

File No: FOL/15/1588



20 May 2015

Corporate Centre
76 Royal Avenue, SANDRINGHAM
PO BOX 27 SANDRINGHAM VIC 3191
T (03) 9509 4444
F (03) 9508 4474
enquiries@bayside.vic.gov.au
www.bayside.vic.gov.au

Dr Ron Ben-David
Chairperson
Local Government Rates Capping and
Variation Framework Review
Essential Services Commission
Level 37
2 Lonsdale St
MELBOURNE VIC 3000

Via email: localgovernment@esc.vic.gov.au

Dear Dr Ben-David,

**Local Government – Rates Capping and Variation Consultation paper,
April 2015**

Please find attached the Bayside City Council Submission responding to the Consultation Paper issued by your Commission on the proposed Rate Capping Framework.

Thank you for the opportunity to provide feedback at this stage of the process. Bayside looks forward to ongoing opportunities to work with the Commission to ensure that State Government policy in this area is implemented with positive results for the Local Government sector and local communities.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Adrian Robb".

Adrian Robb
Chief Executive Officer

Enc





Bayside City Council
Submission
to the
Local Government - Rates
Capping and Variation
Framework
Consultation Paper

May 2015

Executive Summary

Bayside City welcomes the opportunity to provide input into the development of the Rate Capping and Variation framework. This paper contains a detailed submission on the consultation paper issued by the Essential Services Commission.

Council is deeply concerned about the prospect of losing control of the ability to make decisions about Rates and Charges which accounts for around 70% of its total revenue. The State Government Policy to link increases in Council rates to movements in the Consumer Price Index has the potential to erode Council's ability to provide critical services and facilities to our local community.

In developing a framework to implement State Policy, Bayside believes that the Commission should consider the following key issues:

1. Any cap on increases to rates and charges must be based on a reasonable measure of the increase in the costs to Council of delivering services and infrastructure. The Consumer Price Index is not the tool to use for this task and a more appropriate index that is specific to cost movements in the sector should be developed and used to inform the cap.
2. The process to seek variations above the cap needs to be based on the lightest touch possible and should be based on a series of thresholds that determine the extent of justification required by the Commission.
3. The Commission must be able to deal with variation applications quickly so as not to impede the proper planning and budgeting of Councils.
4. Multi year approval of variations is strongly supported.
5. Any cap should relate to general rates and the municipal charge only. The waste charge for the collection and disposal of residential garbage should be based on a fee for service basis to reflect the recovery of the costs of delivery this service.
6. The Commission should convene a technical reference group including experienced sector representatives to work through the detailed mechanics of how the cap would be calculated to appropriately deal with supplementary valuations and the general revaluation. Bayside would welcome the opportunity to participate on such a group.
7. Engaging the community in an informed way on the level of Council rates and service priorities is a complex task and the variation process should be based on a reasonable expectation of how this engagement can be undertaken.

Bayside urges the Commission to develop a framework that delivers on the policy intent of the Government without introducing layers of cost, bureaucracy and a decline in the critical services provided by Councils to local communities.

Response to Principles

Bayside generally supports the Principles set out in the Consultation Paper. The following suggestions and comments are provided to ensure clarity and completeness:

Principle 1

This principle is supported. In relation to the third dot point consideration needs to be given to the cost and time required to demonstrate engagement with the community. The expectations around community consultation should be balanced against the resources required to be expended. The principle should require a reasonable and practical level of engagement.

Principle 2

Supported.

Principle 3

Whilst this principle is supported there appears to be a contradiction between maintaining Council's autonomy and the creation of a system that controls the ability of Councils to make decisions about its most important revenue source.

If this principle is to be seriously applied the process of setting the cap and seeking variations should be the lightest touch possible and provide Councils with maximum flexibility.

Autonomy would be preserved if the Essential Services Commission process provided guidance on what would be considered 'reasonable' levels of rate increases rather than a mandatory approval process. If a Council sought to increase its rates above the recommended 'reasonable' level it would face the task of convincing its community that it was acting in the community's best interest.

Principle 4

Supported.

In the fifth dot point, the grounds for an increase above the cap should be broadened to pick up a range of other matters. These other grounds include cost shifting from other levels of government, reduction of grants, natural disasters, major cost increases for service delivery beyond the control of Councils.

Principle 5

Supported.

However, the extent of community consultation on all of the matters listed in dot point 2 needs to be considered in the context of what is reasonable and practical.

Principle 6

Supported.

It should be noted that Councils are already required to seek public submissions on its annual budget and Council Plan. Local Government is the only tier of government that undertakes this type of consultation.

Principle 7

Supported.

Bayside strongly supports multi year approvals for variations above the cap. Effective long term financial planning cannot be achieved in an environment where uncertainty about rating levels exists beyond a one year period.

Principal 8
Supported.

Response to Detailed Questions

Q1.

CPI is clearly an inappropriate measure of the movements in costs of the delivery of Council services. Councils cost structure is based on salaries/wages, construction costs, utilities and general contractors. All of these costs have historically escalated at rates greater than CPI. Regardless of how efficient a Council is it will not be possible to limit the growth in service costs to CPI, particularly given the recent trends in this index.

Should CPI be used as the basis of the rate cap the inevitable result will be that all Victorian Councils will be compelled to seek variations above the cap or face the creeping emasculation of the services provided to the community.

This will be a resource hungry approach for both the ESC and Councils and introduce substantial delay in the budgeting process of Councils and introduce uncertainty in future planning for infrastructure spending and service delivery.

Q2.

Alternative indices should be explored to provide a more realistic measure of the reasonable increase in Council costs. One approach would be to develop an industry specific measure of cost movements based on existing ABS indices that measure the movement in costs relevant to Local Government.

This would be consistent with the Governments objectives of constraining unreasonable rate increases whilst allowing reasonable increases to proceed without clogging the variation process and the inevitable cost associated with 80 Councils seeking approvals.

Q3.

Councils cannot discharge their financial responsibilities effectively in an environment where they have no idea what is likely to happen to their major income source beyond the current year.

Indicative caps should be set for a four year period to allow for longer term planning. In addition, a process for obtaining multi Year approvals above the cap is strongly supported. An annual process provides no certainty and limits the ability of Councils to appropriately plan. Councils are already required to produce Strategic Resource Plans covering a 4 year period which provides the basis for medium term planning.

Linking approvals above the cap to a robust 4 year financial plan will provide greater certainty and be a far more efficient and timely approach.

The multi year variation process needs to be flexible enough for Councils to seek amendments on an annual basis should there be a material change in circumstances.

Q4.

Any cap should be based on the forecast movement in an appropriately framed index of cost movements for the sector. Historical movements can quickly become irrelevant in a dynamic economy.

Once again CPI has very limited relevance to Local Government costs and if it forms the basis of the cap, all Councils will be forced down the variation path.

Q5.

If the cap is based on an appropriate measure of cost movement then it should apply consistently to all Councils. Factors that add cost pressures beyond the control of Council should be included in consideration, such as rapid population growth.

Q6.

The cap should be limited to rates and municipal charges.

Special rates and charges are only levied following an extensive consultation process with those affected by the charge and are directly linked to the delivery of specific benefit.

Legislative provisions are already in place to deal with circumstances where variations in costs develop.

The main service rate/charge used by Councils relates to waste collection and disposal. This is a fee for service arrangement where the cost per household is determined on a full cost recovery basis. This is a transparent and comprehensible process from the community perspective and should be maintained.

The costs associated with waste management have been escalating rapidly due to the State Government imposed Landfill Levy and the scarcity of landfill disposal options. If waste charges are included in a CPI based cap it will force a cross subsidy of this service from rates revenue and a consequential reduction in many other services. It is unclear what would be achieved by this approach.

Q7.

The cap should apply to average rates and municipal charges per assessment. This allows the effects of supplementary valuations and the revaluation process to be factored into the calculation in the most straight forward way.

Applying the cap to total rates revenue would raise a range of issues relating to the impact of supplementary valuations and if this course is to be taken it is suggested that a technical reference group be formed to work through the detailed mechanics of how this would work. The key issue is to ensure that the cap applies to the increase in rates on existing properties and the effect of growth in the number and/or value of properties is separately identified and dealt with appropriately.

Q8.

Supplementary rates reflect the growth in properties within the municipality and should not be caught up in a rates cap. If the cap is based on average rates and municipal charges the issues relating to supplementary rates are eliminated.

Q9.

The revaluation process raises no additional revenue for Councils it merely dictates how the burden of rates is distributed within a municipality based on relative property value. If average rates and charges is the basis of the cap the revaluation process has no impact. This is the most straight forward approach and is therefore supported.

Q10.

The base year should be 2015/16.

Q11.

The variation process should be designed in the most simple form possible to ensure that the ESC can process requests in a timely and efficient manner. If the cap is based on CPI all 80 Councils will be seeking a variation and if a complex and protracted process is developed the system will grind to a halt.

The development of the Budget and Strategic Resource Plan in most Councils currently occurs over a six month period including the existing community consultation process. The ESC approval process will no doubt add a time delay but this should be kept to the shortest possible time. If the ESC process takes months the entire planning cycle in Councils will be disrupted.

To avoid this Bayside suggests that:

- The application process is clear and straightforward
- Deadlines are established in which the ESC is required to consider and determine the outcome of variation applications
- Thresholds are developed where requests slightly above the cap (say plus 1%) are dealt with expeditiously with the extent of material to be supplied and the assessment process to be simple. Where increases substantially above the cap are sought a more rigorous approach would then be applied.

Q12.

Councils should be able to seek a variation in any circumstances where it believes that it is warranted. If the principle of autonomy is to have any real effect, Councils should at least have the right to seek variations based on local circumstances.

Q13.

In addition to those situations listed in the questions, as a minimum the exceptions should relate to funding required to close the infrastructure renewal gap, the development of new services where community support is evidenced, increases in service costs driven by factors beyond the control of Councils.

Q14.

The requirements set out in the question are considered reasonable provided that the burden placed on Councils to evidence these requirements is balanced and achievable without large cost impacts.

Q15.

Bayside is in the process of designing and implementing an innovative community engagement model that will involve identification of community priorities and what acceptable rates increases might be.

This process will be an excellent opportunity to look at effective ways of demonstrating community support to Council decisions on service delivery and rating levels.

The ESC is invited to engage with this process in the design phase in the interests of shaping a process that may have widespread application in the context of metropolitan Councils.

Q16.

The framework should be designed in a way that facilitates reasonable rate increase outcomes without the substantial diversion of resources to the variation approval process. The most likely unintended consequences are the gradual erosion of services and infrastructure caused by artificially low rate increase caps year on year. This can be avoided if the cap is based on a reasonable measure of the cost of delivering services and infrastructure.

Q17.

For Council to adopt a budget by 30 June each year it must commence the public submission process in early May. To achieve this outcome the budget parameters need to be set by February at the latest to allow the development of the detailed budget.

If major disruption to the budgeting and planning process is to be avoided, advice about the rate cap would be required in the preceding October. This would allow Councils to consider whether a variation was required and provide sufficient time for an application to be lodged (by say Mid November) and assessed by the ESC by the end of January.

This might be achievable if the process is straight forward and a relatively small number of Councils seek a variation. If the cap is set at a level that forces all Councils to seek a variation and the approval process is complex the timing of the entire budget and planning processes of Council will need to be recast.

The process and timing issues can be mitigated by the following:

- set a workable rate cap that reduces the number of Councils seeking variation
- ensure the design of the variation process is workable and reasonable in terms of expected supporting information
- develop thresholds that require increasing levels of rigour as the variation sought moves further above the cap
- provide multi year approvals based on robust Strategic Resource plans.

Q18.

Transitional arrangements will be required for the 2016/17 year given the outcomes of the ESC review will not be available early enough for the Government to make informed decisions in time for Councils to respond to the requirements of the new regime.

These transitional arrangements need to respect that Councils will have very little time to undertake the level of community consultation in the first year that the ESC may expect.

Q19.

If the principle of local government autonomy is to be anything other than lip service, the ESC assessment of rates variations should be advisory with the final decision on rating levels to remain with the democratically elected Council.

Q20.

The framework should be reviewed after its first year of implementation to assess its impact and consider any improvements.

A detailed review should be conducted within three years.

Q21.

The costs of implementing the Rate Capping Framework should clearly sit with the State Government. Loading the costs of this onto Councils at the same time as demanding reduced rate increases would be unconscionable.

In the event this is not to occur, and providing the framework is clear, transparent and equitable, decision-making should be delegated to the ESC. However, Bayside reserves its position on this pending the final detail of the regime.