



Victorian Local Governance  
Association

Dr Ron Ben-David  
Chairperson  
Essential Services Commission  
via [localgovernment@esc.vic.gov.au](mailto:localgovernment@esc.vic.gov.au)

28 August 2015

Dear Dr Ben-David,

**Submission for Publication: Draft Report - A blueprint for change - local government rates capping**

The Victorian Local Governance Association (VLGA) welcomes the opportunity to provide feedback on the 11 draft recommendations for a rate capping and variations framework presented by the Essential Services Commission (ESC).

The VLGA has previously provided our views on rate capping as a policy to the ESC, via a 'principles' paper and two pieces of commissioned work. These describe best case opportunities that meet the State Government's stated commitment to implementing this policy, while working in accord with the local government sector to minimise negative outcomes.

Central to this work, and to our concerns as a membership-based peak body, is ensuring that local government's legitimacy as a democratic sphere of governance is supported. In any arrangements proposed and ultimately accepted, due consideration needs to be accorded to this principle. This includes respecting council autonomy and diversity - which we note are reflected in principles stated by the ESC as guidelines for its work on rate capping.

With this in mind, and based on advice from our members, the VLGA is concerned about the overall process being proposed in the draft recommendations. We see the recommendations at odds with the light touch approach we have previously suggested is all that is required to meet both the State Government's commitments and the ESC's terms of reference. In particular, we have strong concerns about the imposition of further forms of compliance and regulation on councils that the rate capping framework relies upon.

This is especially pertinent in the context of a rate variation process where it is proposed that the ESC will have, in effect, a veto over a democratically elected council.

A rate capping framework should be integrated with the normal financial management requirements and reporting by councils. As previously argued by the VLGA, councils already generate sufficient information through their Council Plan, the Strategic Resource Plan, the Performance and Reporting Framework and service reviews. This level of documentation is sufficient for the purposes of the ESC. Anything beyond will only create a further compliance and reporting burden on a sector that is already heavily scrutinised. Indeed, this would be consistent with Action 8 of the recently released Ministerial Statement on local government reform to reduce avoidable administrative burden.

On the proposed mechanics of the rate capping framework, the VLGA makes seven key points:

**1. The cost of administrating the rate capping framework by the ESC must be borne entirely by the State Government**

The estimated saving of rate capping for the average rate payer must be balanced against the cost of running a rate capping framework, along with any negative impact on service provision and community infrastructure for residents and rate payers. System costs should not, themselves, add significantly to pressure for rate increases and/or should not require funds to be diverted from resources earmarked for other important programs (including programs to promote effective and efficient local government). The cost of administrating the rate capping framework by the ESC must be borne entirely by the State Government.

**2. The level of the proposed rate cap is a serious concern to our members**

The cap should sensibly include consideration of the relative weighting of wages and other costs in the index. This would necessitate an increase in the employee costs factor based on actual costs incurred by each council.

The current weighting of wage at 40 per cent does not reflect the actual experience of our members. Serious consideration should be given to the automatic adjustment in the cap to compensate for external circumstances beyond councils control – such as real-terms reductions in untied, general purpose grants.

The proposed cap will have a particular negative effect on small, usually rural, councils that have fewer options for alternate income streams to rate capping. This will have a detrimental effect on levels of services and community infrastructure in particular areas of the State and may well entrench a divide between rural and metropolitan residents. This is an issue well highlighted by the Rural Living campaign led by Buloke Shire Council.

**3. The specific efficiency factor should be dropped**

This did not form part of the original terms of reference and is an arbitrary addition to the review by the ESC. As strongly argued by our members, a rate cap, by its nature, already imposes an efficiency dividend.

In addition, most councils continuously seek efficiencies already through their usual business process including service reviews. As outlined in the *Local Government Act 1989* (1989 s.208B/208C), it is the role of councils to define, measure, consult and report on the assessment of value for money in service delivery as defined by the best value principles. If the intent of the State Government is to drive further efficiencies this is better achieved through a review of best value, as part of the review of the *Local Government Act 1989*, rather than imposing an efficiency dividend.

**4. The variation process is unclear and document heavy**

Our members have expressed continued concern of the complexity and level of documentation that appears to be involved in the variation process.

While exact details regarding what will be required of councils seeking a variation above the cap, it is clear that there will be significant detail involved.

While the ESC does not make any recommendations on this point, the possibility of a fee being charged to councils for variation applications has been canvassed. Such a fee, if



applied, would be in addition to the internal costs that appear likely to be incurred in developing a variation application - such as through officer time or technology requirements. The latter has been estimated by a rural council (Hepburn Shire) as being around \$25,000. Combined, these two costs to councils (and rate payers) impose a cost burden and a barrier for any council to seek a variation - and would be particularly prohibitive to rural councils.

Variations for multiple years should be immediately available to councils to align with Community Plans and the four-year Strategic Resource Plan. We are encouraged by comments at the 20 August 2015 VLGA rate capping forum that imply altering the proposed phasing in of multiple year variations is being considered - and we suggest that this is an appropriate response. Allowing minimum four-year cap variations would provide the certainty required for sound business planning and financial governance.

The ESC's approach emphasises councils considering all other options before making a decision to raise rates. While not a recommendation, the Commission has also suggested that there would be benefit in the State Government providing councils with guidance on such issues as use of debt. Given the ESC's approach, we consider that if councils are to be expected to make fuller use of alternative funding/financing mechanisms, it is incumbent on the ESC to recommend that this guidance be prepared and made available to councils as soon as possible.

#### **5. An appeal and review process for rejected variation applications is required**

As a minimum, all applications for a variation should be made public and a report provided back to the council outlining the specific reasons for granting or rejecting a variation. Clarity is sought about the appeal process required as part of the final rate capping framework. This process must be available in a timely and transparent manner, which would accord with basic principles of democratic decision-making.

#### **6. Key timelines for the rate cap framework must be reconsidered**

The ESC suggests councils will need to notify them about an intended variation within one month of receiving the predicted cap - meaning council will need to endorse an application for a variation at the first meeting following the holiday season break. This has implications for how far community engagement will be possible.

The timelines also make very little allowance for a circumstance in which a council has a variation application refused by the ESC. The period between the handing down of the ESC's decision and the point at which budgets needs to be submitted does not allow for the time needed for a council to reconsider its options and engage with its community.

Postponing the cap until after the local government elections is a view strongly held by our members. If the cap is implemented over the next few months, then it should be phased in to allow councils the opportunity to adjust to the new requirements.

#### **7. The value of the ESC's monitoring and reporting function is unclear**

We raise our members' concern on the proposed monitoring and reporting function to be undertaken by the ESC. This will not provide any additional value in understanding the performance and financial sustainability of the sector - particularly given that the community will shortly have access to performance reporting data.

In addition, the review of the *Local Government Act 1989* offers an opportunity to examine how the elements of the current system fit together. We suggest that in this

context, focusing on improving and further integrating existing reporting would be a more effective, and less costly, option.

In summation, the VLGA has serious reservations about the draft rate capping framework as it currently stands.

We await the ESC's response to submissions and hope to see a more reasonable framework which adequately addresses the concerns and questions of our member councils.

Yours sincerely

A handwritten signature in black ink, appearing to read "M C Attley", with a long horizontal flourish extending to the right.

**Cr Marg Attley**  
**Vice-President**