LOCAL GOVERNMENT RATES CAPPING AND VARIATION FRAMEWORK

ESSENTIAL SERVICES COMMISSION DRAFT REPORT 2015

SUBMISSION BY NILLUMBIK SHIRE COUNCIL

This submission responds to the draft report released by the Essential Services Commission (ESC) in July 2015 regarding the proposed Rates Capping and Variation Framework for Victorian Local Government.

The ESC draft report makes a series of recommendations. These have been developed following a consultation process in the first half of 2015, which involved the release of a consultation paper and the consideration of submissions.

Having considered the recommendations in the ESC draft report, Council supports several of these as follows:

- Council supports the ESC recommendation for a cap that incorporates both the Consumer Price Index and the Wage Price Index, as this approach recognises that labour costs are a significant component of Council's budget and are not reflected in the Consumer Price Index.

- Council supports the ESC recommendation that the cap is to be based on a 'per-assessment' calculation, as this approach reflects the impact on the average ratepayer.

- Council supports the ESC recommendation that the cap be applied to General Rates and the Municipal Charge, but not Service Charges (particularly waste management charges).

However Council does have concerns regarding three issues as follows.

1. Cost-shifting and the efficiency factor

The first significant issue of concern to Council regarding the ESC draft report's recommendations relates to the requirements to justify a variation application. In particular, this concern relates to the fundamental difference between two types of variations:

1. Variations that involve a council decision to increase spending on services or infrastructure. These should rightly require strong justification and evidence of community support and need.

2. Variations that do not involve a council decision to increase spending on services or infrastructure in response to community need, but are related to declines in grants or other cost shifting, which need to be accommodated merely to maintain existing service levels.

Councils continue to experience significant levels of cost shifting, including:

- Real terms declines in State or Commonwealth Government recurrent grants
- Real terms declines in statutory fees and charges that are set by State or Commonwealth Government but are collected as Council revenue
- Increases in State or Commonwealth Government taxes or levies paid by Councils
- Increases in Council responsibilities arising from changes in State or Commonwealth legislation or policy
- Statutory requirements to fund superannuation shortfalls or increases in the level of the Commonwealth-legislated superannuation guarantee

The above factors should not require councils to demonstrate community support for a variation, as these factors are not caused by a council decision. The onus should be on the decision makers (State and Commonwealth Governments) to take responsibility for their own decisions on such matters, and to undertake the necessary community consultation before making the decision.

Council proposes a solution to this issue through adjustment to the efficiency factor in the calculation of the rate cap. The ESC draft report proposes an efficiency factor initially set at 0.05% and growing by 0.05% each year. The amount of the efficiency factor is deducted from the rate cap each year, as a further constraint on the level of growth in rates, and the expectation that councils will find efficiency gains.

Council considers that this efficiency factor should be adjusted each year by the ESC to take account of the effect of cost-shifting. If no cost-shifting has occurred, then the efficiency factor would not require any adjustment. If cost-shifting has occurred, then the efficiency factor would be adjusted to reflect this.

Assessment of real terms impacts of cost-shifting would be made by reference to the same cost index that is used for rate capping purposes. In other words, the expectation would be that the State or Commonwealth Government will index their grants and fees at the same level as the rate cap. If not, the difference would represent the cost-shifting impact. If the impact of cost-shifting exceeded the value of the efficiency factor in a particular year, then the efficiency factor would then become an addition to the rate cap for that year (rather than a deduction from the rate cap).

By way of example, Council has recently been advised by the Victoria Grants Commission that its Financial Assistance Grant for 2015-2016 will be $3.2 million. This represents a reduction of $125,000 compared to 2014-2015, which is due in part to the Commonwealth's freeze on indexation. If this grant had instead been indexed by an amount similar to the rate cap (say 3%) then Council would have received an increase of $96,000 instead of a reduction of $125,000. Overall this represents a real terms reduction of $221,000 in the value of this grant, which is equivalent to 0.37% of Council's budgeted rates revenue for 2015-2016.

This amount is significant for Council in terms of maintaining a balanced budget over time, particularly when such cost-shifting trends compound over multiple years, as has often been the case. However the impact on individual ratepayers is insignificant. In this case, an additional rate increase of 0.37% would cost the average Nillumbik ratepayer an extra $9.65 per annum.

The draft report (page 62) suggests that councils should engage with their local community regarding how to manage the impact of such grant reductions. Council does not consider this to be an appropriate or efficient approach. Ratepayers are unlikely to be interested or engaged regarding such a minimal amount. Further, consideration of options to reduce service levels will be very limited given the amount involved, as the consultation will relate to maintenance of existing service levels rather than any enhancement to service levels.

As stated in Council's response to the earlier ESC Consultation Paper, there is a fundamental difference between a Council proposal to increase rates to deliver higher service levels, and an increase in rates to cope with the impact of external decisions by the Commonwealth or State Government. Council therefore considers that an appropriate approach to managing cost-shifting can be achieved through adjustment of the efficiency index as explained above.

This approach would provide a transparent, independent and objective process whereby the ESC assessed the level of any cost-shifting for each year. This would be consistent with the overall methodology of the framework, whereby the relevant impacts of CPI and WPI are used in calculating the rate cap. However neither of these indices takes account of cost-shifting. This approach would rectify this issue.

If this approach is not supported by the ESC, then an alternative approach would be to abolish the efficiency factor. This would recognise the fact that the overall rate capping framework is already going to require councils to derive efficiencies, by managing external impacts such as cost-shifting which are not reflected in the calculation of the rate cap.

2. Process and timing for variation applications

The process and timing of variation applications is problematic. Council is required by the Local Government Act to adopt its budget by 30 June in respect of the following financial year. Prior to this, Council must exhibit the draft budget for one month, consider any public submissions, and determine any changes to the draft budget arising from the public consultation process. This requires Council to approve a draft budget no later than late April.

Council considers that adoption of the budget prior to the commencement of the new financial year is good practice. The ESC suggestion of a later date for budget adoption ("say, in August") would not be consistent with good practice. It would also be problematic in terms of the issue dates for rate notices and the first instalment due date in September.

The draft report suggests that there should be sequential processes with public exhibition occurring after the ESC decision is made on a variation application by May. An ESC decision in May will not enable the statutory deadline of 30 June to be achieved under this approach.

This problem could be overcome if councils that are seeking a variation are able to exhibit their draft budget for public consultation at the same time as the ESC is considering the variation application. In this way, by the beginning of June the council would know the ESC decision, and the outcome of the public budget exhibition process, before finalising the budget prior to 30 June.

In Council's previous submission to the ESC consultation paper, it was recommended that any applications for variation should be lodged by councils by December. In the ESC draft report there is a clear expectation that councils will have undertaken community consultation about a possible variation prior to making an application to the ESC. It is therefore unclear why the ESC has recommended that council applications for variations do not need to be lodged until March, with ESC decisions to be made by May.

An earlier time for lodgement of the full variation application by councils (say December) would enable an ESC decision to be made by March (rather than May). The council could then proceed to finalise the draft budget and resolve to place it on public exhibition by the end of April, and complete the rest of the process by June.

3. Cost of administration of the framework

As stated in Council's previous response to the Consultation Paper, Council maintains that the costs of administration of the framework should be borne by the Victorian Government. The introduction of rate capping is a matter of government policy, and the related costs should therefore not be borne by councils.

Conclusion

Council looks forward to the Commission's consideration of these three recommendations for further improvement of the framework. Any enquiries can be directed to Mr Andrew Port, General Manager Corporate Services on 9433 3270.