



Fair Go Rate System Independent Review 2016

Essential Services Commission

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1.0 Background and scope of review

The Essential Services Commission (ESC) called for an independent review of its first year implementation of “Fair Go Rate System” (FGRS), as stated in the opening paragraph of the brief,

“2016 was the first year that the Commission assessed the higher rate cap applications from Victorian councils under the Fair Go Rate System (FGRS). The FGRS is new to both councils and the Commission and it is important that we take the opportunity to review our processes and approach to identify where improvements can be made and support the delivery of the FGRS’ intended outcomes”

The review was also foreshadowed in the response by the Chairman of the ESC, Dr Ron Ben-David, as outlined in the Parliament of Victoria's Legislative Council Environment and Planning Committee second report into the rate capping policy, the Chairman of the ESC undertook "after this first round of somewhere between 5 and 12 applications we (ESC) will go back, we will review how those councils found making an application and we will use that to update the guidance material."

Section 185A of the Local Government Act (the Act) sets out the purpose of the "Fair Go Rate System" being:

- (a) to promote the long term interests of ratepayers and the community in relation to sustainable outcomes in the delivery of services and critical infrastructure; and*
- (b) to ensure that a Council has the financial capacity to perform its duties and functions and exercise its powers.*

The Minister for Local Government sets the rate cap, on advice from the ESC, in December or such other date the Minister determines for the forthcoming financial year. The cap is the maximum percentage increase in council's average rates, being the general rate and municipal charge. The cap can be set for all councils, a group of councils or a single council.

If the funds projected from the implementation of the rate cap are insufficient for the needs of a council they can apply to the ESC for a higher rate. The council application is required to be assessed against the criteria set out in section 185 E of the Act. This states:

An application under this section must be accompanied by the prescribed fee (if any) and must specify—

- (a) a proposed higher cap for each specified financial year; and*
- (b) the reasons for which the Council seeks the higher cap; and*
- (c) how the views of ratepayers and the community have been taken into account in proposing the higher cap and;*
- (d) how the higher cap is an efficient use of Council resources and represents value for money; and*
- (e) whether consideration has been given to reprioritising proposed expenditures and alternative funding options and why those options are not adequate; and*
- (f) that the assumptions and proposals in the application are consistent with the Council's long term strategy and financial management policies set out in the Council's planning documents and annual budget.*

The ESC when assessing council applications is required to have regard to the matters outlined in sections 185 A and E as outlined above.

The ESC received 21 notification of intent by January 2016 from councils seeking a higher cap, of which 10 councils applied for the higher cap by 31 March 2016. One council withdrew its application. The ESC released its nine decision reports and an overview paper on 31 May 2016. The applications,

supporting documents and the determination reports are available for viewing on the ESC website. (www.esc.vic.gov.au)

Five councils received the higher cap they sought, one council received a higher cap lower than their application and three councils did not receive the higher cap they sought.

2.0 Methodology

Peter Brown, past CEO of Moreland City Council, with 30 years experience in senior management in Local Government and an independent consultant was engaged to undertake an independent review of the first year of the ESC's implementation of the FGRS. Specifically the brief was to review the:

1. usefulness and usability of the Commission's Guidance material (including baseline templates) provided to councils to assist in the preparation of their applications
2. interactions between the Commission and councils before and during the application process (including its request for information)
3. burden (cost and time) placed on councils seeking a higher cap including the drivers of those costs and identifying best practice among councils in preparing applications and responding to information requests
4. relevance of the information sought by the Commission in making its decisions
5. approach adopted by the Commission in assessing whether a higher cap was appropriate
6. workability of the timelines in the application process
7. clarity of the Commission's final decisions.

The review was not intended to cover matters of policy regarding the FGRS framework or the likely outcomes of the higher cap decisions, rather the review was to assess whether the Commission has fulfilled its obligations as effectively as possible.

In undertaking the assignment it involved:

- Reading the background published information of the ESC including the Final Report on Rate Capping "A Blueprint for Change" (September 2015), "The Fair Go Rate System" Guidance for Councils (2016-17) December 2015, the legislation, the final reports, the Deloitte Access Economics (DAE) assistance review reports, the local government peak body submissions on rate capping and the two Parliamentary reviews into the impacts and implementation of rate capping.
- Meeting individually or speaking with all nine applicant Councils
- Attending two ESC Council workshops
- Meeting with two groups of CEOs from Councils that did not apply
- Meeting with non-applicant growth councils
- Receiving written correspondence from 2 councils

- Assessed input from 37 councils
- Meeting with the CEOs and staff of the Victorian Local Governance Association (VLGA), Municipal Association of Victoria (MAV), Local Government Professional (LGPro), Local Government Financial Professional (Finpro), Institute of Public Works Engineers Australia (IPWEA)
- Meeting with Local Government Victoria (LGV)
- Meeting with two groups of rate payers.
- Attending the Ministerial Mayors' forum meeting.
- Speaking with senior ESC staff.

3.0 Insights into year one of the FGRS

The rate capping policy by its very nature can be perceived to cut across the autonomy of local government and its ability to have its locally elected councillors set the resource allocations and priorities for their municipal district. The administration of the application process for higher caps means the organisation or persons vested to administer the task can be perceived to be interfering in local democracy. Comments from the councillors, peak bodies such as the MAV and the VLGA reflect this view.

In embarking on a review of the first year of the implementation of the 'Fair Go Rate Systems' administration by the ESC the task was to sift through comments associated with the policy to those that are at the core of the implementation of the first year of the operation of the FGRS.

It is fair to say when interviewing applicant councils those that received a positive outcome from their application had a more optimistic view of the ESC higher rate cap assessment process than those councils that were unsuccessful. It is the balance of both views and those of councils who did not apply for a higher cap that have assisted in bringing the views expressed in this report together.

I thank the officers of the councils interviewed, especially the applicant councils for being candid and open about their experiences with the application process.

The peak local government bodies, MAV, VLGA, LGPro, IPWEA, Finpro and the LGV were also consulted, they provided the "helicopter view" of the sector and expressed the broader issues concerning the local government reform agenda being undertaken with the current review of the Local Government Act and how the FGRS fits within that agenda. They each have strong views on the FGRS and whilst some expressed a view that it should not have been introduced they understood why it had and expressed the opportunity it opened up for the sector to address a number of long term issues that have been acknowledged by the State and local government in Victoria over time.

I also had the opportunity of interviewing two ratepayer groups, they support the introduction of the FGRS and their views expressed concern over how ESC will regulate and councils fairly administer the policy.

I would like to thank the ESC staff who made available all documentation required for the report and were open and candid on their experiences with the first year of the FGRS.

Although the brief was to review the implementation of the FGRS as undertaken by the ESC, the report does address some of the broader sector wide issues commented on that if taken up should give local government in Victoria and the State a better ability to measure sustainability and performance that should strengthen the community's respect, understanding and participation in its local democracy.

In reviewing year one, I feel strongly that the ESC has fulfilled its obligations to administer the FGRS as effectively as possible. A lot of the criticism of the first year implementation concerned timing, cost, officer time, and undue complexity of the application process. These issues were understandable but will be resolved by both familiarity of the process, clarity of the information required by ESC for assessment and improvement of the quality of information presented by councils over time. The community consultation required for applications should not be a stand-alone process to satisfy a higher rate cap application but rather part of councils' ongoing planning and consultation processes outlined in the current Local Government Act and further expanded within the proposed new Act.

The final decisions resulted in five of the nine applicant councils succeeding in receiving a higher cap, one received a higher cap but less than applied for, and three unsuccessful applications. The outcome is understandable when the reasons in the decisions are read. I would add that for those councils who undertook a desk top exercise into whether they should apply or not, by their own assessment realised they would have been unsuccessful as they determined the criteria for a higher cap was not met.

Peter Brown,

September 2016.

4.0 Summary of recommendations

For Essential Services Commission consideration

From section 5.1 *The usefulness and usability of the Commission's guidance material (including baseline templates) provided to Councils to assist in the preparations of their applications*

- i. The FGRS guidelines to provide advice on the financial ratios that Councils should use to assist the ESC assessment;
- ii. A worked example of a higher cap application be available and that it be annotated to indicate how the ESC uses the information for its assessment purposes;
- iii. Clear guidance that the ESC will use the LGPRF information for assessment purposes ;
- iv. A review is undertaken into any special financial issues associated with growth area councils.

From Section 5.2 *The interactions between the Commission and Councils before during and after the application process (including request for information)*

- i. Consideration is given by the ESC to allow staff exchanges with councils to assist with the understanding of ESC and Council staff of their respective roles and challenges.
- ii. The ESC considers allowing councils to make a presentation to the ESC at the pre-application or submission stage of the application process.
- iii. The ESC advises councils if there is media interest and before the public release of information concerning council's expression of interest, application and/or the final decision on the application by the ESC.
- iv. The ESC provide councils with a copy of the final decision and an opportunity for a debrief and comment prior to public release.

From Section 5.3 *Burden (Cost and Time) placed on Councils seeking a higher cap including the drivers of those costs and identifying best practice among Councils in preparing applications and responding to information requests.*

- i. The ESC considers what assistance they could give smaller rural councils in applying for a higher rate cap.

From Section 5.5 *Was the approach adopted by the Commission in assessing applications appropriate?*

- i. The ESC release all information that was used to determine a council's application including any independent consultant review reports,
- ii. When the proposal outlined within the draft of the new Local Government Act concerning the adoption by councils of a community endorsed consultation framework is enacted and councils have implemented, the ESC accept that if the Mayor on behalf of the Council sign off that the criterion concerning community consultation on the higher rate cap has been undertaken in accordance to the framework that this criterion is met.
- iii. The ESC clearly indicates what does not constitute a financial case for a higher rate cap and this information is in the form of guidelines to councils.

From Section 5.6 *Workability of the timelines in the application process.*

- i. The ESC introduce two submission dates for higher rate cap submissions, one as currently applied, 31 March and another at 30 September.
- ii. The ESC advise the Minister of the proposed rate cap by August of the year preceding the financial year of use to assist the community consultation and budget planning process of councils.

From Section 5.7 *The clarity of the Commission's final decision*

- i. That the ESC places on their website all relevant information they used to form their decision on a council higher rate cap application, including any consultant or advisor review.

From Section 5.8 *Miscellaneous issues*

- i. That the ESC determines, in what form and format applications are to be presented and where the ESC wants the application sent to.
- i. That all application forms be able to be filled in electronically.
- ii. That the ESC requires all councils to nominate a contact position and person within council to receive information and that copied in are the CEO and records area of council.

For Local Government Sector consideration

From Section 5.1 *The usefulness and usability of the Commission's guidance material (including baseline templates) provided to Councils to assist in the preparations of their applications*

- i. Councils need to tell the story of where council is at financially, where it is going and why the higher cap was required rather than just filling in the form.

From Section 5.3 *Burden (Cost and Time) placed on Councils seeking a higher cap including the drivers of those costs and identifying best practice among Councils in preparing applications and responding to information requests.*

- i. Councils incorporate any higher cap community consultation into the council planning process required under the Local Government Act.
- ii. Councils express more clearly what trade-offs they considered with their community prior to submitting a higher rate cap application.

For the consideration of – Local Government Victoria (LGV), Essential Services Commission (ESC), Victorian Auditor General (VAGO), Victorian Grants Commission (VGC), Local Government Sector

From Section 5.1 *The usefulness and usability of the Commission’s guidance material (including baseline templates) provided to Councils to assist in the preparations of their applications*

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| <ul style="list-style-type: none">i. That a model chart of accounts, common definition of the services and assets councils provide and standardised quality and effort measures for local government be developed;ii. That a common definition of each of the components of the rate revenue stream be developed to ensure non rate cap revenue streams are being used fairly.iii. That a method for the calculation of the asset renewal gap, strategic asset planning versus the accounting depreciating asset value method be agreed to for the purposes of determining council financial sustainability;iv. That the LGV, ESC, VGC and VAGO work with local government to coordinate and rationalise the reporting requirements for the sector to improve the quality and relevance of the datasets for measuring the sectors’ financial and operating performance. |
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5.0 The review.

Before each meeting all interviewees were sent a simple questionnaire (see appendix 1) to frame the discussion and ensure the review criteria were discussed. The questionnaire was not used to limit dialogue but start the discussion on the first year implementation.

Set out below are the findings from the interviews and submissions.

5.1 *The usefulness and usability of the Commission's guidance material (including baseline templates) provided to Councils to assist in the preparations of their applications.*

The feedback indicated that the guidelines were a good starting point; they set out how the base average rate and the capped average rate were calculated. The guidelines also went through each of the FGRS criteria for higher cap assessment and explained what information the ESC required to evaluate that criterion. The councils that sought pre-application discussion with the ESC generally found the process of preparing the application more straight forward. A common comment from councils was that the application needed to tell the story of where council was at financially, where it was going and why the higher cap was required, rather than just ticking the application criteria boxes.

The guidelines explained what was in the cap, the general rate and municipal charge and what was not capped, service rates and charges, revenue in lieu of rates, special rates and charges, recreational cultural land, the fire services levy and the actual supplementary rate revenue received in the base year. Within the guidelines there needs to be a definition as to what each of these revenue streams includes to save confusion or cost shifting from the general rates to service charges.

The Victorian Auditor General also acknowledged this issue in "Rating Practices in Local Government - February 2013" page viii

"The reporting of rates and charges data should be improved and standardised so that it is used consistently across all municipalities, and ratepayers and the general community can readily interpret the data."

As the guidelines were directed to all Victorian Councils, from small rural councils to the large metro councils, the information that needed to be gathered for the baseline templates varied considerably, due to larger councils having more services and complex financial information.

From the comments received there was a clear preference for the ESC to be more prescriptive in its advice on what is required to meet the requirements of each of the criteria; it was stated by a number of councils and the MAV that a worked example would be beneficial. The worked example could demonstrate what information is crucial to the ESC's decision making process and clarify some of the following issues. Councils were not sure how the ESC considered such matters as the handling of under spends on the capital works program, Developer Contribution Reserves, government grants – operational, one off capital grants, programmatic grants especially such grants as the Growing Suburbs fund.

Some growth area councils have a strong view that their financial issues require special consideration in the handling of the FGRS. Given the impact of the population impacts on growth suburbs the ESC could consider undertaking an investigation into whether growth area councils do have financial issues that cannot be handled with the current growth in the rate base generated by development and the other State Government initiatives directed at assisting growth councils.

Councils were concerned that if State-sponsored capital grants were seen as an offset to a higher rate cap it would be counter to most grant criteria, which usually included a provision that council could not use the funds to offset normal council expenditure.

There is no common description of services within local government, nor is there a common handling of the accounting for services. Some councils allocate overheads to their service areas, some only account for the direct cost of the service. This makes comparing baseline information and benchmarking services between councils very difficult.

The guidelines' purpose was to get enough information from councils to give the ESC a clear view of how the council met the assessment criteria and to provide comparator information for future applications from the council and between councils for the purposes of looking at council services' efficiency and expenditure growth.

It was indicated by applicant councils that the ESC had used Local Government Victoria's Performance Reporting Framework (LGPRF) to benchmark council performance and this was not acknowledged in the guidelines and councils were not in a position to explain variances between similar councils. The LGPRF is in its infancy as a reporting tool and still has anomalies due to the inconsistent handling of overheads by councils in service costing.

Councils currently provide service, asset and financial data to the Victorian Grants Commission, Local Government Victoria, the Auditor General and the ESC. From the interviews, councils do not use the information provided for their own management purposes and each set of information provided to the State authorities is separately prepared. It would be timely for the State to assist councils to move to a model chart of accounts, common definition of the services and assets councils provide and standardised quality and effort measures. This would make the gathering of data for the purposes of applying for a higher cap more transparent and efficient.

5.1.1 Finding

The guidelines were useful especially for the first year of the FGRS but required Councils to work with ESC staff at a pre-application meeting to ensure the application was ready for assessment.

The information required by the ESC for the assessment duplicates information provided to other State Authorities and there needs to be rationalising of the information required from the sector and a common data set created, this has been acknowledged in the development of the new local government act.

There is a need to set down clear financial guidance to councils on:

- What is the prudent and financially acceptable underlying financial result? Is a maximum of +5% surplus adequate?

- How should funds tied to capital works be assessed when an underspend is reported at year end and is considered a carry forward surplus?
- How should councils handle their balance sheet result and what levels of debt are prudent?
- How are Federal and State Governments' grants being considered ie operational, one off capital and programmatic grants associated with such State policies as the Growing Suburbs Fund ?
- How are the reserves set aside for Developer Contribution Schemes being seen in the ESC assessment of the flexibility of the council balance sheet?

Councils need to work with the State and peak bodies to achieve a common chart of accounts, clear definition of the services and assets councils provide and standardised quality and effort measures.

5.1.2 Recommendations

- ii. The FGRS guidelines to provide advice on the financial ratios that Councils should use to assist the ESC assessment;
- iii. A worked example of a higher cap application be available and that it be annotated to indicate how the ESC uses the information for its assessment purposes;
- iv. That a model chart of accounts, common definition of the services and assets councils provide and standardised quality and effort measures for local government be developed;
- v. That a common definition of each of the components of the rate revenue stream be developed to ensure non rate cap revenue streams are being used fairly.
- vi. That a method for the calculation of the asset renewal gap, strategic asset planning versus the accounting depreciating asset value method be agreed to for the purposes of determining council financial sustainability;
- vii. Clear guidance that the ESC will use the LGPRF information for assessment purposes ;
- viii. A review is undertaken into any special financial issues associated with growth area councils.
- ix. That the LGV, ESC, VGC and VAGO work with local government to coordinate and rationalise the reporting requirements for the sector to improve the quality and relevance of the datasets for measuring the sectors financial and operating performance.
- x. Councils need to tell the story of where council is at financially, where it is going and why the higher cap was required rather than just filling in the form.

5.2 The interactions between the Commission and Councils before, during and after the application process (including request for information)

All applicant councils commented on how helpful and professional the ESC staff were throughout the process. Comment from two unsuccessful councils indicated that through the request for information phase there were terse meetings and less than positive interaction.

It was felt that ESC staff were on a learning curve concerning how local government operated. It was commented that ESC staff who had experience with the energy and water sectors did not understand the governance, political and wide range of service issues involved with local government. As this is the first year of the involvement of the ESC in council rate capping it is not unexpected for this perception to be aired. Clarification with the sector over the issues raised in 5.1

especially the financial parameters that help inform the ESC's decision should assist to allay this perception.

This perception could be resolved by allowing ESC and Council staff to have exchanges during the quieter times of the year.

Some applicant councils recommended that as part of either a pre-application or application submission that the council be given the opportunity to present their case to ESC officers, thereby answering any initial queries early in the process.

There was criticism of the ESC's handling of the media enquiries during the initial notification period by Councils in January and the final decision in May; councils were not being made aware that the ESC would release the information publicly. In particular, with the release of the final decision councils felt they had no right of reply, this was contrasted with the Victorian Auditor General's reports that seeks council comment on the annual audit report prior to public release.

5.2.1 Finding

There is a perception that ESC does not understand local government, its governance and local service responsibilities

The ESC does release information concerning councils' higher rate applications before advising councils. Councils should be aware that due to the political nature of the FGRS policy, media interest is high and they need to be prepared for media comment if an application for a higher cap is going to be submitted or considered.

5.2.2 Recommendation

- i. Consideration is given by the ESC to allow staff exchanges with councils to assist with the understanding of ESC and Council staff of their respective roles and challenges.
- ii. The ESC considers allowing councils to make a presentation to the ESC at the pre-application or submission stage of the application process.
- iii. The ESC advises councils if there is media interest and before the public release of information concerning councils' expression of interest, application and/or the final decision on the application by the ESC.
- iv. The ESC provide councils with a copy of the final decision and an opportunity for a debrief and comment prior to public release.

5.3 *Burden (Cost and Time) placed on councils seeking a higher cap including the drivers of those costs and identifying best practice among councils in preparing applications and responding to information requests.*

Being year one of the FGRS and councils able to apply for a one year higher cap only has meant that the burden both in cost and time should not be seen as a typical year in the ongoing implementation of the FGRS. The councils that did apply were either small rural councils (4), Peri urban/growth councils (3) and regional councils (2). No inner or middle ring metropolitan council applied.

The cost is be broken down into, staff time, external consultant and community consultation cost. There is one case of a council (Casey) that expended as advised \$250K with half being for

consultation costs. This figure does not represent the typical costs of the other councils and should be seen as unique to Casey. Below is set out the estimated costs/time for each council as advised from the interviews. The costs/time was not audited and need to read as reasonable estimates based on the effort known by the council officer interviewed.

Council	Staff time/cost	Consultant	Consultation	Total Time/Cost
Ballarat	3 months/ \$60K		Used existing information	\$60K
Buloke	1 month/\$10K		\$10K	\$20K
Casey	3 months/\$125K		\$125K	\$250K
Horsham	1.5 months/\$30K		Cost of consultation was part of normal Council planning process	\$20K to \$30K
Moorabool	2 months/\$25K		\$25K telephone survey, listening post	\$50K - \$60K
Murrindindi	2 months/ \$80K		Used existing information	\$80K to \$100K
Pyrenees		Consultant used to pull information together	Ads in local paper/ community hall use	\$30K
Towong	\$20 K to \$30K		Used existing information	\$20 K to \$30K
Wyndham	Staff time		Consultation costs	\$66K total

The costs for year one for a typical council would be in house staff time of \$40K, external consultant time of \$10K and community consultation costs of \$30K being mainly for advertising, telephone surveys and venue hire. The size of the council and complexity of application would impact on the costs.

It is clear from the interviews with both applicant and non-applicant councils that in the future the consultation around a higher rate cap application with the community will be undertaken as part of the normal Council Plan, Strategic Resource Plan and Annual Budget preparation process. Including the consultation process into the council plan development process will require the FGSR criteria of *“How the views of the ratepayers and the community have been taken into account in proposing the higher cap”* (S 185E LGA) to be clearly articulated with the community.

The attributed cost and time for higher rate cap submissions into the future should become a normal transaction cost to Council.

Whilst not related to cost and time, concern was raised that small rural councils may lack the initial expertise to prepare a higher cap application and assistance from the ESC would be welcome.

5.3.1 Finding.

Year one costs to councils were of the order of \$20K to \$80K, with one outlier.

The on-going costs to councils should become negligible if they incorporate the higher rate cap application process into their normal annual corporate planning activities or apply for a four year cap.

Concern was raised that for the smaller rural councils the initial expertise in preparing a higher cap application may not be available and that assistance from the ESC would be welcome.

Best practice for councils is to incorporate the rate determination and any higher rate cap process into the council planning and strategic resource planning process. This will eliminate extra cost and provide a context to any higher rate cap in the consultation with the community.

5.3.2 Recommendation

- i. Councils to incorporate any higher cap community consultation into the council planning process required under the Local Government Act.
- ii. Councils express more clearly what trade-offs they considered with their community prior to submitting a higher rate cap application.
- iii. The ESC considers what assistance they could give smaller rural councils in applying for a higher rate cap.

5.4 The relevance of the information sought by the Commission in making its decisions

Populating the templates and service indicator information required an investment of significant officer time. This was seen as a first year cost. Councils felt that the information sought by the ESC, VGC, LGV and the VAGO should be rationalised to minimise duplication of effort.

Comment back from the councils indicated that the request for information, questions and queries were sensible and well targeted.

One council on advice from the information sessions with the ESC were advised keep the application simple provided an initial application which addressed the criteria and was succinct, but through the request for further information needed to submit 17 pages of further information.

The late release of the guidance information (December 2015) incurred extra effort for some councils which had commenced developing their application and required them to reappraise their approach.

5.4.1 Finding

As this was the first year of the implementation of the FGRS both the ESC and councils are working through what is the information requirement for the reasonable assessment of the financial sustainability of applicant councils and their need for a higher than CPI rate cap. It is clear that it is State Government policy to ensure that any rate rise above CPI by councils requires a demonstrable financial case and the ESC has through its processes tried to give councils as much opportunity as they can to demonstrate their need.

5.5 Was the approach adopted by the Commission in assessing applications appropriate?

The ESC in the “Overview – Decisions on higher cap applications for 2016-17” outlined how they went about assessing each of the council applications. From the information used it is clear no one criterion was set as a pass or fail, but rather what did the answers to each of the criteria tell about where the council was at financially, how council was looking at its priorities and what level of community engagement had occurred.

Comment was made by some councils that it appears to be variable in how the councils’ applications were handled and that the ESC should introduce processes to reduce variability in the assessment process. The use of the independent consultant Deloitte Access Economics (DAE) to undertake a review of the rate cap variation applications indicates that the ESC was aware of this issue and undertook to resolve such difference by use of an independent consultant. The ESC did not make the DAE review reports available to the councils or the public. The ESC should reconsider this position as all information that was used to determine a council’s application should be made available to assist with understanding the ESC’s decision making process.

All nine councils reviewed the final decision of the ESC and each has had the opportunity of speaking with the ESC concerning the decision. Not all councils reported the final decision formally to the council.

Below is summarised how the councils responded to each criteria.

Criterion 1: A proposed higher cap for each specified financial year

The proposed higher cap figure was stated by all councils.

Criterion 2: The reason for the why the council sought the higher cap was also met

Each Council outlined what the higher cap funds were to be used for.

Criterion 3: How the views of ratepayers and the community have been taken into account in proposing the higher cap

It is clear that each of the councils had a different approach to this criterion; some relied on historical consultation undertaken when their current Council Plan and SRP were developed in 2012/13. Some undertook directed consultation outlining to their communities why a higher cap was being sought and what were the alternatives. One consulted on the project they were seeking to fund from the higher cap.

The ESC looked more favourably on those councils who had actively sought community engagement over the need for a higher cap as envisioned by the Act.

The subject of what level of consultation with the community is acceptable is always going to be vexed, as it goes to the heart of representative democracy with elected Councillors versus participative democracy that has local electors having more say in how decisions are made.

The ESC does not want to get itself caught second guessing the elected council’s view that it has satisfied the community engagement criterion of the Act as opposed to the ESC’s view that the council has not met this criterion. Under the proposed new Local Government Act councils will be required to have consulted with their community on an agreed consultation framework. Once this is

achieved the ESC should be satisfied if the Mayor on behalf of the council sign off that their consultation has accorded to the framework and the criterion set out in the Act, this criterion has then been seen as met.

Criterion 4: How the higher cap is an efficient use of council resources and represents value for money

This criterion along with criteria 5 and 6 was where the unsuccessful councils could not satisfy the ESC.

It was claimed by some councils that the goal posts shifted during the assessment process, this occurred when the DAE consultants were engaged by the ESC to analyse the financial sustainability and capacity of the applicant councils.

The ESC considered a higher cap was not appropriate if a council:

- Does not demonstrate a long term funding need
- Proposes to apply the higher cap to fund short term needs
- Is not supported by adequate long term planning
- Is not supported by the ESC's analysis of the Council's financial capacity and overall flexibility to manage its short term needs

Also embedded in this criterion was how Councils could demonstrate they were achieving improved efficiencies within their operations.

Some of the non-applicant Councils expressed their view that until they could demonstrably show how they are achieving greater operational efficiencies they would be reluctant to apply for a higher cap.

Whilst the ESC has been reluctant to be too prescriptive concerning what constitutes a financial case for a higher rate cap, it should clearly indicate what does not constitute a financial case; these could be in the form of guidelines.

The DAE report indicated the underlying operational result should be of the order of up to +5% of operating revenue given the relative stability of rate income, anything higher could indicate the Council is over rating.

It is clear also that the current practices of determining the asset renewal gap is also open to question, this needs to be resolved.

A non-applicant Council indicated below its criteria for seeking a higher cap:

- Asset renewal gap widening
- Increased debt handling costs
- Negative change to underlying operational result
- Community understanding for a higher cap
- Cost shifting from other levels of government
- Lack of access to government grants that offset need to higher cap
- Predicated on key services being efficient and kept within acceptable levels

As it currently has the above issues under control and can see further opportunities for operational efficiencies including resource sharing with abutting Councils it will not be seeking a higher rate cap for at least the next 2-3 years. The ESC should consider providing councils with its position on when a

higher rate cap could be considered or in absence of this the MAV or LGPro should consider assisting councils with such information.

Criterion 5: Whether consideration has been given to reprioritising proposed expenditures and alternative funding options and why those options are not adequate

Few of the Councils demonstrated clearly how they had satisfied this criterion and the ESC gave Councils with short term underlying operational deficits the benefit of the doubt. Councils also did not explore alternate funding sources

Criterion 6: That the assumptions and proposals in the application are consistent with the council's long term strategy and financial management policies set out in the council's planning documents and annual budget

Each council indicated that their submission was consistent with their long term financial strategy. A criticism was raised that the ESC appeared to have ignored the unsuccessful applicant councils' long term financial strategies in favour of the short term financial flexibility demonstrated in their balance sheets and that this balance sheet flexibility had been a major reason for rejecting the councils' application for a higher cap.

As outlined in 5.1 above, the ESC with the LGV, the VGC and VAGO with the local government sector should in resolving the common handling of financial and performance reporting help create a firmer and respected foundation to the development of creditable long term financial strategies for local government.

5.5.1 Finding

The assessment method undertaken for year one of the implementation of the FGRS was appropriate.

5.5.2 Recommendation

- i. The ESC releases all information that was used to determine a council's application including any independent consultant review report.
- ii. When the proposal outlined within the draft of the new Local Government Act concerning the adoption by councils of a community endorsed consultation framework is enacted and councils have implemented, the ESC accept that if the Mayor on behalf of the Council sign off that the criterion concerning community consultation on the higher rate cap has been undertaken in accordance to the framework that this criterion is met.
- iii. The ESC should clearly indicate what does not constitute a financial case for a higher rate cap and this information be in the form of guidelines
- iv. Councils need to express more clearly what trade-offs they considered with their community prior to submitting a higher rate cap application.

5.6 Workability of the timelines in the application process.

The current timelines(see table below) for higher cap applications, the requests for information and the final decision has meant councils needed to advertise two budgets, one with the Minister's cap and one with the proposed higher cap. To meet the current requirements of the Local Government Act Section 223 councils need to advertise their budgets in the May at the latest preceding the financial year of the proposed budget to satisfy the 28 day public consultation period to receive submissions. This is followed by a Council meeting to hear the submissions and then to respond to the submissions, finalise and then adopt budget.

It is not possible to undertake meaningful community consultation on the budget when the timelines are so tight and when the first time a council knows whether their higher rate cap application was successful or not is 31 May of the year preceding the budget year.

Each of the applicant councils in 2016 struggled with this.

Chronology for year one.

Description	Date/Time	Comment
Minister for Local Government announces cap at 2.5%	December 31, 2015	Most businesses are winding down for the Xmas break and councils usually have had their last meeting mid-December.
Councils who are indicating they may seek a higher cap notify the ESC	By 31 January 2016	Unless the Council has considered a report on a higher cap application at their last meeting in December most Councils will not have considered their view on the Minister's cap.
Council submit application including baseline information for 2015/16 year	By 31 March 2016	Councils need to estimate the last 3 months of 2015/16 financial years supplementary rates or disregard them.
ESC undertakes initial assessment	April 2016	
ESC requests further information from applicant Councils	April – May 2016	ESC engages DAE to assist in financial analysis.
Councils respond as required	Mid April to mid-May	
ESC review DAE independent consultant view		
ESC advises Councils of final decision	31 May 2016	
Councils adjust budget as necessary and advertise adjusted budget	Early June	
Council receives submissions from the community on the budget	Mid June – late June	S. 223 for budget submissions require 28 clear days before Council can consider its response.

Council hold meeting and adopts budget	30 June 2016	Even if Council had its budget out for a S.223 process in early June they would struggle to have it adopted by 30 June.
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5.6.1 Finding

The current timelines for the announcement of the Minister’s cap and the higher cap application and decision process are very tight for councils, to the point of making long term planning and community consultation meaningless.

It is clear that being year one of the process the timelines were always going to be tight, the problems of the tight timeframe should get better in future years given the ESC’s and councils’ experience with the first year. Unfortunately this is unlikely to be the case.

Year 2 has new issues, for the ESC will need to consider potentially 4 year higher cap submissions from Councils, with the associated extra complexity and resource allocation that would be required with the same two month turnaround.

Council elections are occurring in late October 2016, followed by induction of the new Council. This is followed by the development and completion of the 4 year Council Plan, Strategic Resource Plan, and budget to be adopted by 30 June 2017. This policy work requires meaningful community consultation to satisfy the LG Act requirements for Council planning.

Now add to this a potential higher rate cap application to be submitted by 31 March 2017. It would be prima facie that any Council in 2017 would find it extremely difficult to meet the FGRS consultation and community feedback criterion to an acceptable level to satisfy the ESC application process when the Council will not have completed a new Council Plan and SRP with its associated community consultation.

To assist both the decision making process of Councils and the resource allocation required by the ESC it would be worthwhile exploring having at least 2 opportunities within the calendar year for Councils to apply for a higher cap.

The first one would be the current 31 March date and a second one six months later in September.

For the purposes of estimating the Minister’s cap, the advice to the Minister from the ESC could be based on the Department of Treasury and Finance’s May CPI estimate rather than using the December estimate. This would mean the cap could be set in July-August giving Councils clear direction calculating their Strategic Resource Plan and forward financial projections, with opportunity of applying for a higher cap in September or March.

There would be adequate time for community consultation and providing feedback on the application process.

5.6.2 Recommendation

- i. The ESC introduce two submission dates for higher rate cap submissions, one as currently used, 31 March and another at 30 September.
- ii. The ESC advise the Minister of the proposed rate cap by August of the year preceding the financial year of use to assist the community consultation and budget planning process of councils

5.7 The clarity of the Commission's final decision

The ESC provided each Council with a separately published individual decision.

The ESC determination process needs to be transparent to the Council and the community. All information used to determine the success or otherwise of a higher cap application needs to be open to scrutiny, this also include advice sought from a consultant or advisor. It will ensure that all information used to determine the ESC's decision can be used by councils and the community to understand what issues the ESC is considering as key determinants of their decision.

5.7.1 Recommendation

- i. That the ESC places on their website all relevant information they used to form their decision on a council higher rate cap application, including any consultant or advisor review.

5.8 Miscellaneous issues

Comments from applicant councils also raised concerns over the logistics on how to submit the higher cap application, especially for rural councils.

The ESC guidelines do reference that the council higher cap application "must be in writing, but can be sent electronically to the Commission". The ESC should consider what form they want the application, electronic or hardcopy. This would inform the ESC on the best receipting process, ie where the ESC wants the Councils to send the application; to a shared website, drop box, USB courier delivery, split files emailed or the post office address.

It was mentioned that it would be easier if the cover sheet was a Word document rather than a PDF so councils can just fill it in.

Some of the staff of councils were not aware of information that the ESC has been sending out to councils. The current contact information sought by the ESC is noted in the application, for non-applicant councils no formal contact point in council is advised.

5.8.1 Recommendation

- ii. That the ESC determines, in what form and format applications are to be presented and where the ESC wants the application sent to.
- iii. That all application forms are able to be filled in electronically.
- iv. That the ESC requires all councils to nominate a contact position and person within council to receive information and that copied in are the CEO and records area of council.

6.0 Why didn't more councils apply for a higher cap?

In interviewing councils that did not apply for a higher rate cap a number of reasons were given.

Some of the reasons given were:

- Currently in a strong financial position and will look at the issue annually
- Service reviews undertaken indicated we did not need to apply
- Council politically supported staying within rate cap
- Election year, did not want to go higher than cap
- Council is focusing on service reviews and using cap as a catalyst for change
- Currently having undertaken our forward financial planning using the CPI and we are ok
- Council wanted to put downward pressure on rates and government policy assisted that
- Council and officers at one - finish reviewing all services, achieve better efficiencies, get out of services we don't need to do.

More of the reasons are outlined in appendix 3. It is clear that councils have taken up the challenge to actively reduce costs and look for internal efficiencies before seeking a higher rate cap.

7.0 What will happen in years 2 and 3?

With the introduction of up to four year caps a number of councils indicated they would be reviewing their strategic resource plans with the incoming councils to determine if they would seek a higher rate cap. A sample of metropolitan councils indicated over the next four years they would be unlikely to seek a higher cap. Smaller rural councils indicated that dependent on government grant allocations they would be seeking higher rate caps.

A general comment was that councils in the future would if needed, apply for the multi four year caps as it gave them greater long term financial planning certainty.

8.0 Ratepayer views

The ratepayer groups interviewed indicated that they were concerned with councils' cost shifting general service responsibilities out of the rate capped general rates to uncapped service charges.

In particular six of Victoria's 79 councils do not have a waste charge and a view was expressed that the ESC needs to indicate to those councils if they determine they want to move to a waste charge how these councils should transition the costs.

It was also indicated that when the ESC approves a councils' higher rate cap application the ESC has endorsed the financial information the council has outlined to them and agrees that the council has met the criteria required to be met by the Act. One group of ratepayers felt the ESC had been misled by the council.

This reinforces the need for the ESC to be as transparent as possible through the decision process so it can reassure ratepayers that it has discharged its duties under the Act to the fullest extent including

the use of independent financial advisors and the decision for the higher cap is in the best interests of the ratepayers in accordance with the Act's objectives:

- a) to promote the long term interests of ratepayers and the community in relation to sustainable outcomes in the delivery of services and critical infrastructure; and*
- b) to ensure that a Council has the financial capacity to perform its duties and functions and exercise its powers*

Recommendation

Note the recommendations below are also contained within section 5.1 and 5.5 of the report.

- i. That a common definition of each of the components of the rate revenue stream be developed to ensure non rate cap revenue streams are being used fairly. (5.1 (ii))
- ii. The ESC releases all information that was used to determine a council's application including any independent consultant review report. (5.5 (i))

9.0 Appendices

Appendix 1 — Template for questions for Fair Go Rate System (FGSR) procedure review.

Thank you for making the time to meet with me, as I will be meeting with you shortly to hear your view or your Council's/organisation's view on the Essential Services Commission first year of the implementation of the FGSR I have put together some questions to assist in framing the discussion at the meeting, the questions are not about limiting your feedback or truncating discussion but rather a starting point for me to gain an insight into how the FGSR implementation is going. Some of the questions may not be relevant to your Council/organisation please ignore them.

I look forward to meeting you and hearing your feedback.

Regards

Peter Brown
Independent Reviewer for the ESC.
July 2016.

1. How useful was the Commission's Guidance material (including baseline templates) provided to councils to assist in the preparation of their applications?
2. How did you find the interactions between the Commission and your Council either before and/or during the application process (including its request for information)?
3. If you were a Council that did not seek a higher cap, did your Council consider applying, if so why did you reconsider applying?
4. What was the burden (cost and time) placed on your councils in seeking a higher cap, can you identify the drivers of those costs and what do you see as best practice among councils in preparing applications and responding to information requests?
5. How relevant did you find the information that the Commission initially required with your application or sought in a later request for making its decisions, did it appear too specific or too vague?
6. Did you understand the approach adopted by the Commission in assessing whether a higher cap was appropriate? Would you suggest any changes?
7. Did you find the timelines workable in the application process; if not how would you suggest they change given the limitations set by the legislation?
8. Did your Council review any of the Commission's final decisions (Y/N) if so how did you find the clarity of the Commission's final decisions?
9. How could the process be simpler?

10. Do you have any specific question or recommended improvement to the ESC's Excel application templates?
11. Does your Council have any specific issues that you feel the Commission should consider in framing its response to applications for higher caps?
12. How has your Council handled the first year of rate capping? What initiatives did you undertake or implement? Were there any impacts?
13. Did your Council increase service fees, such as a Waste Charge higher than the rate cap percentage?
14. Later this year there will be Council elections, a new 4 year Council plan and Strategic Resource Plan are to developed, it is timely as starting with the 2017/18 year Councils can apply for a rolling 4 year higher rate cap, will your Council be looking to apply for a rolling 4 year higher rate cap?
15. Do you have any specific question or recommended improvement to the ESC's handling of ratepayer's submission?
16. Other feedback?

Appendix 2 — Summary of Applicant council responses

The Guidance Material and templates

Ballarat Templates were superficial - based on operations, assets were too high level to be meaningful
 Templates should include historic trends which relate to the Long term Financial Plan (LTFP)
 Templates did not take into account the different needs of different Councils
 Templates could not be used to determine Council's efficiency

Buloke Found guidelines not very helpful, went to the sessions and were told what we needed, it was emphasised keep it simple, we supplied a simple document and when the request for further information was sent through we needed to provide a 17 page submission!
 It would be useful to understand why the ESC wanted the extra information.
 Should be simply around what are the funds needed for, what is your financial position ie do you really need them, and how have you consulted.

General comment

Application process should include trend information, as Council has over a number of years undertaken cost cutting exercises and that does not seem to be considered.
 Felt that goal post moved by way of the ESC indicating that a 3.05% increase would be advised to the Minister and would be in keeping with the legislation and the Minister went with the estimated CPI of 2.5%. That is why Council stuck with 3.05% for the higher cap application.

Casey Due to the late time of the release(Dec 2015) Casey had already undertaken preparatory work
 Guidelines need to reflect all matters the ESC will use for its assessment ie If the ESC requires LTFP with or without the higher cap then it should be part of the application not a request for information
 If the LGPRF is going to be relied on this needs to be stated
 ESC stated they did not want to be prescriptive, but ultimately they were
 Feel preparing a considered rate cap variation is an 8 to 9 month process so guidance material should be out by September at the latest
 Templates are set up for services or operating variations not Capital
 ESC should provide a model variation application to highlight level, detail and quality of information they expect
 More information should be provided on the assessment process, appeal rights and feedback mechanisms.

General comment

Felt the there was changing the goal posts during the process by way of LGPRF indicates -20% to +20% for underlying surplus/deficit result ESC through the Deloitte Access Economics report that occurred during the assessment process advised +5% was a more acceptable figure. ESC advised throughout 2015 they were not looking to be prescriptive in their guidelines
Lack of understanding of the ESC on DCP"s

Horsham

Guidelines OK
Struggled with baseline template - what was in or out
Need clearer definition of Council services
The consultation required seemed difficult to meet, the guidelines outlines " community engagement plan processes relevant to the application, seeking differing ratepayer views" this could end up with a lever arch file full of comment, how long is a piece of string, how does Council prove it has undertaken this?

General Comment

Sector wide common chart of accounts to Councils with a common definition of each of the services/asset classes would make the process easier for all
Some Councillors take exception to the prescriptive community consultation when they are the elected community representatives - especially small Councils ie ratio 1500:1 population to councillor West Wimmera, 3000:1 Horsham clearly far more in Metros, there are different levels of connection at different Councils.

Moorabool

Guidelines OK
There appeared to be duplication across the criteria used.
Baseline data needed work, but Council now have developed reports which can be used for future application.

General comment

Not aware of any goal posts shifting.

Murrindindi

Guidelines good starting point but required speaking with the ESC officers to understand the nuances and what the key issues were. The guidelines were reasonably succinct - our challenge was getting the information together.
Clearly the Council needed to develop a story this was not clear in the guidelines
The guidelines seemed to be geared to a one off submission or issue, thus we broke ours up to tell our story.

General comment

ESC needs to be clear on the logistics of how they want the application information sent, ie via a drop box, USB stick, hand delivered, emailed, etc

Given it was the first year of the implementation of the FGRS felt the guidelines were Ok

Templates were Ok and simple to fill in.

Pyrenees

Guidance material straight forward, but unsure how far the community consultation needs to go to satisfy the ESC
Baseline data should not be so prescriptive

General Comment

Elected Councillors feel they need to make the decision on whether to apply for a higher rate cap as they are the elected community representatives

Towong

Guidelines Ok.

Coversheet was a PDF file, would be better if it was a word document so it could be filled in.

Felt templates should have included actuals as well as budget; it would be hard to make a decision without the actuals ie budget versus actuals gives a better idea of need.

General comment

The Variation analysis of with or without cap are mutually exclusive. Ie there are a number of scenarios that can be developed with or without the extra funds.

Could have it as Scenario 1. with Cap

Scenario 2. without cap with the modifications described.

Community consultation should be OK if key plans that have been consulted on show a demonstrated need.

Wyndham

The guidelines did not outline how the data sets were being used to inform the assessment process

The DCP issue not addressed in guidelines and were not sure the ESC understood the contractual nature of DCP's on Council

Templates structure along services/operations, were not sure how this information was being interpreted.

General comment

Felt that it would be helpful if the Council could physically present the information to commence the dialogue on the application process to the ESC

How can we ensure the information we send in is portent as opposed to just sending in all the information such as Council plans etc to the ESC.

ESC Staff interaction with local government	
Ballarat	Interaction with staff was polite and good. Felt the staff did not understand Local Government, especially the finances and DCPs Seemed to equate revenue growth to rate growth!
Buloke	ESC were really good but possibly lacked an understanding of local government, ie impact of the cost of elections on small rural Councils and just how rates work. It seemed that those assessing the application had little knowledge of local government.
Casey	We had some terse meetings with the ESC, they seemed annoyed we had not contacted them prior to preparing and submitting our application, however this was not stated as the process in the guidelines It appears the ESC process evolved over the 2015 year and that some of the early impressions of the process indicated by the ESC did not reflect how the actual process operated.
Horsham	Did not bother them much, comfortable with the interaction, when we did talk found them extremely helpful and had good interaction. The requests for further information were all based on sensible questions.
Moorabool	Interaction helpful, forums leading up to submission were good.
Murrindindi	We went down to Melbourne prior to submitting and met with ESC staff, it was an excellent meeting and very worthwhile ESC does seem very narrow in their focus, ie how do they get to understand local government it is not only service delivery it is also has governance and community leadership responsibilities. After decision was made we took up the opportunity of meeting the ESC, our face to face meeting went well and we did not get any feeling of any political leaning in their decision.
Pyrenees	Staff involved in application process were incredibly respectful and helpful
Towong	ESC staff very helpful
Wyndham	Professional approach by ESC Would have liked to have heads up on publication of the final report, it created a sense of unease about the process. Can we get the opportunity to comment on the final report prior to publication like we do with the Auditor General report?

The Application process

Ballarat	<p>The cost of the application process was the Directors time for the months of January, February and March. There was no cost for the consultation as historic consultation around the budget, long term financial plan and the Council Plan was used. Cost estimate \$60,000</p> <p>The process of developing a higher rate cap submission will be become part of the annual Council planning process, so cost should be reduced. Did not feel the requirement for providing extra information was relevant, felt the criteria was wishy washy and the ESC was making it up as they went and the final decision was political</p> <p>Timelines were very tight and did not allow for a higher level of community consultation in the first year.</p>
Buloke	<p>It was all undertaken in house with mainly the Directors and Manager Finances time. Consultation with the community was based on what Council had undertaken in October based on the ESC proposed rate rise of 3.05%. Estimated cost \$20,000</p> <p>Council started the process in October, so timing was not an issue. Should have a summary of points on how Councils get a successful outcome ie what is the logic behind the decision.</p> <p>A clear sign off process for the consultation would assist.</p> <p>Cut to the chase the application process effort needs to be proportional to the rate rise or funds being sought.</p>
Casey	<p>Cost of the application process was of the order of \$250,000 of which \$125,000 was for the community consultation and the rest was officer time.</p> <p>Extra work was required to set up year one.</p> <p>The late release of the guidance material meant some rework for work already undertaken.</p> <p>The request for information was sensible and well targeted</p> <p>RFI seemed to be based on information that was coming from other Council applications</p> <p>Some information requested of Council did not seem to inform the final decision of the ESC</p>
Horsham	<p>The cost of the application process was the Directors time for 6 weeks, in the order of \$20,000 to \$30,000</p> <p>Did not factor in consultation cost as Council were doing it as part of the normal Council planning process.</p> <p>December, Christmas time is not a great time to have the Ministers announcement and then gear up for an application by March 31</p> <p>Timelines were very tight, and feel that with the Council elections this year, it will be very hard to meet the timelines should Council determine to seek a higher rate cap.</p> <p>The current timelines seem disconnected to the normal Council planning cycle.</p>

Moorabool	<p>Costs of the application process was \$25,000 for consultation which included listening posts and a sample telephone survey plus higher duties for a staff CPA, all up cost would be in the order of \$50,000 to \$60,000.</p> <p>These costs would be rolled into the Council planning process in the future</p> <p>We were aware of how we felt the ESC would be approaching the assessment, we had an underlying deficit of -4.5%, and we premised that if Council had a positive surplus it would be harder to substantiate a higher cap. Also a statistically valid sampling of your ratepayers concerning the higher cap would assist Councils case.</p> <p>ESC seemed to concentrate on the asset renewal gap and the underlying financial result.</p> <p>Moorabool's reasons for applying would be, issues with their renewal gap, new projects associated with new growth, underlying deficit, new services agreed to with the community.</p> <p>The reason for the increase should determine the consultation method.</p>
Murrindindi	<p>Estimated officer time was between \$80,000 to \$100,000 which was for pulling all the information together.</p> <p>This would become part of Councils annual planning process.</p> <p>Timelines, especially getting the Ministers figure in December made the whole process very tight, acknowledged this was year one and information prepared for this application will be useful for future applications if required.</p> <p>Given the differences in the size of Councils and their resources, it was felt a greater support to small rural Councils from the ESC through the application process should be considered.</p>
Pyrenees	<p>Cost of the process was estimated at \$30,000 which included ads in the paper, consultations in community halls and officer time. Council was aware the increase would deliver \$73,000 extra in the first year thus the application expenditure needed to be proportionate to rate rise return.</p>
Towong	<p>Cost involved, CEO and senior staff time. Cost \$20,000 to \$30,000.</p> <p>Would be supportive of a common chart of accounts as clearly would make the process simpler.</p> <p>Sustainable Rural Councils group currently working on common financial measures</p> <p>Felt they understood the ESC approach and given it was a single year and a new process were OK with the application process.</p>
Wyndham	<p>The cost of the application process was estimated at \$60,000, which included consultation, preparation and lodgement.</p> <p>It should not cost more in the future as it will be included in a normal planning processes.</p>

The Final Decision	
Ballarat	<p>Felt the decision was a farce and was political in nature. If you are broke you get it, if you are financial you don't Council did not seek a formal meeting with the ESC to discuss the final report and no report went to Council on the matter. Decision was too short term and did not look at the long term impacts</p>
Buloke	<p>Reviewed final decision, as it was successful they had no comment on the decision</p>
Casey	<p>Officers reviewed all the decision reports Clarity was fine but there was a lack of consistency between the reports Draft decision reports should be provided to Councils for review and feedback taken on board or dissenting views acknowledged. This would enhance fairness, and provide credence to the process. Appeared the final reports were targeted at Joe Public which left the Councils who were unsuccessful in a no win position.</p>
Horsham	<p>Reviewed final decision, as it was successful they had no comment on the decision Not critical of the ESC as they had a difficult job and tackled it well. Council does not have a lot of staff undertaking corporate planning and the ESC should make allowances for this ie smaller Councils cannot put in elaborate submissions.</p>
Moorabool	<p>Went through final report to understand how it worked Overall understood process and how it was handled</p>
Murrindindi	<p>Reviewed final decision, felt the decision would have been a yes or no, Council was surprised at a partial result. Council had been telling Govt. The that extra funds are required by Council due to a number of reasons and to not apply would have been seen as crying 'wolf' We did have a post decision discussion with ESC</p>
Pyrenees	<p>Reviewed final decision, as it was successful they had no comment on the decision</p>
Towong	<p>Reviewed final decision, as it was successful they had no comment on the decision</p>
Wyndham	<p>Council went through the final decision thoroughly as they had been unsuccessful, they needed to inform how the ESC formed it decision and how they could change their thinking on the higher cap. Especially in regards to service costing, approach to the long term financial plan and debt management.</p>

First year response to rate capping

Ballarat	<p>How can Councils plan for the future with such a short horizon being imposed by rate capping? Does it need templates with common information as opposed to Councils providing a detailed submission? Council's infrastructure gap will now widen the build-up of CWP funds will now flatten out. Council does not have access to State derived growth area funds. Council will continue to look for saving within its own operations</p>
Buloke	<p>The process seems overly complicated ESC did not acknowledge what Councils have already undertaken historically to cut costs, and what impact other levels of government are having on local government Whilst economies of scale are worthwhile, it needs to be acknowledged that smaller rural Councils employ local people and inject funds into local businesses, that can sometimes be lost if the argument is only about lower rates. Council will continue to look for saving within its own operations</p>
Casey	<p>Council has looked for efficiencies in its own operation with a net benefit in the current year equivalent to 0.63% of the rates. Council is looking to arrest the ongoing cost shifting from other levels of government to Council The ESC should be acknowledged in undertaking this independent review.</p>
Horsham	<p>Extra funds from the higher cap are quarantined to asset renewal. Gauging how best to consult the community is difficult especially with smaller communities and getting them to understand trade-offs or differing priorities across Council and its geographic area.</p>
Moorabool	<p>Council continues to look for efficiencies within its operations and looking at shared services with abutting councils. Feel that command and control aspect of rate capping is at odds with the thrust of the new LG Act being proposed which is about greater autonomy for Councils.</p>
Murrindindi	<p>Have looked for savings within the operations of Council Getting access to common unit costs across Victorian Councils would assist with driving efficiency</p>
Pyrenees	<p>With the introduction of the first year of rate capping some of Councils documents seemed out of date as they reflected the Council Plan of the outgoing Council. Felt that they needed greater sophistication in identifying savings and efficiency and more common local government unit costing would be useful</p>

Towong

The higher rate cap process allowed council to demonstrate to the community that they do have a financial sustainability issue and an independent authority such as the ESC agrees.
Council has had an ongoing savings and efficiency drive and it will continue to look for opportunities

Wyndham

Would be supportive of a common chart of accounts and mechanisms to make unit costing of Councils more transparent.
ESC should be more aware of how DCP's work, how unreliable some grants are.
Where possible ESC should work with other areas of State Government to reduce duplication of reporting.
Council will continue to look for savings and efficiencies.
Council felt it was not listened to.

Appendix 3 — Summary of non-applicant council responses

Feedback from non-applicant Councils

A range of non-applicant Council were also interviewed to seek their views on the first year of ESC implementation of Fair Go Rate System.

The Councils are listed below.

Banyule	Moonee Valley
Bass Coast	Moreland
Bendigo	Moyne
Brimbank	Mt Alexander
Cardinia	Queenscliffe
Colac/Otway	South Gippsland
Corangamite	Surf Coast
Dandenong	Swan Hill
Darebin	Wangaratta
Frankston	Warrnambool
Glen Eira	Whitehorse
Maribyrnong	Whittlesea
Maroondah	Yarra
Mitchell	Yarra Ranges
Monash	

Why your council didn't apply

Not feeling we would not have had success due to currently having financial flexibility and the community have not been engaged in higher rate cap discussion

Metropolitan unlikely to get it any-way as are seen as having more financial flexibility

Did not feel we would be successful and did not want to waste time engaging

Rate cap has stirred up the pot to get creative thinking on council finances going

Catalyst to get a change process going

Currently in a strong financial position will look at the issue annually

Services reviews undertaken indicated we did not need to apply

Council politically supported staying within rate cap

Election year, did not want to go higher than cap

Uncertainty about process, how services would be benchmarked and level of consultation

Council is focusing on service reviews and using cap as a catalyst for change

Council supports rate capping

Council ready to go and 51% ratepayers agreed with rate increase but decided not to go

We set a high bar for a submission, we have the flexibility of sound financial reserves

Wanted to work within the Government's policy

We were not sure current community consultation would meet ESC requirements

We are looking at innovative ways of engaging our community such as citizen juries.

Containing costs to rate cap

We are developing fixed price contracts to restrain costs

Currently having undertaken our forward financial planning using CPI and we are ok

Council wanted to put downward pressure on rates and government policy assisted that

Made assessment that we could cope for at least 3 years before we need to look at a higher cap.

Council won't look at reducing Capital Works Program, they are asking for greater operational savings

Looking at reducing some services, withdrawing from others but being cognisant of market failure, level of community disadvantage to stay in.

Council and officers at one - finish reviewing all services, achieve better efficiencies, get out of services we don't need to do.

Comments on the guidance material, the general application process and interaction with ESC staff

Seemed baseline template was unnecessarily complex

Timelines too tight for 2016/17 and would rather put effort in to long term financial plan

Submission should not be costly; we don't need a glossy presentation.

Clarity of how the ESC decided on applications, what is the formula they are using

Need clearer prescriptive guidelines

Use of a first half (May) CPI would bring whole process forward six months.

Felt blindsided when ESC released information concerning council who registered interest in January

How are the community's views being taken into account? How do we meet the ESC requirements, can the ESC set what they expect?

Scale level of effort required by councils to the size of the council, ie keep effort proportional to the council and rate rise requested.

Asset management renewal gap needs clarifying

A common chart of accounts would make life easier for all

Felt current guidelines allowed too much discretion on the application, meant you would be 2nd guessing what the ESC wanted.

With amendments to the guidelines don't write just email the update information and direct us to the website

ESC needs formal contact point at all councils

Could not fault the interaction with ESC always available and helpful

Looking at savings via, internal cost reduction, shared services, partnership with not for profits

Consultation needs to be on a project or service provision basis as if you ask the community do you favour a rate rise, they will always say no!

Timing of the announcement of the cap not good.

We were an active participant in developing the guidelines and made submissions.

Need clarification on how DCP reserves are to be viewed

Need clarification on how ESC wants actual supplementary income calculated for the base year.

We are interested to know what level of tolerance the ESC is going to have in the reporting on the outcome of year 1. for councils if the average rate is higher than the cap due to the actual supplementary rate inclusion.

General comments on rate capping

Tough job for the ESC

Bad publicity from the State Government towards local government does not help joined up and cooperative government

Relationship between State and local government needs to improve

Model LG framework/data/chart of accounts needed

Currently working with five shires on shared services, a bit hit and miss but getting a common chart of accounts and handling of overheads and unit costs would assist

Local Government financial reporting needs to be understood by the community, some of its complexity needs to be removed and a standardised approach taken.

Need an LG agreed distribution of overheads to council services

All levels of government under financial pressure

Getting the level of community consultation right is hard, there is a role for councils to show

leadership

Community has often expressed to Councillors, you are elected you sort it out!

Need reform in sector and current effort mediocre

Common unit costing between councils would be useful

Could look at more formal regional groupings of councils to gain better shared services outcome, like the Hunter Group of Councils in NSW

Could be short term gain for long term damage

It is a popular policy

Has put downward pressure on EA costs

Rural councils have less financial flexibility than Metros.

There are significant savings if shared services model can be made to work

Not sure where the efficiency factor with the determination of the rate cap is going if Minister is only going to use CPI.

Some councils still struggling with governance issues, makes discussion on finances very hard.

Contradictory messages, new Act - more autonomy- FGRS less autonomy, what is the real message

Hard to plan 10 years when you don't the know the levels of the expected cap

How does ESC handle ratepayer submissions

What do base levels of service look like?

Regional approach could work needs to be formalised

Standardised accounts would be of immeasurable use to smaller councils

Need to standardise council reporting framework

Appendix 4 — Summary of peak body responses

General Views

MAV ESC perceived initially as light touch, built the wrong expectations
 Felt come out with the format and work through an example, show what a solid case looks like.
 Forget getting tied up with community consultation concentrate on the financials, services and assets

Summary

1. Community consultation clarity - understand the role of the community elected Councillor
2. Clarify the management accounting information, common service definitions, overhead allocation, chart of accounts, - how and what services cost
3. Much clearer idea of gearing - how Councils use debt, the management and use of debt.
4. How to help build the backend and capacity of Councils as there is a significant push for digital transformation.

VLGA How is the ESC prioritising the criteria in the Act?
 Need guidance on future CPI estimates for the 4 year higher cap applications

Some Councils felt the goal posts shifted though the application process due to Deloitte Access Economics involvement, need to make the assessment process transparent
 Some felt the outcome was political rather than rational

Advice from Deloitte Access Economics seems to set financial indicators around the handling of the balance sheet, underlying financial result parameters and the use of debt.
 The guidelines does not reflect long term planning
 The revised LG Act, sector reform and the FGRS need to get a clearer picture of what this about
 Best value - where is this at?
 Reality year 1. It was a political decision.
 Why is the ESC auditing Councils strategies - Councils Vs ESC?
 Appears ESC has strong views on what Councils should look like.
 ESC has a lack of knowledge about the sector
 ECS should not overstep its remit, it is a regulator not a reformer, reform of local government should be with LGV
 ESC staff when requiring information wanted a prompt response from Councils but were slow themselves to respond to Councils

LGPro Pretty extensive amount of information was required for the applications and request for information
 The ESC seemed to have to fill in the gaps as they went
 Maybe deploy an ESC officer on site to assist smaller councils
 Feedback that the Growing Suburbs Fund should offset rate rise
 Smaller councils have less ability to use user charges such as parking fees, like metros to offset revenue loss from capped rates
 Sticking point on regional approach is that current regional partnership model does not include elected representatives

Very hard to forward plan when you have no confidence in what the % rate increase will be in the future.

Minister should set 4 year vision for caps

How does the rate capping application process work with the new Red Tape

Commissioner, we are not getting rid of over abundant regulations

IPWEA Councils who did not apply were seeing how the process operated and acknowledged it was an opportunity to look to internal efficiencies - it has put downward pressure on Council costs.

Can be seen to drive better understanding of asset management

Need to develop a more sophisticated model for strategic asset management

Should assist with greater level of cooperation between councils

Concerned that training and development budgets maybe targeted for savings

Have appreciated the involvement with ESC and see opportunities with how ESC works with LG over the next years.

Looking at newer models for community consultation ie citizen juries on projects and industry workshops.

Ministers announcement in December of rate cap is a very awkward time of the year

Finpro Lack of clarity in guidance material

No guidance on services breakdown in template, some councils kept them at a high level others went into detail

Why are the spreadsheets for the ESC and VGC reporting different?

How does the LGV performance reporting framework fit into the process?

Guidelines were distributed too late, but understood as it was year 1.

ESC needs to do more to engage with the sector, in particular understanding the local government, ESC staff excellent

What have the ESC learnt from the performance reporting work they undertook a number of years ago.

Timing this year is going to make the process difficult as from late September until after the election we will be in caretaker mode and financial planning with council consent is on hold.

ESC should consider allowing councils to comment on the final decision on the higher cap prior to public release.

If ESC is commenting on the quality of the information the council provided the council should get the right of reply.

Appendix 5 — Summary of ratepayer group responses

Victorian Ratepayers Association

Murrindindi concerned ratepayers

Concerned that councils will cost shift expenditure from general rates to service charges to get around rate capping.

Unsure what level of meaningful consultation councils will undertake to ensure residents are well informed of issues associated with rate capping?

ESC needs to ensure all the information that informed its final decision and reasons on higher rate cap applications from councils are made available to the public

What will the ESC do if the information from the council is incorrect and misleading?

Appendix 6 — Council written responses



25 August 2016

Via email: Peter.Brown@esc.vic.gov.au,

Dear Peter

Thanks for your Circular – Fair Go Rate System – Review of the ESC Process

Maroondah welcomes a review of the first year of implementation of the new system. While Council has a history of living within its means over many years, the implementation of rate capping in a revaluation year without any state-wide media coverage similar to the Fire Services Levy, has significantly increased the amount of contact from ratepayers regarding the rate cap and its application relative to valuation increases.

In relation to the process for rate cap variations, it would be preferable if the timing of response by the Commission to individual Councils on their submissions occurs earlier. For the 2016/2017 Budget process, the responses appeared to be extremely late in the budgetary processes especially given this was a revaluation year. I feel Councils would require more certainty a lot earlier than was the case this year. This will become even more relevant if in the upcoming review of the Local Government Act there is a requirement for Rating Strategies to be regularly prepared and reviewed.

In addition, the sector and I suspect the ESC would benefit from a consistent and accepted methodology for the classification and description of local government services so that they can be genuinely benchmarked across the sector. If this was the case, it would be a relatively straight forward process to assess comparative efficiencies when considering if further revenue was required rather than a closer focus on expenditure.

We look forward to the outcome of the Review.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Steve Kozlowski', with a long horizontal flourish extending to the right.

Steve Kozlowski
Chief Executive Officer



Frankston City Council

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Telephone: (03) 9784 1817

Peter Brown
peter.brown@esc.vic.gov.au

28 July 2016

Dear Peter

INDEPENDENT REVIEW OF THE ESC PROCESS AND APPROACH IN RELATION TO THE FAIR GO RATES SYSTEM HIGHER CAP APPLICATIONS

I write in response to your recent request for sector feedback on the current ESC process to considering higher cap applications and in particular the workability of the timelines in the application process.

As you will be aware, at present the following year's cap is not announced by the Minister until mid to late December – the actual announcement in 2015 was 23 December, 2015. With Councils typically in recess from mid-December to mid-January, Councils have very little time to consider the impacts of the announced cap before having to notify the Commission of their intention to apply for a variation before 31 January.

Where a Council reaches a conclusion at this point to apply for a variation, its ability to commence an appropriate community engagement process on the intention to apply for variation, including the alternative options that Council has considered is very limited in the remaining two months that Council has to submit the variation application.

The current timelines where variation applications close at the end of March and with the ESC then having two months to assess applications is also very problematic in terms of Council's annual budget timeframes. For example in the case of Frankston City Council, the 2016-2017 Annual Budget was adopted on 16 May 2016.

Whilst it is acknowledged that existing legislation allows a Council to advertise a draft budget with statements within that document in respect of outstanding applications for a rate cap variation, it is far from ideal that the displayed budget may in fact vary significantly from the adopted budget due to a decision on rating levels by the ESC.

Frankston City Council submits that the timelines for the assessment of rate cap variations needs to be reconsidered with final decisions being required from the ESC not later than 31 March. This would require obviously a change to earlier dates with Council applications being due by 31 January and with the Ministerial announcement of the cap to be applied not later than 31 October in the year prior.

Council would be pleased if this suggestion could be given further consideration.

Yours faithfully



Tim Frederico
DIRECTOR CORPORATE DEVELOPMENT

Appendix 7 — Contributors to the report.

Council Officers		
Ballarat	Glen Kallio	Director Business Services
Banyule	Mark Giglio	Director Corporate Services
Bayside	Adrian Robb	CEO
Bass Coast	Brett Exelby	Manager Finance
Bendigo	Travis Harling	Manager Finance
Brimbank	John Watson	Chief Commissioner
	Paul Younis	CEO
	Shane Mahon	Chief Financial Strategist
Buloke	John Hicks	CEO
	Bill Hutcheson	Director Corporate Services
Cardinia	Garry McQuillan	CEO
	Derek Madden	General Manager Corporate Services
Casey	Mike Tyler	CEO
	Andrew Davis	Acting Director Corporate Services
	Kathryn Seirlis	Rate capping Strategy Coordinator
	Darren Booth	Manager Capital Works
	Charles Nganga	Deputy Chief Financial Officer
Colac/Otway	Mark Lyons	General Manager Corporate Services
Corangamite	Andrew Mason	CEO
	David Rae	Director Corporate and Community Services
Dandenong	John Bennie	CEO
	Mick Jaensch	Director Corporate Services
Darebin	Allen Cochrane	Chief Financial Officer
Frankston	Tim Frederico	Director Corporate Development
	Kim Jaensch	Manager Financial Services
Glen Eira	Rebecca McKenzie	CEO
Horsham	Graham Harrison	Director Corporate Services
Maroondah	Steve Kozlowski	CEO
Maribyrnong	Stephen Wall	CEO
	Celia Haddock	Director Corporate Services
Mitchell	Nicole Maxwell	Manager Finance
Monash	Ossie Martinez	Director Infrastructure Services
Moonee Valley	Anthony Smith	Director Corporate Services
	Damien Hogen	Acting Manager Finance
Moorabool	Rob Croxford	CEO
	Stephen Ivelja	Chief Financial Officer
Moreland	Nerina DiLorenzo	CEO
	Fiona MacPherson	Corporate Planner
Moyne	Trevor Greenberger	Director Physical Services
	Kevin Leddin	Director Corporate Services
Mt Alexander	Bradley Thomas	Manager Finance
Murrindindi	Margaret Abbey	CEO
	Andrew Bond	Manager Business Services
	John Canny	Manager Infrastructure Assets
	Michael Chesworth	General Manager Corporate and Community Services

Pyrenees	Evan King	Director Corporate and Community Services
Queenscliffe	Lenny Jenner	CEO
	Lynne Stevenson	General Manager Corporate and Community Services
	Jessica Chappell	Communications Coordinator
South Gippsland	Tim Tamlin	CEO
Surf Coast	Keith Baillie	CEO
	Anne Howard	General Manager Governance and Infrastructure
	Gabby Spiller	Coordinator Management Accounting
	John Brockway	Manager Finance
Swan Hill	David Lenton	Director Corporate Services
	Tony Heffer	Customer Service and Revenue Coordinator
Towong	Juliana Phelps	CEO
	Jo Shannon	Director Community and Corporate Services
	Blair Phillips	Manager Finance
Wangaratta	Brendan McGrath	CEO
Warrnambool	Bruce Anson	CEO
Whitehorse	John Gorst	Manager Finance and Corporate Performance
Whittlesea	Helen Sui	Director Corporate Services
Wyndham	Binda Gokhale	Manager Finance and Property
Yarra	Vijaya Vaidyanath	CEO
	Andrew Day	Director Corporate, Business and Finance
Yarra Ranges	Glenn Patterson	CEO
	Troy Edwards	Director Corporate Services
	Angelica Marshal	Manager Finance and Performance

Peak Bodies, ratepayer and consultants

Local Government Victoria	Graeme Emonson	Executive Director Local Government Victoria
	Mark Grant	Director Sector Performance and Development LGV
MAV	Rob Spence Owen Harvey-Beavis	CEO
VLGA	Dr Andrew Hollows Justin Kahn	CEO
IPWEA (Victoria)	David Hallet	CEO
LGPro	David Priess	CEO
FinPro	Gabrielle Gorde	Executive Officer
Ratepayers Victoria Inc.	Dr Chah Chea	
Murrindindi Resident and Councillors	Cr Eric Lording	
	Cr Chris Healy	
	Lyn Gunter	
	David Hunt-Sharman	
	Joe Carbone	Independent Consultant (performance measurement)
	Graeme Samson	Independent Consultant (ESC internal FGRS review)