



Council Rate Cap Compliance 2021–22

Compliance Report

18 November 2021



An appropriate citation for this paper is:

Essential Services Commission 2021, Council Rate Cap Compliance 2021–22: Compliance Report, 18 November

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Introduction

We monitor and report on council compliance with the rate caps under the Fair Go Rates system (see Appendix A and B for more information).

In this paper, we report on:

- whether each council, in setting its rates for 2021–22, was compliant with the average rate cap or a higher cap (if applicable)
- changes to service charges for 2021–22.

Compliance with the rate caps for 2021–22

How rate caps are set

The Fair Go Rates system limits the maximum amount a council can increase its average rates in a year without seeking approval for a higher cap. 'Average rates' refers to the rates paid by the notional average ratepayer, and is calculated as total revenue from general rates and municipal charges divided by the number of rateable properties.

Each year the Minister for Local Government sets the average rate cap for the following rating year by general order. A council may apply to us for a higher cap. If we are satisfied that the proposed higher cap meets legislative requirements, we set a higher cap by special order.

To comply with the rate cap, the percentage change in a council's average rates must not exceed the rate cap specified in a general order or special order that applies to it.¹

All councils complied with the rate cap

Based on the data councils provided to us in the annual compliance information for 2021–22, all councils complied with the average rate cap.

The Minister for Local Government set the average rate cap at 1.50 per cent for the 2021–22 rating year, which all councils were required to comply with. For the first time since the introduction of rate capping, no councils applied for a higher cap and no higher caps approved in previous years remained in force.

Each council's compliance information is certified as accurate by the council's chief executive officer. We run a range of checks on the data submitted by councils to validate their compliance, but do not independently verify the underlying data submitted by each council.

Councils followed different processes to amend their rates after adopting their budgets

Councils are required to declare their rates and adopt their budgets by 30 June of each year. To ensure they are compliant with the rate cap, some councils amend their rates in the dollar or municipal charge after adopting their budgets.² Councils do this when unexpected valuation

¹ The definition for the average rates is shown in Appendix A.

² A property's general rates are calculated by multiplying the valuation of property by the rate in the dollar. If a council decreases its rate in the dollar, it decreases its general rates revenue and average rates. Similarly, if a council decreases its municipal charge, it decreases its municipal charge revenue and average rates.

changes or other calculation errors means that the rates the council initially set would not have complied with the rate cap.

In 2021–22, four councils changed their rates in the dollar or municipal charge to ensure that they were compliant with the rate cap. We note that these councils followed different processes in resetting their rates:

- Mildura Rural City Council changed its rates in the dollar by amending its budget.
- Indigo Shire Council changed its municipal charge by redeclaring their rates in a council meeting.
- Benalla Shire Council and Central Goldfields Shire Council both updated their rate notices.

These councils provided the commission with evidence to show that the amounts levied on their communities were compliant with the rate cap. It is the responsibility of councils to ensure that the process they follow to amend their rates meets the requirements of the Local Government Act 2020.

Some of last year’s non-compliant councils took corrective action

In 2020–21, three councils were non-compliant. These councils took different actions in response to their non-compliance. Councils are not legislatively required to rectify past non-compliance and it is up to councils to decide what corrective action, if any, is appropriate.

Table 1 Non-compliant councils in 2020–21

Council	2020–21 rate increase (2.00% rate cap)	Corrective action
Darebin City Council	2.01%	Council did not propose to take further action as the amount was minor (\$814 for the entire council).
Frankston City Council	2.04%	Council returned funds to each ratepayer in the February quarterly rate notices.
Pyrenees Shire Council	2.07%	Council set a rate increase of 1.43% in 2021–22, 0.07% below the rate cap.

Changes to individual rate notices may be different from the rate cap

A council can comply with the rate cap even if individual ratepayers experience increases in their rate notices that are higher than the rate cap.

The total amount shown on an individual rate notice includes general rates, municipal charges, and other charges and levies. Changes in individual rate notices may be different from the rate cap for three reasons:

- The value of a property may increase or decrease relative to other properties in the municipality.
- Different rates in the dollar (called 'differential rates') may apply depending on how a property is classified. For example, whether it is classified as residential, commercial, industrial, or rural. If the classification of a property changes, the differential rate that applies to that property may change.
- Other charges and levies that are not included in the rate cap, such as service charges, may increase or decrease. The rate cap applies to general rates and municipal charges only.

Service charges in 2021–22

Service charges are not included in the rate cap. We monitor and report on councils that change the structure of their service charges. This helps us to identify any unexplained or unusual increases in service charge revenue. We report more broadly on trends in service charges in our biennial outcomes report.³

Most councils use service charges to recover waste costs

Nearly all councils levy service charges to fund kerbside and community waste services. Councils can also use service charges to recover the cost of water supply and sewerage services, however this is not common practice.

As of 2021–22:

- seventy-one councils use service charges to fund core kerbside waste services⁴
- five councils use service charges to partially fund the cost of waste services, such as charging for recycling or green waste only
- three councils do not levy service charges and fully recover waste costs through other revenue sources.

Councils did not move capped revenue into new service charges

Each year, we report on the introduction of new service charges to ensure that councils that shift revenue between general rates and municipal charges (capped revenue) and service charges (uncapped revenue) are transparent and accountable to their ratepayers.

We have not identified any councils that moved revenue from general rates into new service charges for 2021–22.

There are changes occurring to councils' service charges more broadly

While we have not identified any shifts between revenue sources, through the introduction of new service charges, there are other service charge changes occurring within the sector.

³ Our outcomes report is published every two years and is available on our website at <https://www.esc.vic.gov.au/local-government/rate-capping-outcomes-reports>

⁴ 'Core kerbside waste services' refers to garbage and recycling collection and can also include food and organics, glass, hard waste or other community waste services.

Overall, councils are budgeting to increase service charge revenue to \$827 million in 2021–22. This will increase service charges as a proportion of rates and charges revenue to 12.3 per cent, up from 9.5 per cent when rate capping was introduced.

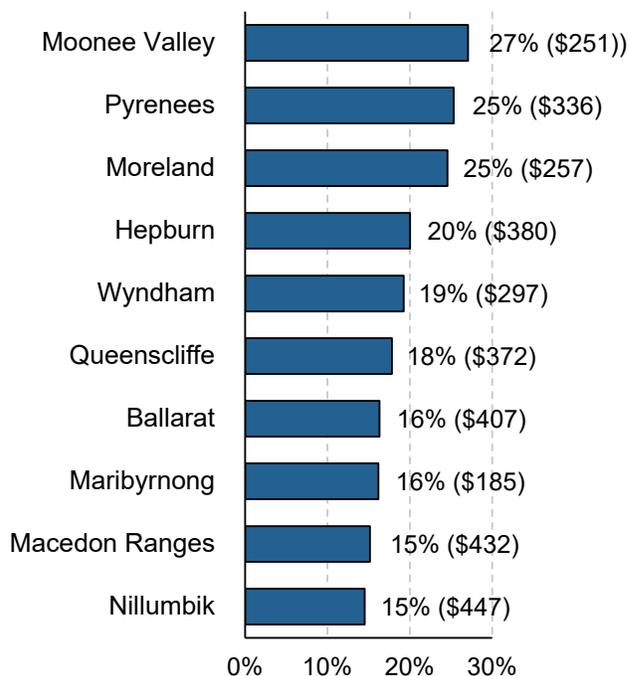
We observe that individual councils take different approaches in how they use service charges to fund waste services. In 2021–22, for the 71 councils that recovered service charges for core kerbside waste services:

- some councils made changes to their service charge structure, including further disaggregating charges by bin size, number of bins or service (such as separating community waste)
- service charge revenue per property ranged from \$107 to \$468
- the annual change in service charge revenue per property ranged from –10 per cent to 27 per cent. This included 19 councils that increased service charge revenue per property by more than 10 per cent.

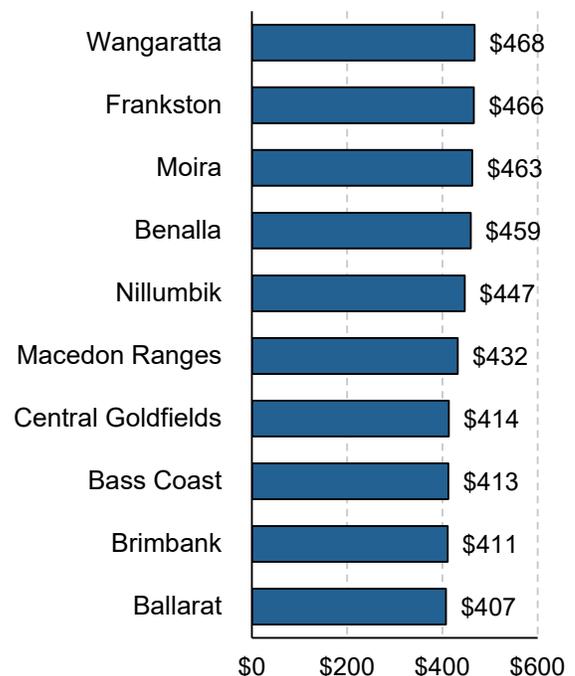
We will continue to monitor what is happening to uncapped rates and charges as councils respond to broader changes in the waste sector.

Council service charges in 2021–22

Ten largest percentage increases in service charge revenue per property, (total service charge revenue per property)



Ten largest amounts of service charge revenue per property



Source: council budgets. All data is publicly available. The increases are based on budgeted total service charge revenue divided by the number of rateable properties and only include the 71 councils that use service charges to fund core kerbside waste services.

Next steps

We will release updated guidance for councils in early 2022

We will release the updated annual compliance information template and guidance for councils on complying with the rate cap in early 2022. We will publish this on our website and notify councils by email.

We encourage councils to contact us to discuss any queries regarding the annual compliance information. Councils can call us on (03) 9032 1300 or email us at localgovernment@esc.vic.gov.au.

Information for ratepayers

For more information on our role under the Fair Go Rates system or to access past compliance reports, you can visit our website www.esc.vic.gov.au/local-government.

Appendix A: How average rates are calculated

Base average rate^a

BAR = R_b/L where

- BAR is the base average rate
- R_b is the total annualised revenue leviable from general rates and municipal charges as at 30 June in the base year (2020–21)
- L is the total number of rateable properties as at 30 June in the base year (2020–21)

Capped average rate^b

CAR = R_c/L where

- CAR is the capped average rate
- R_c is the total annualised revenue leviable from general rates and municipal charges as at 1 July in the capped year (2021–22)
- L is the total number of rateable properties as at 1 July in the capped year (2021–22)

^a Section 185B, Local Government Act 1989. ^b Section 185C, Local Government Act 1989.

Appendix B: Our role in monitoring and reporting compliance

Under section 10E(1)(a) of the Essential Services Commission Act 2001, we must monitor and review council compliance with the rate caps set under Part 8A of the Local Government Act 1989. Under section 10E(2) of the Essential Services Commission Act 2001, we must prepare an annual report on council compliance with the rate caps.

How we assess compliance with the rate caps

To assess council compliance with the rate caps:

1. all councils must submit annual compliance information to us in September each year. This includes the annual compliance information template and rating system reports certified by each council's chief executive officer
2. we ask each council to explain any differences between the template and rating system reports and any other anomalies
3. the template uses each council's data to calculate its base average rate, capped average rate and average rate increase (rounded to two decimal places).

$$\text{Average rate increase} = (\text{capped average rate} - \text{base average rate}) / \text{base average rate} \times 100$$

4. we assess whether each council's capped average rate does or does not exceed its base average rate by more than the rate cap.
 - A council is compliant if its capped average rate does not exceed its base average rate by more than the rate cap (i.e. its average rate increase does not exceed the rate cap).
 - A council is non-compliant if its capped average rate does exceed its base average rate by more than the rate cap (i.e. its average rate increase does exceed the rate cap).

We generally consider that non-compliance is 'immaterial' if it is negligible and of no immediate concern.