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28 August 2015

Mr Ron Ben-David
Local Government Rate Capping and Variation Framework Review
Essential Services Commission
Level 37, 2 Lonsdale Street
Melbourne VIC 3000

Dear Mr Ben-David,

Thank you for the opportunity to submit our comments on the Local Government – Rates Capping & Variation Draft Report published by the Essential Services Commission (ESC) on 31st July 2015.

This submission is further to our earlier response provided to the ESC consultation paper. We remain supportive of the objectives of increased transparency and accountability for local government and look forward to working with you in the development of a robust framework.

Wyndham City is one of the fastest growing municipalities, not only in Victoria but Australia. It is anticipated that this growth will continue for decades to come, given the volume of developable land available within the municipality. This growth creates opportunities for social and economic development in the municipality. However it also creates a number of complex challenges for Council and residents, with the most notable being the provision of adequate support services, infrastructure and employment opportunities.

This submission has been prepared keeping in mind our status as a growth Council and our role to achieve the best outcomes for the local community while meeting our legal obligations, particularly in the provision of infrastructure in growth areas.

If you have any questions regarding the issues raised in this letter or the attached paper please contact either myself or Steve Lambert, Director Corporate Services on (03) 9742 0707.

Yours sincerely,

Kelly Grigsby
Acting Chief Executive Officer
Wyndham City Council

1. Introduction

Wyndham City Council welcomes the opportunity to submit our comments on the Local Government – Rates Capping & Variation Draft Report published by the Essential Services Commission (ESC) on 31st July 2015.

We remain strongly supportive of the emphasis by the ESC on accountability and transparency as these are fundamental aspects of good governance. Our ongoing community engagement and dialogue supports these objectives as we focus our efforts to contain the cost of living for residents whilst ensuring the financial sustainability of our Council.

As outlined in our earlier submission, Wyndham City remains one of the fastest growing municipalities, not only in Victoria but Australia. Our forecasts anticipate that this growth will continue for decades to come, driven primarily by the volume of developable land available within the municipality. While this growth creates opportunities for social and economic development, it also creates complex challenges in the provision of adequate infrastructure and support services.

Income from rates and charges currently contributes around 45% of our total revenue base. Our assessment of, and commentary on, the proposed rate capping framework is therefore based on our need to manage any risks to our financial sustainability and service delivery commitments to our community.

2. Discussion

The following section steps through each of the key draft recommendations outlined in the ESC Report.

Draft Recommendation 1: One rate cap applicable to all Councils in Victoria

Although the Report recognises the significant areas of diversity of circumstances across Councils, it recommends one rate cap for all Councils for ease of administration.

As a growth Council, we were expecting some degree of recognition for growth areas in the delivery of infrastructure, however this has not been forthcoming. We continually receive advice from the Metropolitan Planning Authority (MPA) to leverage our rate base for new community infrastructure, so it is disappointing to not have this recognised in the calculation of the baseline rate cap.

The report offers the ‘variation’ process as the mechanism for adjustments. This appears to involve significant data collection and effort and therefore an additional cost impost, particularly where we face consistent infrastructure shortfalls over the longer term.

Also, most Councils, if not all 79 Councils, have an ongoing exposure to market movements for Defined Benefits Superannuation Funds. We note that in recent years, Councils have suffered as a result of adverse market movements which have required funding calls.

The ESC has commented that it does not expect a large number of variation applications each year. Such an expectation being put forward as part of a developing framework inevitably risks Councils being reluctant to apply for variations for risk of political stigma.

Recommendations:

- The ESC gives consideration to an adjustment to the base cap for growth Councils to recognise the pressure of infrastructure funding due to development.
- Funding calls required for Defined Benefit Superannuation Funds should be expressly covered in the framework and not left to each Council to cover off by way of a variation application.

Draft Recommendation 2: Rate cap to apply to revenue from general rates and municipal charges

We are supportive of the recommendation to apply the rate cap to general rates and municipal charges only.

It is noted that while service rates and charges will be excluded from the rate cap, the ESC intends to monitor and benchmark these. The process for monitoring and benchmarking, and the forum for reporting of this data, needs to be clarified. Given there are different types of charges included in the rates notice, strong recommendation will be required from the ESC to the State Government to ensure there is no implied expectation that all other charges will be within the cap.

While Council focuses on containing charges that are subject to cost recovery, there are impacts from statutory levies and charges, ie: the fire services levy, in our role as collection agent.

Recommendation:

- The ESC will need to engage with the State Government to ensure there is similar transparency and accountability on how these charges are set as the inclusion on the rates notice will be confusing for the resident.

Draft Recommendation 3: Rate cap applied to the rates and charges paid by the average ratepayer

This is a reasonable position but one which will require a significant amount of communication with the community as the impact on individual properties will vary around the average.

We are particularly concerned that the first year of implementation, 2016/17, is a revaluation year. Changes in valuations and/or rating differentials will impact the final rates charge and we risk sending mixed messages to the community about the benefits of the framework.

Recommendation:

- The ESC should consider deferring the implementation by one year to allow time for the community to be educated in the operation of the framework, to move the start away from a revaluation year and Council elections.

Draft Recommendation 4: Annual cap to be based on CPI, WPI and include efficiency factor

While the ESC has recognised in part the issues with the exclusive use of CPI via the inclusion of the labour element it is still far from reflective of our cost base. Council maintains that CPI is not reflective of our cost base and as such if you are going to use an index it should be a Local Government Cost Index. This is demonstrated in particular by our capital spend where the cost index has been in the 5-6% range over recent years. Council's labour mix will also vary and the formula as proposed may drive Councils with a higher labour % to outsource more services to manage down this cost. Impacts of such practices on service delivery models and on local employment opportunities need to be considered.

We strongly question the inclusion of an efficiency factor in the calculation of the cap and consider this to be outside the ESC terms of reference. Wyndham Council already has an efficiency factor embedded within our planning and budgeting assumptions. The impost of another efficiency adjustment, as proposed under the framework, is both unnecessary and appears arbitrary based on the information provided. It is our contention that the impost of rate capping is in and of itself a driver of productivity. Further work needs to be undertaken by the ESC in conjunction with Councils to define what we mean by efficiency/productivity, how we can measure with consistency across Councils and what an appropriate long term target is for our sector. Without this detail, the efficiency factor as presented effectively becomes a 'double dipping' exercise.

Recommendations:

- That the index be modified to be more reflective of the basket of goods and services on which Councils expend their funds.
- That the efficiency factor be removed from the calculation of the cap.

Draft Recommendation 5: 2015/16 rates levied on average property adopted as the starting base for 2016/17

The timing of implementation creates a set of issues for us in that:

- The timeframe from publication of the final framework to implementation does not allow sufficient time for detailed community consultation.
- As outlined earlier, the first year is a revaluation year. The ability to build community understanding of the application of the cap is immediately compromised.
- The timeframe for the submission and approval of a variation is incredibly short and will result in dual budgets needing to be developed.

Recommendation:

- Deferring the implementation by one year will help alleviate some of these concerns. A one year deferral also means the framework will align with the next Councillor election cycle and City Plan.

Draft Recommendation 6: The discretion to apply for a variation should remain with Councils

We feel this is a very reasonable approach and consistent with the principle that each Council's circumstances will be different and needs to be considered on its merits.

Draft Recommendation 7: Five matters to be addressed in each application for variation – 1) Reason, 2) Community views, 3) Value for money, 4) Priorities and Funding options, 5) Long term financial strategy

The framework clearly places the onus of proof on Councils for any variations requested with very limited guidance on what would constitute a valid request. The ESC has also suggested at recent public forums that it does not intend to provide further guidance at this stage. The subjective nature of the variation assessment causes a few concerns for us:

- The framework suggests there will be one process for variations regardless of the size of the variation sought. A more prescriptive, graded approach should be considered to provide Councils with clarity and some level of certainty on the expected outcome.

- There is no guidance on the level or methodology for community engagement. Councils will differ greatly in their approach to community consultation, depending on the issues and demographics, and will need to understand the criteria by which the ESC will assess the acceptability or otherwise of their engagement.
- It is not clear how the ESC will judge value for money without undertaking detailed analysis of the data and options presented. Unless the ESC is prepared to engage in dialogue to understand the business case put forward, including alignment with Council's strategies and long term financial plans, the value add of any review based only on a written submission is questionable.
- The framework appears to promote more active use of debt as a funding source. This needs to be supported by a review of the related financial metrics and benchmarks from the State Government to guide Council decision making on optimal gearing levels.

Recommendations:

- The ESC gives consideration to an adjustment to the base cap for growth Councils.
- The ESC considers the implementation of a graduated variation process based on the relative quantum of variation sought.
- The ESC work with Councils to develop prescribed templates for variation submissions.
- The ESC work with the State Government to provide greater guidance on the use of debt.

Draft Recommendation 8: Variations for 1yr only permitted in 2016/17 increasing to 4yrs by 2019/20

Recommendation:

- Based on the Councillor election cycle, we recommend that Councils be given the option to submit variations for up to a 4yr period commencing in 2016/17.

Draft Recommendation 9: ESC to be the decision maker, empowered to accept or reject submissions only (not vary)

An 'accept' or 'reject' approach raises a number of concerns – particularly in the absence of detailed guidelines:

Recommendations:

- An 'accept' or 'reject' approach needs to be supported with strong engagement and communication between the ESC and submitting Councils during the assessment process.
- The ESC needs to be fully transparent in their decision and be able to provide Councils with detailed feedback for any submissions rejected. Councils should also have the right to an appeals process.
- If a multi year variation is rejected, Councils should be able to resubmit in the following year.
- Councils should be provided with a detailed statement outlining reasons for any rejected variations.
- The ESC provides a process of appeal for Councils if their application for variation is rejected

Draft Recommendation 10: ESC to monitor and publish an annual rates report

Reporting on the application of the cap is a logical extension of ESC administration. The ESC should endeavour to access data from existing sources and we would not anticipate any incremental reporting burden for Councils.

Draft Recommendation 11: ESC to monitor and publish an annual report on the overall outcomes for ratepayers and communities

It is our view that with the ability to approve or reject variations, together with the reporting and monitoring role, the ESC effectively becomes the regulator. This is despite comments from the ESC that this is not its role.

Recommendations:

- Any reporting undertaken by the ESC should leverage existing reporting undertaken by Local Government, ie: the Local Government Performance Reporting Framework, which has commenced for 2014/15 reporting.
- Costs incurred by the ESC in its review, monitoring and reporting role should be met by the State Government and not placed as an additional impost on Councils.

3. Summary

Councils are democratically elected with a very high degree of exposure and accountability to local constituents.

At Wyndham City, we have a strong focus on working with all sectors of our community to understand their needs for services and infrastructure. While we are required to work within a number of regulatory frameworks, our primary attention is in how we instil a sense of trust and ownership with our community in sound operational and financial management of our collective resources.

We acknowledge the positives in the Rates Capping Framework proposed by the ESC to achieve further transparency and accountability, however our concern remains - our needs as a recognised growth Council have not been sufficiently factored into the base rate.

The variation process outlined is deficient in its detail and will require a 'try it and see' approach which may lead to sub-optimal outcomes. Without proper consultation and guidance, the approval process also lends itself to a great deal of subjectivity, which may detract from public confidence.

Timelines for implementation are extremely tight in a year where revaluations and the Councillor election cycle risks confusing the public message.

The ESC should strongly consider the deferral of the framework for one year allowing a robust set of guidelines to be prepared and communicated.

In addition we note that in recent years Councils have suffered as a result of the exposure to market movements flowing from the Defined Benefits Superannuation Funds which covers a number of employees at most if not all of the 79 Councils. It is our contention that given the size of the recent funding calls that this should be expressly covered in the framework and not left to each Council to cover off by way of a variation application.