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Dear Dr Ben-David

Local Government Rates Capping and Variation Framework Consultation Paper

Thank you for the opportunity to provide feedback on the above consultation paper. The comments/feedback listed below has been referenced to the consultation paper contents and should be read as such.

Section 3 of the Paper sets out the Key Issues and the following responses are provided to those key issues:

1. Autonomy of Councils should not be compromised by rate capping

The implication that rate capping is the most effective method to ensure efficient delivery of services must be considered debatable at best. Further, rate capping has the potential to significantly restrict a Council's ability to make decisions about the services and infrastructure to be provided, as rate capping limits Councils' ability to set rates at a level they believe is necessary to fund the range and level of service delivery determined to be appropriate for the community they govern.

2. CPI is not the appropriate index of Council costs

The merits of using an alternative index to better reflect the underlying cost drivers in the Victorian Local Government sector need to be explored and considered by the ESC. It is anticipated that the Municipal Association of Victoria (MAV) would be actively engaged in any such process.

Adopting a multi-year cap is also considered highly desirable, as this would provide a degree of certainty for future budget planning.

3. Quality and level of service will deteriorate and infrastructure will run down if rates and charges are capped at CPI

It is essential that any rate capping framework has as a core principle, that the potential impacts on Local Government do not include deterioration in existing levels of service delivery to the detriment of the communities they serve. Appropriate asset renewal should continue to be required, but consideration must be given within the framework to how the differing costs that will be incurred by different Councils are to be accommodated.

4. Rates capping may create perverse incentives

Councils will need to consider the potential consequences on service delivery levels, how they deliver services and engage with the community in regard to any potential impacts on the level of service able to be provided into the future as a result of the imposition of rate capping.

5. There are lessons to be learned from rate pegging in New South Wales

Monitoring of Councils' ability to meet their infrastructure requirements will be important to the longer term sustainability of Councils. A process to monitor and review Councils' ability to undertake the appropriate level of infrastructure works, both operating and capital, will be important to ensure appropriate levels of service to the community are provided within the confines of the advised rate cap.

6. An additional layer added to the council budgetary and planning cycle

Stakeholders have suggested that under the current budgetary cycle there will be insufficient time for Councils to engage with ratepayers if the ESC requires additional engagement with ratepayers for a rate variation. Concerns have also been raised about whether the ESC will have sufficient time and resources to assess the rate variation applications each year.

The process for applying for a rate variation and the associated information requirements should be clearly set out and defined and not be so arduous as to actively deter legitimate applications for rate variations.

7. Ratepayers are concerned with historically high rates and wasteful or unnecessary spending by some councils

Councils should have robust asset management plans that identify and prioritise capital works required to be delivered each financial year. As part of developing the annual budget, the capital works program is already clearly articulated and made available to the community for review and comment.

In discussing ratepayer sentiment on either of the two points raised above, it is important to recognise that there may always be projects/works that arise unexpectedly that result in a change in priorities. Also, that because Councils are making decisions with the best interests of the wider community in mind, they will not always be judged by individual communities as having made the correct decision / prioritised appropriately.

8. VAGO delivered a critical assessment of 12 councils' rating practices

Council provides opportunities each year for community members to comment on the draft budget, including proposed rates and charges. It is noted that the ESC has provided an initial response advising that it will examine how a new rate capping and variation framework may address the issues raised by VAGO. The development process for any proposed guidelines developed by the ESC should allow for input and comment by Local Government.

Section 4 of the report provides information in relation to the approach being taken by the ESC and the following comments are provided in response to the eight principles.

Principle 1 – Local communities differ in their needs, proprieties and resources

Officers support the framework having the flexibility to respond effectively to the wide range of circumstances, special factors and changes that may affect Councils and their communities.

Principle 2 – Local communities and ratepayers are entitled to hold their councils to the highest standards of accountability and transparency when setting rates

The reporting that will result from the new LGPRF must be viewed in the context of the diversity and range of Councils and the services each provides to its community. Service levels may vary between Councils as a result of many factors, such as different population demographics, remoteness, community expectations, exposure to natural emergencies, etc.

Councils should have the autonomy to make service type and level decisions in consultation with their communities in response to specific needs and therefore, the ESC will need to be cautious in how the LGPRF is used to make links between rates and service levels.

Principle 3 – The framework should support the autonomy of councils to make decisions in the long term interests of their communities and ratepayers

It is vital that Councils continue to have autonomy in regard to decisions regarding services and resource allocation for their communities. It is equally important that the eventual rates capping framework does not result in an unintended diminution of existing service levels.

Principle 4 – Councils will need to satisfy the burden of proof outlined in the framework when seeking a variation above the cap

In considering the framework the ESC will need to determine how exceptional circumstances that may arise from time to time - such as a significant call for a top up payment for the Vision Super defined benefits scheme - will be taken into account if Councils apply for a variation at these times. These events significantly impact on Councils' ability to deliver services at levels expected by the community while ensuring that the longer term financial sustainability of the Council is maintained.

Principle 5 – Rate increases should be considered only after all other viable options have been explored

It is reasonable to expect that this is the normal practice of Councils and therefore, the approach being taken in the future would be no different.

Principle 6 – The framework should support best practice planning, management systems and information sharing to uphold council decision making

Council supports robust community engagement and actively encourages community participation and feedback as part of its current decision making processes.

Principle 7 – The framework should be flexible and adaptable

The framework needs to have the flexibility to adapt and improve while still affording Councils some certainty over future planning of service delivery and financial sustainability. While a transition period of twelve months to allow a short-term review of the implementation of rate capping and allow feedback and potential amendments to be made is supported, a period of two years would be preferred.

The ability for Councils to seek multi-year variations is supported on the basis of good financial planning, particularly to manage exceptional circumstances such as a significant call for a top up payment for the defined benefits superannuation scheme or a natural disaster. A multi-year variation would allow such impacts to be managed financially over multiple years and diffuse the annual impact on ratepayers.

Principle 8 – There should be few surprises for ratepayers and councils in the implementation of the framework

Both of these elements will be essential and are supported.

Section 5 of the report outlines the relevant questions that will assist in this consultation phase of the work in developing the rates capping and variation framework

1. Form of the Cap

The MAV has provided comment on the reasoning behind why CPI may not be the most relevant measure to be used in determining the level at which a cap should be set and its position is supported. It is important that the nature of the inputs into Councils' service delivery is considered in terms of the reasonableness of the rate cap that is to be imposed.

It will be important for budgetary and planning purposes that as a minimum, an indicative rate cap for future years is advised to Councils so that they can assess their longer term financial planning. Appropriate lead times for community consultation on rating and service delivery need to be provided, as without adequate time to undertake this consultation, proper assessment of Councils' potential variation requests will be difficult to determine.

Some Councils have a greater ability than others to raise revenue from sources other than rates. Many rural Councils have significant costs relating to infrastructure maintenance and renewal that many metropolitan Councils do not. Consideration needs to be given to how this will be factored into the framework and whether there will need to be different rate caps for different types of Councils.

2. Base to which the Cap applies

Service charges and special rates and charges should already be based on the direct cost of those services and may have inputs into the cost of delivery that are outside of the control of Councils. For example, EPA Victoria levies that may impact on the cost of waste collection may increase at significantly greater rates than CPI and Councils should be able to determine what the required charge should be on a cost recovery basis.

Officers consider that capping should be based on the total of Councils' general rates and municipal charge. Supplementary rates are already considered in terms of determining the rate base each year, so a process to ensure consistency in the treatment of supplementary valuations for determining the rate base should be established for all Councils.

Setting a cap on individual rate assessments is considered problematic given revaluations every two years. In a revaluation year valuation movements will vary between geographic locations and between the different classes of properties. To apply a cap to assessments would provide no certainty for future financial and budgetary planning and create a significant administrative burden for Councils.

3. What should the base year be? The variation process

The variation process should be set out clearly and also be framed to take into account the timelines that Councils must work to for adoption of the annual budget. Councils may encounter other circumstances such as a significant call for a Vision Super defined benefits superannuation scheme top up payment, which would be seen as an exceptional circumstance. When this occurs it will impact on all Councils, albeit to varying degrees, and there should be a process set out in the framework that allows for consideration of this particular issue as a special circumstance that can be considered from a sector wide perspective.

In terms of the information that may be required to be provided in the framework, the evidential requirements for any application for a variation it will need to be clearly articulated. For example, what would be the evidential requirement for Councils to show that they have made continuous and appropriate efforts to keep costs to a minimum?

4. Community Engagement

Council utilises many different avenues and processes to engage the community in a range of consultations. Traditionally when engaging with the community on the budget and rating, only a very small percentage of ratepayers and residents take the opportunity to provide comment and input and seek additional information.

It is usual for ratepayers to engage with Councils when they receive their annual rate notice rather than through the community consultation process. It appears that until the ratepayer or the community can see and quantify the direct impact on them, their interest in engaging in the process is minimal.

The framing of a best practice process approach against which Councils could review their current practices is supported.

5. Incentives

It is contended that the vast majority of Councils would already be pursuing ongoing efficiencies while responding to community needs. What would be useful in the framework is clear guidance around what the ESC believes demonstrates the pursuit of ongoing efficiencies, e.g. is it a continuous review of service standards; a zero based budgeting approach; other? In answering this question, care will need to be taken that the cost of any review requirements does not outweigh the potential benefits to be gained.

6. Timing and Process

Councils have a requirement to adopt the budget by 30 June each year. The existing statutory timeframe allows sufficient time to manage factors such as:

- the complex process required to be undertaken as part of robust budget development,
- the statutory requirement to undertake community consultation in accordance with Section 223 of the *Local Government Act 1989*,

- timelines for Council agendas to be prepared and made available to the public in advance of Council meetings at which budgetary matters are considered; and
- other administrative processes that surround the budget development.

As a result of the implementation of the framework and in particular, the need to determine whether an application for a variation may be required, draft budgets for the next financial year may need to be developed very early in a financial year. If it is determined that an application will be required, that decision would need to be reached within a timeframe that takes into account the budget advertising process where proposed rates and charges are included in the budget for public comment. If the timing of consideration of variations is outside the legislative timeframes, then process/guidelines would need to be in place to determine how Councils would manage this (e.g. application to the Minister for Local Government for an extension of time for budget adoption / readvertising of their budget?).

Whatever the framework is it must be clear, the process timely and current legislative and logistical requirements taken into account.

7. Transitional Arrangements

Phasing in over two years would provide Councils with the time and opportunity to undertake additional operational reviews, service delivery reviews and comprehensive consultation with communities to determine further how works and services may need to be prioritised as a result of the implementation of rate capping. The phasing process could potentially provide for an interim upper limit in year one with year two being the full implementation.

8. Other Matters

Major cost pressures of the kind referred to by the ESC will vary widely from Council to Council.

By way of example, East Gippsland Shire is the second largest municipality in area in Victoria but features a population of only 43,700 (approx.).

By 2021, 45% of the population in East Gippsland is expected to be aged 60+ years. It also has a high proportion of low-income households (36.8%) compared to the Victorian average. Over 75% of the Shire is in public ownership and therefore, non-rateable.

Council faces many challenges resulting from its geography, which extends from the ocean to the mountains. These include a history of regular natural disaster events; exposure to the impacts of climate change and sea level rise/inundation; and the need to provide appropriate infrastructure and services for a number of townships that experience significant population increases during holiday periods.

It has over 40 disparate communities and delivery of services must be duplicated across these. This in itself creates challenges when dealing with community expectations regarding both the level and nature of services provided.

Infrastructure maintenance and renewal requirements are especially challenging, given factors such as those mentioned above and the extensive network of roads, bridges, drainage, walking/cycling paths, etc. that must be managed.

Council is mindful of the need to service the whole municipality regardless of the spread of population and this challenge will become even greater within the confines of rate capping.

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Once again, thank you for the opportunity to provide comment on the Consultation Paper. Council looks forward to further opportunities to contribute to this important discussion.

Yours sincerely

GARY GAFFNEY
Chief Executive Officer