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DM

13 May 2015

Dr Ron Ben-David  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
MELBOURNE VIC 3000



Dear Dr Ben-David

ESC'S CONSULTATION PAPER ON RATE CAPPING  
AND VARIATION FRAMEWORK

Please find enclosed Swan Hill Rural City Council's submission on the ESC's Consultation Paper on Rate Capping and Variation Framework.

Thank you for the opportunity to make a submission. Whilst Council strongly disagrees with the principle of rate capping, it acknowledges that the State Government has a mandate to implement it. Council's view is that the sector, with the support of the MAV, and the ESC must work cooperatively to implement a system that is workable, fair, and not onerous on rural and regional councils.

In the last ten years, Swan Hill Rural City Council has kept its rate increases to a minimum. In two of those years, rates have risen below the CPI increase. In the other eight years, rate rises have been close to or slightly above CPI. Council's ten year financial plan estimates rate rises to be about CPI. The plan also indicates that we will be compliant with all five of the Victorian Auditor-General's sustainability indicators for most of that period. This demonstrates that we are financially sustainable in the long term, and we do not expect that rate-capping will present a major challenge for Council. Our ten year projections are based on a return in 2017/18 to FAGS indexation, no further cost-shifting from other levels of government, and supplementary rates not being subject to the cap.

Once again, thank you for the opportunity to comment.

Yours sincerely

A handwritten signature in black ink, appearing to read "Dean Miller".

Dean Miller  
Chief Executive Officer

# SWAN HILL RURAL CITY COUNCIL

## SUBMISSION TO ESSENTIAL SERVICES COMMISSION

### RATE CAPPING & VARIATION FRAMEWORK

#### 1. RESPONSE TO KEY ISSUES

##### 1.1. Autonomy of councils should not be compromised by rates capping

Council agrees with the MAV view that councils are a distinct tier of government with democratically elected councillors to make decisions on behalf of the community. The autonomy of councils must be respected. Council is concerned that the Minister for Local Government has identified specific examples of expenditure by councils that in her opinion is wasteful. The same could be said of State Government, yet it too is democratically elected but is not subject to income capping from a higher tier of government. **The key consideration for the ESC is how it proposes to determine the extent to which councils are disciplined and delivering the services, projects and infrastructure that the community wants and is prepared to pay for.**

##### 1.2. CPI is not the appropriate index of council costs

Council agrees that the CPI is not necessarily an accurate measure of the rise in council costs. Council supports the merits of

- examining an alternative index that combines the CPI and wages growth.
- adopting multi-year forecasts of the cap to assist councils to plan for the future.

##### 1.3. Quality and level of service will deteriorate and infrastructure will run down if rates and charges are capped at CPI

There is a very high risk that rural and regional councils will be forced to cut back on critical road maintenance expenditure in order to balance their books. In the last few years, we have seen Vicroads significantly reduce maintenance on the C-Class network as a result of funding cuts, and rural communities have been impacted the most. These cuts have seen the Vicroads network deteriorate significantly with the result that safety has been compromised, and freight efficiency and productivity reduced. The same thing will occur on the State's local roads. Council's can cut back on road maintenance in the very short term, but any ongoing cuts to road maintenance will force the closure of local roads and make the roads unsafe. Councils across the State have well-developed asset management models which illustrate that it is false economy to cut back on road funding in the long term.

No council will go broke over the next four years as a result of rate capping, and councils' financial statements will bear that out. However, Council is concerned that the infrastructure maintenance and renewal gap of councils will significantly increase over time as it has done in New South Wales. **The infrastructure maintenance and renewal gap must be a key factor in the ESC's consideration of rate variations, and also given much more prominence in Council reporting. The community must be informed of the impact that rates capping will have on the infrastructure maintenance and renewal gap.**

The introduction of rate capping will also call into question the viability of a raft of services that local government delivers on behalf of State and Commonwealth Governments. Over the last 20 years we have witnessed significant cost-shifting onto councils including library services, home and community care, maternal and child health services, kindergartens, emergency management, and waste management to name a few. In many rural and remote areas of the State, there is a risk that some human services will disappear from the community altogether because of the absence of private operators needed to fill the gap left behind when councils pull out of these services.

#### **1.4. Rates capping may create perverse incentives**

Council agrees that the framework should be designed in a way that maximises incentives for councils to be efficient and to avoid unintended perverse outcomes.

#### **1.5. There are lessons from NSW's rate pegging**

Council welcomes the ESC's commitment to consider building appropriate safeguards into the Victorian framework that avoids the negative consequences that NSW has experienced.

#### **1.6. An additional layer added to the council budgetary and planning cycle**

It is important that existing systems and processes are used, and that the benefits of applying for a variation do not exceed the costs. This is especially true for small rural councils.

#### **1.7. Rate payers are concerned with historically high rates and wasteful or unnecessary spending by some councils**

It is not the role of the ESC or State Government to form an opinion on whether council expenditure is wasteful or unnecessary. **The ESC's role should be limited to considering whether councils' budgets and council plans reflect the expectations and aspirations of the community and its willingness to pay for such spending.**

#### **1.8. VAGO delivered a critical assessment of 12 councils' rating practices**

**The question as to whether councils consistently calculate and transparently report key rates data in a manner that allows scrutiny of decisions and comparability between councils is not relevant to a rates capping framework.**

The Local Government Act is quite prescriptive about what rates can be levied, how they are calculated, and the detail required to be published by council when setting the rates. Comparability between councils is not required under the Local Government Act, and a property-based system of levying rates will never lend itself to comparability between councils. It is simply not possible to compare rates in the dollar between councils. The popular media is not genuinely interested in understanding the rates system or the reasons why comparisons between councils are flawed.

## **2. RESPONSE TO PRINCIPLES**

### **2.1. Local communities differ in their needs, priorities and resources**

Agree with the ESC's comments.

### **2.2. Local communities and ratepayers are entitled to hold their councils to the highest standards of accountability and transparency when setting rates**

Council does not agree with the statement that proposed variations above the cap should be independently assessed by the ESC. Council objects to this principle on the basis that Councillors are democratically elected and accountable for rate setting. Further, Council notes that individual residents of the State of Victoria have no bargaining power in fee-setting processes of the State because there is no opportunity for individuals to make a submission on the State budget, yet there is no independent oversight of State Government. The same applies to the Commonwealth Government.

### **2.3. The framework should support the autonomy of councils to make decisions in the long term interests of their communities and ratepayers**

Council does not agree with the statement that *"a cap arrangement recognises that communities and their councils have limited resources and that councils must be disciplined in how they prioritise their activities and pursue efficiently delivered services."* Rather, it is the level of funding and the extent of cost-shifting provided by the State and Commonwealth Governments that dictates the extent to which councils have limited resources. Further, it is the democratically elected nature of local government that determines the level of discipline in priority-setting, not rates capping.

### **2.4. Councils will need to satisfy the burden of proof outlined in the framework when seeking a variation above the cap**

Agree with ESC's comments.

### **2.5. Rate increases should be considered only after all other viable options have been explored**

Agree with the ESC's comments.

## **2.6. The framework should support best practice planning, management systems, and information sharing to uphold council decision making**

Agree with the ESC's comments.

## **2.7. The framework should be flexible and adaptable**

Agree with the ESC's comments.

## **2.8. There should be few surprises for ratepayers and councils in the implementation of the framework**

Agree with the ESC's comments.

### **3. RELEVANT QUESTIONS FOR THE REVIEW**

#### **3.1. The form of the cap**

Whilst a cap based on local government costs would appear to be more relevant to councils, the question arises as to how reliable such a measure would be. The CPI is widely understood and is calculated by a trusted, reliable and independent agency, namely, the Australian Bureau of Statistics. If transparency is a key principle underpinning the framework, then CPI should be used, not a local government cost index which may lend itself to perceptions of self-interest. The argument has been made that the CPI does not reflect the true cost pressures on councils, but would an alternative local government cost index accurately reflect the cost pressures on all councils evenly, given the diverse nature of councils across the State?

Given that about 40 percent of councils' costs comprise wages and salaries, Council argues that **the index to be used as the basis for a cap should consist of a combination of the CPI for Melbourne plus growth in average weekly ordinary time earnings for Melbourne**. This measure would have more credibility in the community than a local government cost index.

The cap should be set on a multi-year basis. This will give councils the certainty that they need over a longer term, and minimise the administrative effort involved in making applications. A multi-year cap reflects the long-term nature of council's infrastructure maintenance and renewal needs.

A single cap should apply to all councils. Individual applications from councils will identify the reasons why they need a higher cap.

The cap should be based on historical movements of CPI which are accurate and not subject to political interference or conjecture. Historical movements aid in transparency.

#### **3.2. The base to which the cap applies**

The cap should only apply to rates and administrative charges. **It should exclude special rates, special charges, service rates and service charges because the revenue derived from these rates and charges is directly applied to the delivery**



**of a specific service.** Special rates and charges are subject to specific consultative requirements under the Local Government Act, and require a majority of ratepayer support to be implemented.

The Victorian Farmers' Federation has questioned whether the cap should apply at a differential rates level, that is, different caps for different categories of property. Council strongly argues against this on the basis that it would represent an unwarranted interference in the legitimate decision-making role of the council.

The cap should apply to the total rates raised by a council and not the average rates per assessment on the basis that property subdivisions and consolidations could have unintended perverse outcomes.

**Council argues strongly that supplementary rates should be excluded from the cap.** Supplementary rates represent growth in council's rates base resulting from economic activity, not because of rating decisions made by councils. Growth in economic activity requires more services from councils, and these services are funded from supplementary rates.

The base year should be 2015/16.

### **3.3. The variation process**

If, in the future, an event arises that has a common impact on all councils (for example, a call on the defined benefits superannuation fund by Vision Super, or another significant reduction in financial assistance grants), then the ESC should have the flexibility to make a global variation for all councils. This would avoid the need for individual councils to make applications.

Apart from the exceptions identified by the State Government, the variation process should take into account the following factors:

- Future significant calls from Vision Super required to fund the defined benefits scheme.
- Significant unexpected movements in population both plus and minus.
- Significant uninsured losses arising from force majeure.

In order to obtain approval for a variation, councils should demonstrate:

- good asset management practices and systems
- good financial management practices and systems
- effective engagement with its community
- unique factors justifying a variation
- continuous effort to be efficient and keep costs down, including wages
- its limited capacity to raise revenue from other sources.

### **3.4. Community engagement**

One of the primary drivers of Council's rating levels is the Council Plan which sets out the strategies and activities of the council over its four-year term. The Local Government Act already requires councils to consult with the community when setting the Council Plan (via a S223 submission process). The Act also requires councils to invite submissions annually on the budget which includes the level of rates revenue.

There are very good examples of community engagement in Victoria, and the ESC is encouraged to work closely with LGPro in exploring how it intends to assess community engagement as part of the framework.

### **3.5. Incentives**

Local Government, particularly rural councils, are generally efficient and will continue to pursue ongoing efficiencies regardless of rate capping. The dilemma faced by rural councils is that inherent factors relating to size, isolation and remoteness, not Council decisions, result in much higher cost structures than other councils. This is borne out by the highly respected Whelan Report.

Rate capping by its very nature will force councils to pursue efficiencies with greater vigour, or cut services, or both. There will come a point whereby efficiencies and productivity gains will be marginal, and councils will be forced to reduce services or cut back on critical infrastructure maintenance and renewal.

Often an investment in new technology is required to drive efficiency. In order to encourage such investment, the ESC should give due consideration to council requests for variations that include investments in new technology.

### **3.6. Timing and process**

Council agrees that the smooth operation of the framework requires alignment with councils' budgetary processes. Councils must prepare their budgets by June 30th. Many councils commence budget preparations early in the calendar year, and some as early as November and December. If councils are seeking a variation for one-year, then applications should be submitted later than February 28th and the ESC should respond by April 30<sup>th</sup>. If councils are seeking multi-year applications, then applications could be made at any time of the year as long as a response is given no later than April 30<sup>th</sup> if the variation is to apply to the following financial year.

### **3.7. Transitional arrangements**

Due to the complexity of the rate capping framework, the number of councils in Victoria, and the significance of the loss of revenue resulting from the FAGS indexation freeze, Council supports a transitional process over two years.

### **3.8. Roles**

In Section 3.3 of this submission, Council argues that the ESC should have the flexibility to make a global variation applicable to all councils in certain circumstances. It is also Council's view that the ESC, and not the Minister, who should determine the cap and any variations. Giving responsibility to the ESC makes the framework more transparent and less likely to be influenced by political pressure.

### **3.9. Other matters**

The framework should be reviewed after it has been in place for two years. A critical element of the review must be a report on the movement in councils' infrastructure maintenance and renewal gaps.