# <u>Submission to Essential Services Commission Rate Capping Paper</u>

**FORM OF THE CAP**

**1. While a cap based on CPI is simple to understand and apply, are there any issues that we should be aware of?**

*Council shares the view of the MAV as reflected in the Consultation Paper that while CPI is simple and easy to understand, it is not a relevant indicator for local government cost escalation. While the CPI is a weighted basket of household goods, council costs are predominantly made up of infrastructure construction and maintenance, service provision salaries, materials, contracts and utilities, all of which generally exceed other cost increases in the economy. Research and analysis undertaken by the MAV indicates that local government costs therefore typically increase by about one per cent above the consumer price index (CPI).*

*The impact of using CPI alone as the cap would mean that in real terms, Council revenue available to fund services and capital infrastructure would be going backwards year on year.*

**2. What are some ways to refine the cap (for example, alternative indices), in line with the Government's objectives?**

*Council recommends development of an independently verified and validated local government cost index which could form the basis for a more relevant starting point than CPI.*

*However any index only based cap effectively freezes service and infrastructure at levels in place on commencement. An index does not acknowledge or fund*

- *increased service demand resulting from demographic changes (e.g. In home support services for the aged),*
- *new regulatory and statutory obligations imposed on Councils (e.g. Emergency Management support is a new function costing approximately **$200k** pa, pending Energy Safe Victoria tree pruning regulations resource implications are as yet unknown),*
- *Further cost shifting (e.g. shared use paths constructed by the State but conditional on Council maintenance and repair funded only from rates income, for example the proposed Box Hill to Ringwood path maintenance is estimated to be **$100k** pa; public safety CCTV installations similarly conditional on Council maintenance and repair costing approximately **$15k** pa per site without funding; cost reimbursement for collection of the Fire Services Levy expires 2017/18 with actual costs of approximately **$80k pa** continuing. Also recently extended smoking legislation that requires local government to monitor and enforce without funding is presently difficult to assess resource requirements).*
- *Superannuation defined benefits calls. Whitehorse has experienced four calls from 1996/97 to a total cost of **$26.4m** with the recent 2012/13 call being **$11.3m***
- *The implied potential that Local Government be required to fund the administration of a rate capping framework and requests for rates variation*

*<u>Therefore Council recommends a Local Government cost index be developed with additional adjustment mechanisms for the above outlined change drivers</u>.*

*In terms of this concept, the final index for any particular Council would be the sum of potentially up to four elements –*

| | |
|---|---|
| *Core Local Government Cost Index* | ***plus*** |
| *Adjustment Factor (see above discussion Q.2, incl. defined benefits calls)* | ***plus*** |
| *Rate capping administration and compliance costs if levied on Councils* | ***plus*** |
| *Infrastructure Renewal factor (see Council response to Q.5)* | ***plus*** |
| *Final rates cap* | |

*Council believes it necessary to illustrate the double standard and punitive nature of the rate cap public dialogue by making two references to State property based taxation compared to Local Government property based taxation. Of greatest note is that State property based taxation enjoys automatic growth as property valuations grow. Council rates revenue does not grow with property valuation growth. Both Stamp duty and land tax enjoy this automatic growth with Council rates revenue total required is set by Council with property valuations playing no role other than being the means of distributing the target rates burden to individual properties based on each properties relative valuation. Therefore genuine recognition and consideration of recommendations made to this question is critical. It is also noteworthy in the State 2015/16 Budget that combined Land Tax and Stamp Duty is forecast to grow by approximately 7% from last year.*

***3.* Should the cap be set on a single year basis? Is there any merit in providing an annual cap plus indicative caps for the next two to three years to assist councils to adopt a longer term view in their budgeting and planning, particularly when maintaining and investing in infrastructure often takes a longer term perspective? How should such a multi-year cap work in practice?**

*Councils are required, under legislation, to develop a 4 year Strategic Resource Plan and Council Plan in line with the elected Council's terms. Therefore any approach to rate capping must take that timeframe into consideration.*

*Councils considering major community infrastructure projects need planning and funding certainty often four to five years into the future*

*To maximise value for rates more and more contracts are negotiated on a multi-year basis. A good example is long term garbage contracts that set price for often seven or more years into the future (subject to Ministerial approval).*

*Councils Enterprise Bargaining Agreements are negotiated typically for three years also need a known income base to avoid the real risk of a cap determination moving below what has formally been struck for wages growth.*

*Council recommends that the rate cap be fixed for two years with indicative caps for a further two years providing guidance for the balance of a four year Council Plan/Strategic Resource Plan horizon.*

**4. Should the cap be based on historical movements or forecasts of CPI?**

As outlined in our response to Questions 1 and 2 above, Council advocates that CPI is not used as an indicator and that a more appropriate indicator is developed.

**5. Should a single cap apply equally to all councils?**

*It is Councils view that providing the adjustment mechanisms outline in our response to Question 2 above and the variation element of the framework are sufficiently flexible to meet the diverse needs and circumstances of member Councils, and then a single cap would be the simplest to administer. Reference to the Victorian Grants Commission would provide some reference.*

*<u>However there is an opportunity to develop a more sophisticated model that recognises the relative 'starting point' for each Council</u> based on the 2015/16 average assessment (refer MAV collected data which shows Whitehorse Council to be consistently in the lowest three average rates and charges in metro Melbourne) and different infrastructure renewal shortfall and funding requirements. In this scenario the final cap would be a state wide Local Government cost index plus adjustment factor (see Question 2) plus a variable infrastructure levy applicable to categories of councils or based on each councils infrastructure renewal position. For illustration purposes only the cap plus adjustments might therefore be (2.7% +0.4%) 3.1% with rural councils having a further 2% infrastructure renewal while metropolitan councils might have a further 1% for infrastructure renewal. This would not deny unique circumstances allowing any council to apply to the Essential Services Commission for a variation but would reduce the likely level of variation requests to begin with through acknowledging adjustment factors and infrastructure renewal.*

**THE BASE TO WHICH THE CAP APPLIES**

**6. What base should the cap apply to? Does it include rates revenue, service rates/charges, municipal charges and special rates/charges?**

*<u>It is Councils strong position that the cap applies only to general rates and the municipal charge only</u> (note that Whitehorse does not currently have a municipal charge).*

*The Victorian Auditor General in its report on fees and charges recommends that Council fees and charges reflect as far as possible full cost recovery or "user pay". Furthermore fees and charges should be market linked and must not contravene anti competition policy requirements. Garbage service charges need to recover higher cost in light of significant historic cost increases driven by specialist private waste contractors (recent contract renewal at a 13% increase) and the State with six years of increases to the State Landfill Levy from $9.00 tonne in 2009/10 to $60.52 tonne in 2015/16 a total increase of 570% To artificially cap fees and charges and waste service charges places Councils in a contradictory position with the Victorian Auditor General.*

*The Fire Services Levy should be treated in the same manner by the State but Councils notes that is merely collected by local government on State Government's behalf.*

*It is also important to note that there is no uniformity of the starting position across Councils. The average rates and charges per assessment vary widely across municipalities, indeed the Whitehorse average is $355 pa below the average of metro Melbourne councils. Applying a flat percentage to this base would disadvantage those who have kept rates and charges lower, including Whitehorse Council which is consistently in the three lowest metropolitan councils average assessment for rates and charges (general rates plus municipal charge plus garbage service charge)*

**7. Should the cap apply to total revenue arising from these categories or on average rates and charges per assessment?**

*<u>The cap should apply to average rates and municipal charges per assessment</u> and not to total revenue. Applying the cap to total revenue would be grossly disadvantageous to those Councils experiencing growth*

**8. How should we treat supplementary rates? How do they vary from council to council?**

*<u>Supplementary rates should be excluded from the rate cap</u>. Supplementary rates are an indicator of growth which directly leads to increased service delivery and infrastructure requirements of a growing community. Supplementary rates become part of the base for the following financial year, but with some dilution Supplementary rates are in fact charged using the same rate in the dollar that was established to comply with the rate cap and so they would indirectly be already capped.*

**9. What are the challenges arising from the re-valuation of properties every 2 years?**

*The challenge will be more significant in the first year of implementation and the perception of benefit gained by the community. By implementing the framework in a revaluation year, the natural shift in relative values, and therefore rates, will mask the real benefit for the average ratepayer.*

*The methodology of the local government rating model and how valuations impact the rates paid per property is widely misunderstood in the community. In simple terms, when Council sets its budget it determines the amount of rates and charges that it needs to generate in order to meet business needs. That figure is then divided up across the rateable properties in the municipality on the basis of relative capital improved value. So a growth in the total CIV of a municipal area has no bearing in itself on the determination of rates and charges set in the budget.*

*The State Government is imposing this new framework and so must commit to a comprehensive community information campaign will be necessary to ensure that the benefit is understood in the context of how rates are calculated now. Council recommends that reference is made to the effective Fire Services Levy communications campaign as a positive example.*

*This masking and mythology will be significant and risk widespread community dissatisfaction with the States rate cap policy and Councils will bear the brunt of additional customer service costs to respond to increased phone and mail traffic when rates assessments are mailed in August 2016 (being a revaluation year).*

*<u>Council recommends that the Essential Services Commission support legislation change to allow revaluations to be required every three (or four years) instead of every two years.</u> This will provide two years in each three years of clarity for the community and provide a significant cost reduction to both Councils and the State Revenue Office and Water Authorities which pay for use of revaluation data. Whitehorse Council estimates savings of $500k (approx. half to Council half to SRO) plus staff time for each revaluation period by such legislative change. Across the whole of Victoria this initiative would generate significant savings to Local Government sector and the State.*

*We note that historically the revaluation cycle was each four years before changing to each two years. Council recommends the benefits of a three year revaluation cycle.*

**10. What should the base year be?**

*Budget 2015/16*

**THE VARIATION PROCESS**

**11. How should the variation process work?**

*It is important that the variation process does not create unnecessary levels of bureaucracy for already financially constrained Councils and that the criteria are clear and known in advance. Further the business case template for variation requests should be developed in advance as should definition of what is best practice community consultation that would underpin any variation request.*

*As outlined above in Councils response to Question 2 above there needs to be built in to the cap setting methodology allowance for additional adjustment mechanisms which would provide equity to Councils and have the effect of reducing applications for variation. There is the opportunity to build this efficiency into the process at the outset. To summarize the main category of adjustment mechanisms are:*

1. *increased service demand resulting from demographic changes*
2. *new regulatory and statutory obligations imposed on Councils*
3. *further cost shifting from other levels of government*
4. *Macro factors such as defined benefits calls*
5. *The prospect of Local Government being required to fund rate capping administration and compliance costs*

**12. Under what circumstances should councils be able to seek a variation?**

*Councils should be able to seek a variation where, following a robust assessment of their financial circumstance, community aspirations, and consultation it is determined that a rate rise in excess of the cap is warranted / required.*

**13. Apart from the exceptions identified by the Government (namely, new infrastructure needs from a growing population, changes in funding levels from the Commonwealth Government, changes in State Government taxes and levies, (question incomplete)**

*See Councils response to Questions 2 and 11 above which seeks to in build real and recurring items to reduce the need for annual variation requests.*

**14. What should councils need to demonstrate to get a variation approved? What baseline information should be required for councils to request a variation? A possible set of requirements could include:**
**? the council has effectively engaged with its community**
**? there is a legitimate case for additional funds by the council**
**? the proposed increase in rates and charges is reasonable to meet the need**

**▯ the proposed increase in rates and charges fits into its longer term plan for funding and services**
**▯ the council has made continuous efforts to keep costs down.**
We would like stakeholders' views on whether the above requirements are adequate.

*It is Councils view that in addition to the above requirements that reference should be made to Councils history of financial stewardship as measured by VAGO financial sustainability measures. <u>A history of improved financial position should be viewed as a positive indicator of responsible financial management rather than a negative in relation to a Council's application for rates variation.</u>*

**COMMUNITY ENGAGEMENT**

**15. What does best practice in community engagement, process and information look like? Are there examples that we can draw from?**

*<u>A best practice community consultation framework should be developed and defined</u> as part of the framework process to ensure clarity of expectation and consistency of basis for application for variations*.

**INCENTIVES**

**16. How should the framework be designed to provide councils with incentives to pursue ongoing efficiencies and respond to community needs? How could any unintended consequences be minimised?**

*Pursuing ongoing efficiencies and responding to community needs could, for some Councils, be mutually exclusive under a rate capping framework. The language needs to shift to one of financial sustainability and value for money, rather than the current economic rationalist focus which is at odds with other government messaging regarding local employment protection.*

*Rate capping should not be seen as a punitive tool, yet unfortunately recent press reporting from the Minister for Local Government's office is represented as if rate capping is to be the Government's tool to 'bring local government under control'. The sector welcomes measures to enhance transparency, accountability and community engagement and ownership. However those same principles should apply equally to the State Government and their own financial processes. It is important that the sector perceives that there is a level playing field.*

*Unintended consequences can be minimised by ensuring a planned and staged implementation in partnership with the sector. A fast tracked process will undoubtedly result in unintended consequences which may reflect badly on not only Local Government but also the State. An appropriately comprehensive risk assessment should be commissioned before implementation.*

**TIMING AND PROCESS**

**17. A rates capping and variation process should ensure there is enough time for councils to consult with their ratepayers and for ratepayers to provide feedback, and for us to review councils' applications. To ensure the smooth functioning of the rates capping and variation**

**framework, it is particularly important that it aligns with councils' budget processes. We are interested in stakeholders' views on how this can be achieved.**

*The timing and timeliness of the Variation application consideration will be important if not to de-rail the smooth running of a Council's budget preparation and consultation process in accordance with the timeframes established in the Local Government Act. Authorisation of Variations would need to be complete by 30th March to enable statutory consultation of 4 weeks to occur during April/May, consideration of submissions, and Council adoption by 30th June.*

*Announcement of the years cap and forecast guidance (see Councils response to Question 3 above) should be by December (latest) to allow Council assessment and planning of non-capped income and setting of capital and operation priorities to form a draft budget by April for community review and comment.*

**TRANSITIONAL ARRANGEMENTS**

**18. What transitional arrangements are necessary to move to the new rates capping and variation framework? Is there merit in phasing in implementation over a two year period to allow for a smooth transition?**

*It is Councils view that the framework should commence from the 2017/18 financial year. This view is offered on the basis that:*

- *Councils will have already completed the development of their 2015/16 budgets by the time that the ESC has had the opportunity to finalise its review;*
- *2016/17 Budget is a revaluation year and therefore the perception of benefit from the wider community will be diluted by the shifts in rates associated with the re-valuation;*
- *2016 is an Council election year and the commencement of the 2017/18 Budget and a new Council Plan and Strategic Resource Plan would under this proposal be aligned with the introduction of a new rate cap framework.*

*If deferred implementation until 2017/18 Budget is not possible, then a community information campaign will be particularly important for both the State and all Councils and the State should fund and undertake a major communications exercise on the scale of the Fire Services Levy rollout.*

**ROLES**

**19. What are stakeholders' views on the respective roles of the key participants? Should the Commission's assessment of rates variations be advisory or determinative?**

*Council agrees that there is benefit in having an independent arbiter have oversight over the implementation of any rate capping framework in a determinative capacity. The role would be to:*

- *Review Council Budgets and variation submissions for those where mandatory referral is required;*
- *Approve rate increases in excess of the baseline where Business Cases have sufficient merit in accordance with the established criteria;*
- *Provide advice to the Minister for Local Government on the outcomes of all variation requests and other intervention may be required.*

- *Monitor the success of the implementation of the Rate Capping and Variation Framework and provide advice to the Minister on any review, taking into consideration feedback from the Sector.*

*It will be important to ensure that over time the policy parameters to support rate capping are integrated across VAGO, LGV and the oversight authority to ensure maximum public transparency for Councils and for Government.  This should also be reflected in the Local Government Performance Reporting Framework.*

**OTHER MATTERS**

**20. Is there a need for the framework to be reviewed to assess its effectiveness within three years' time?**

*Yes.  It is Councils view that a regular cycle of review is imperative, and should take into consideration not only feedback from the Sector and the community but also include a full assessment of the economic impact on the impact on Councils' financial sustainability (changes to sectors VAGO financial sustainability measures) and particularly ability to meet asset renewal requirements pre and post rate capping implementation. It should also include movement in Councils resident satisfaction survey results pre and post rate capping with focus on changes in resident assessment of quality of services and infrastructure condition.*

**21. How should the costs of administrating an ongoing framework be recovered?**

*As a State Government policy position it should be fully funded by State Government. Any attempt to operate the framework on a cost recovery basis from the sector would ironically further disadvantage those Councils who have the most pressing financial need*

*The cost of administering the framework to the State can be minimised through ensuring that the process is non-bureaucratic, simple to navigate and based on appropriate templates etc.*

*Should Local Government be required to fund the administration and compliance of rate capping framework then an automatic funding adjustment is required when setting the rate cap. Refer to Councils response to Question two above.*

**OTHER MATTERS RAISED IN EARLIER CHAPTERS**

**22. We are interested in hearing from stakeholders on:**
**� whether we have developed appropriate principles for this review**
**� whether there are other issues related to the design or implementation of the rates capping and variation framework that stakeholders think are important**
**� supporting information on the major cost pressures faced by councils that is beyond their control and the impact on council rates and charges.**

*Other factors for the consideration include:*
- *A narrow cost only focus does not evaluate or acknowledge Councils contribution to resident's quality of life though in home support services, open space and sport and leisure facilities, child immunisation and family services, library and meals on wheels to name some. Value for money*

*and contribution to quality of life has been ignored. Council acknowledges the financial pressures notably on pensions and self-funded retirees but advocates for equal recognition for the services and role Councils play in delivery on the ground to this section of the community.*

- *While most councils have a garbage service charge in addition to general rates this is not the case for all. Whitehorse Council for example provides a standard range of waste management services from general rates. It is recommended that all councils move to a separate full cost recovery basis garbage service charge for consistency and for fairness to those not already doing so. The transition process should not be to a Councils financial detriment. Full cost recovery is necessary and essential given large increases from sources beyond Councils control (e.g. State Land fill levy has increased by 570% over six years) and a garbage service charge needs to therefore be exempt from the rate cap and follow VAGO recommendation to be priced at full cost recover. Refer to Councils response to Question 6 above.*

- *As forward capital programs are reprioritised and scaled back over time there is an unintended negative consequence to construction industry employment as well as an economic multiplier effect across business in general. While on a council by council basis this may reach $10m or $15m over a ten year long term financial plan horizon, the aggregate of this amount by 79 Victorian Councils could readily reach $1Billion over a decade.*

*Council supports the following points made by LGPRO in its submission and reproduces those in full below.*

- ***Defined benefit superannuation liabilities that are not equally applied to State and Commonwealth government schemes***

  *Since 1998 Victorian local government has paid $1.162b in calls into a defined benefit superannuation scheme. All levels of government operate Defined Benefit Superannuation Schemes. However while there is complete transparency in relation to Local Government defined schemes by contrast the State and Federal schemes no transparency with rate payers who all unknowingly contribute. The benefits were defined and as a result employer governments need to fund them. The local government scheme was established by State legislation and closed to new members in 1993. Although new members were not able to access the scheme after that time, the liabilities to existing members continue to grow.*

  *The structure of the local government fund is such that it has to be kept fully funded for future liabilities at all times. This is in distinct contrast to the funds operated by the Victorian State Government and Commonwealth Government each of which currently has substantial unfunded liabilities. If the same rules of operation were applied to the local government fund, $1,162b in calls and contributions tax would not have needed to be funded across the 17 years since 1998. This requirement that is unique to local government places significant and often unplanned upwards pressure on rates.*

- ***Lack of escalation of local government fees regulated by the State Government***

  *Many fees which fund Council services are set by State agencies. While State agencies have over the years applied regular escalation to fees that benefit the State, they have not applied the same level of rigour to fees that benefit local government. Despite advocacy on this* *matter, Local Government has been unable to directly influence these fees and charges that are set on its behalf. A lack of annual indexation on these charges puts pressure on other areas of council budgets. Between 2000 and 2013 successive State governments have increased fees by less than half the CPI. Examples of charges that fall into this category include: planning permits, development plan permits, applications to re-zone land. Less and less of the real cost of delivering the service are therefore met by the applicant, shifting the burden to fund the gap to rates, and therefore all ratepayers. The result is that residents across the wider municipality are subsidising developers through increases in the general rate.*

- ***Changing State or Federal Government policy positions which have flow on cost impacts for local government and increases in government charges that are in excess of CPI***

  *From time to time State and Federal Governments introduce changed policy objectives which have flow on implications for local government. A recent example is the 4 year old preschool universal access policy which has involved considerable operational expenditure by councils and capital works to maintain preschool infrastructure. Revised emergency management arrangements following the Bushfires Royal Commission have also resulted in substantial additional costs for many rural and interface municipalities.*

  *Over the last 5 years there have also been a number of increases in government charges paid by councils which have increased by more than CPI. Recent examples include the landfill levy and the fire services levy*

- ***Services that councils deliver on behalf of the State Government which are not fully funded through grants***

  *The successful implementation of a rate capping framework must recognise the interdependent financial relationship between all levels of Government, but in particular that of State and Local Governments. A cut or a restriction in one area can have flow on implications for others.*

  *Local Governments typically provide a number of services on behalf of, or in partnership with, State and or Federal Governments which are funded through grant programs. There is evidence that over time grants have not kept pace with the true cost of service delivery. Restricting the ability of Councils to generate revenue through rates will bring increased focus and scrutiny on those areas where Local Government receives less funding than the cost of delivery of such services. The most significant example of this is HACC services, where it is estimated that Victorian Councils currently contribute approximately $115m per annum above grant funding levels. Other examples include School Crossing Supervisors, Library Services and Youth Services, immunisation, maternal child health services. An unintended consequence of rate capping may be a reduction in Local Government's ability to subsidise declining real contributions from other levels of government for these services. In this scenario, Councils would deliver services to the level of funding provided, rather than to the true cost of the service.*

# EXTRACT FROM SPECIAL COMMITTEE OF COUNCIL 11 MAY 2015

## 6.1 Essential Services Commission Rate Capping

FILE NUMBER: SF15/290
ATTACHMENT

***SUMMARY***

*This report is in response to Council's submission to the Essential Services Commission consultation paper on local government rate capping & variation framework released in April 2015.*

**SPECIAL COMMITTEE COUNCIL RESOLUTION**

Moved by Cr Bennett, Seconded by Cr Daw

***That Council:***

1. ***Receives and notes the report and endorses the attached submission to the Essential Services Commission on Rate Capping in Local Government.***

2. ***Reinforces its committed Council policy position, unanimously adopted at its meeting held on 12 May 2014,"... expressing its opposition to any policy proposal to regulate councils rate increases to the Consumer Price Index or reference to a third party for approval."***

**CARRIED UNANIMOUSLY**

**BACKGROUND**

In January 2015, the Andrews Labor Government announced its intention to act on its state election commitment to cap council rates at CPI inflation levels. The rate capping policy will be implemented for the 2016-17 financial year.

**DISCUSSION**

In January 2015, the Essential Services Commission received terms of reference to consider and report on the development of a state-wide capping and variation framework for council rates. The Essential Services Commission is required to complete its final report by 31 October 2015.

The Essential Services Commission has been asked to design a framework that meets the Government's commitment to cap annual council rate increases as well as to develop a workable process to assess any proposals by councils for above cap increases ("variation process"). Its stated intention is that the proposed framework will lead to future rates that are efficient, stable and reflective of community needs and demands, without compromising councils' autonomy or financial sustainability.

Council has drafted a submission in response to the consultation paper and this is attached.

**FINANCIAL IMPLICATIONS**

Preparation of the attached submission incurred no direct cost other than officer time.