unreasonable burden on Council's budgetary timetable. Council notes the Commission's recommendation to include an efficiency factor in the calculation as a mechanism to reflect cost of living pressures faced by ratepayers. However, the rate cap framework is an efficiency mechanism in itself, and Council believes further burden should not be imposed on Councils.
5	The Commission recommends that the 2015-16 rates (general rates and municipal charges) levied on an average property should be adopted as the starting base for 2016-17.	Council agrees with the Commission's recommendation to use 2015-16 data as the starting point for the 2016-17 rate cap.

Variation

#	ESC draft recommendation	Commentary
6	The Commission recommends that the framework should not specify individual events that would qualify for a variation. The discretion to apply for a variation should remain with Councils.	Council supports the Commission's recommendation that the decision to apply for a variation should be at the sole discretion of each individual Council.
7	The Commission recommends that the following five matters be addressed in each application for a variation: • The reason the variation from the cap is required • The application takes account of ratepayers' and communities' views • The variation represents good value-for-money and is an efficient response to the budgeting need • Service priorities and funding options have been considered • The proposal is integrated into the Council's long-term strategy	Council supports the Commission's proposed framework of five matters for each variation application. It is crucial that the process of applying for a variation is comprehensive, transparent and reflective of ratepayer and community views. At this preliminary stage, it is unclear how the variation process will impact on Council's resourcing. It may be that the process of applying for variation will require more Council resourcing to complete in order to satisfy the Commission. This is based on the implicit message in the report that the current levels of community engagement around the budgeting process are inadequate to satisfy decision-makers. To counter this criticism, it is likely that we will need to scale up communications and community participation in the budget process. Council accepts that the variation process will require new levels of rigour in not only justifying any increase above the cap but in demonstrating how other potential funding options have been considered and ruled out. Council notes that the consideration of other funding options will be limited for many Councils where the ability to diversify into other revenue streams, such as car parking, are constrained. There would be some concern that the wide variation amongst Councils in relation to other sources of revenue may have longer term negative impacts in service provision, capital investment and

		asset management. Council is concerned with how any variation can be appropriately incorporated in long-term financial planning given the limited (up to four years from the 2019-20 budget) scope of any agreed variation. The reliance on annual forecasts that are subject to broader shifts in the macro-economic environment introduces a significant degree of ambiguity to Council's longer term financial planning. This lack of control in our own longer term fiscal settings may increase uncertainty for ratepayers and the use of debt to finance capital delivery.
8	The Commission recommends that in 2016-17, variations for only one year be permitted. Thereafter, councils should be permitted to submit and the Commission approve, variations of the length set out below. • 2016-17. One year (ie 2016-17 only). • 2017-18. Up to two years • 2018-19. Up to three years • 2019-20 and beyond. Up to four years	Council notes the Commission's recommendation of a graduated introduction of variation length. As explained above, this approach will limit the value and influence of longer term financial planning due to shifts in macro-economic indicators and the time periods for variations. While the four year window aligns with the current parameters of Strategic Resource Planning it does not integrate well with our current longer term financial plan time horizon of ten years.
9	The Commission recommends that it should be the decision-maker under the framework, but only empowered to accept or reject (and not to vary) an application for variation.	Council accepts the Commission's recommendation that it should be the decision making body with the power to only accept or reject (and not vary) an application for a variation. Council understands it is crucial that an independent, statutory authority outside of direct control by executive government is responsible for assessing and determining applications for variation. Council believes that executive government should be at arms length from the process.

Monitoring

#	ESC draft recommendation	Commentary
10	The Commission recommends that it monitor and publish an annual rates report on Council's adherence to the cap and any approved variation conditions.	Council notes the Commission's recommendation to monitor and publish an annual report on Local Government's compliance with the cap and any approved variation. Council does have some concerns that this annual report may simply become another 'league table' of Council performance that fails to take into account the wide variations in the circumstances facing individual Councils. For example, those predominantly inner city Councils with significant parking revenue could be expected to outperform similar sized Councils who do not have the structural capacity to raise similar amounts of revenue. In most cases the subtly and complexity of individual Council rate increases would be lost in the 'PR' noise of positioning on the table. As the report notes, there are already a number of reporting and performance requirements set by executive government through LGV and statutory bodies through VAGO. It appears that the Commission's recommendation to establish referral powers for itself in regard to investigation of apparent non-compliance to be a duplication of existing powers vested in executive government. Council does not support this component of the report.
11	The Commission recommends that it monitor and publish an annual monitoring report on the overall outcomes for ratepayers and communities.	Council notes the Commission's recommendation to monitor and publish an annual report on the overall outcomes for ratepayers and communities. Council recognises that the Commission has a legitimate role in assuring

		ratepayers and communities that they are receiving value for money from Council's rating activities. However, as noted, Local Government is already subject to a variety of reporting and performance monitoring activities. In a number of cases, Council would seriously question the value that the reporting providers to interested observers. The community satisfaction survey required by executive government is a case in point. The basis of the CSS in perception rather than experience creates a populist smokescreen that does little to provide a realistic and quantifiable picture of Council performance. Not only does it skew public perceptions but also it provides little practical guidance to Councils on areas for improvement and reform. Council would also be concerned that any activities carried out by the Commission may duplicate some of the existing reporting carried out by statutory authorities like VAGO and the Victorian Grants Commission and executive government through LGV. This appears to be increasing the regulatory burden on the sector rather than reducing 'red tape.' Concerns over the creation of more league tables of sector performance as noted above also apply here. In addition, Council does not support the use of third party data sets in any performance reporting undertaken by the Commission. For example, Council does not believe it is appropriate for the Commission on data developed through the MAV's STEP program, as not all Council's use STEP