Darebin City Council

Response to *Essential Services Commission: Local Government-Rate Capping and Variation Framework Consultation Paper* issued 17 April 2015.

THE FORM OF THE CAP

1. ***While a cap based on CPI is simple to understand and apply, are there any issues that we should be aware of?***

The following matters need to be considered:

- The Melbourne CPI is not at all related to council cost structures nor is it portrayed as a measure of price movements outside the capital city.
- Melbourne CPI for the year to March 2015 is 1.0%. ABS reports that "*The main contributors to the rise in Melbourne for the March quarter 2015 were domestic holiday travel and accommodation (+4.8%) and electricity (+4.1%). Offsetting these rises were falls in automotive fuel (-11.6%), urban transport fares (-16.1%) and fruit (-11.0%). The fall in urban transport fares was due to a restructuring of public transport fares by the Victorian Government*".
- Applying the Melbourne City CPI to municipal areas outside the capital city is problematical in its relevance and quantum.
- CPI is not simple to understand, most households would not be fully aware of the make-up of goods and services in the "basket", or the differences between headline and underlying rates, or indeed if council rates figured in the calculation of the CPI.
- CPI is an indicator of price movement, the Minister's focus on community consultation and securing "ratepayer willingness to pay" is more related to capacity to pay, and this is not a consideration in the published CPI values, this aspect is more aligned with earnings.
- CPI is an indicator of past price movements, Council budgets relate to future periods, and the SRP for a minimum of 4 financial years.
- Notwithstanding the above observations, CPI has been widely adopted as an indicator of fair and reasonable price/cost validation, and has been applied in areas both within and outside capital cities.

2. ***What are some ways to refine the cap (for example, alternative indices), in line with the Government's objectives?***

- The real question is not the name of the index but more importantly whether its outcome values actually facilitate and support the sustainability of local government in Victoria.
- Sustainability is not just a short-term concept, sustainability requires planning to achieve adequate cash flows, serviceable debt, renewal of infrastructure and equitable access to services.
- The risk with the populist CPI, currently 1.0% in Melbourne, is that it is influenced by matters quite foreign to councils' cost structure, and if applied without adjustment, and not-withstanding the variation safety net, may not support the Council Plans developed with the community, nor facilitate the financial viability of councils in the longer-term.
- The Government's objectives include facilitating the financial sustainability of local government. To achieve this outcome then the index (whatever is chosen) must be capable of attaining this outcome.
- The MAV's Local Government Cost Index clearly has financial sustainability as an under-current.
- The Minister should consider adjusting the CPI value so that it matches the MAV's LGCI value.

3. ***Should the cap be set on a single year basis? Is there any merit in providing an annual cap plus indicative caps for the next two to three years to assist councils to adopt a longer term view in their budgeting and planning, particularly when maintaining and investing in infrastructure often takes a longer term perspective? How should such a multi-year cap work in practice?***

- Each council is required to develop a Council Plan and an accompanying Strategic Resource Plan (SRP) showing the financial and human resources required to realise the Council Plan.
- The SRP is required for a minimum of 4 future years; a significant number of councils would develop a longer-term financial plan as a matter of course.
- Should the Minister not provide index values for at least the ensuing 4 years then the matching of Council Plan actions, resources, and timing is uninformed.

- When councils put the Council Plan and SRP on public display then there is expectation within the community that those outcomes identified in the Council Plan are indeed achievable and properly resourced.
- Similarly, where rate capping variations for programs, services or infrastructure have been granted then these variations should be incorporated in the Minister's determination for time periods relevant to those activities. This is particularly so where councils embark on more services, long term infrastructure programs, or have special needs arising over an extended time period.

4. Should the cap be based on historical movements or forecasts of CPI?

- The Melbourne CPI is a record of past events and not of future movements.
- The forecasts for CPI contained in Treasury papers, Federal Budgets, etc would be more appropriate than past indices.
- The index value chosen must be able to be sustained.
- Melbourne's current CPI is 1.0% and is not an indicator of future price movements.
- To reiterate the response to question 2, the value of the index, however named, must be such that it is capable of sustaining the viability of local government.
- MAV LGCI should be supported to enable forecasts to be developed for capital cities, and regional areas.

5. Should a single cap apply equally to all councils?

- This question raised the relevance of an index value, for example, the CPI for Melbourne being applied to rural and regional councils, or indeed the MAV's LGCI application state-wide.
- Again, we reiterate that the index, whatever named, must be capable of achieving sustainable outcomes for councils. We are aware of the safety net related to variation approvals proposed to be incorporated in the framework; however, the Minister should first ensure that the index alone will facilitate the proper development and viability of the council.

- It is inconceivable, for reasons of diversity of need, geography and socio-economic factors that the Minister would apply a uniform index value to all councils. There are distinct differences between inner metro, outer metro, regional city and regional councils. For example, some councils will find a CPI rate easier to accommodate than others based on their current financial situation. A staged cap that is relative to the different nature of councils could be considered, taking into account the breadth of services delivered, and the need to implement efficiencies and reductions over time to reach a sustainable point within the cap.
- It is recommended that ESC review the host of data available from the Victorian Grants Commission, and the VAGO sustainability assessments (green ticks) if it wants to evidence the diversity of communities and the financial sustainability of councils.

THE BASE TO WHICH THE CAP APPLIES

6. ***What base should the cap apply to? Does it include rates revenue, service rates/charges, municipal charges and special rates/charges?***

- The capacity of councils to raise revenue by application of rates, special rates, special charges, separate rates, municipal charges, combined with an overlay of differential rates, enables a council to develop a “taxation” scheme which benefits the community through targeted taxation arrangements.
- The cap should not apply to, or take into consideration, monies raised by way of Special Rates and Charges as these revenues are special items of expenditure related to schemes not otherwise funded by general rates.
- Councils that rely totally on a uniform property rate, with no other forms of rates or charges, would be at a disadvantage if the cap did not apply equally to all categories of rates and charges contained on a Rates and Valuation Notice (save for Special rates and Charges).
- Therefore, to enable councils the continued discretion to structure their property related revenues using rates, a cap applicable to total revenues raised by rate notices, excluding special rate and special charges would be appropriate.
- Special rates and charges for new services, or new schemes, would be valid as an as of right variation to the rate cap.

7. ***Should the cap apply to total revenue arising from these categories or on average rates and charges per assessment?***

- The application of a cap on the percentage change in the rate levy (or charges) between one year and the next is viewed as workable in the years when valuations remain static and where no new charges are introduced.
- Application of an index value on average rates per assessment will give rise to potential complexities in a general valuation year where differential rates are present and there is not an absolutely uniform movement in valuations between differential classes.
- Therefore, it would be sensible to support a cap on total revenue from property rates and charges (save for special rates and charges), not inclusive of supplementary rates and after allowing for the full year impact of supplementary rates received in the prior year.
- The exclusion of supplementary rates both in the year they arise, and to adjust the cap in the year the full year effect is realised, is appropriate because such revenues are often transient in occurrence, not able to be controlled by council, and where they do occur supplementary rates may bring additional or reduced resources.
- ESC should also be aware that there can be significant reductions in revenues arising from supplementary valuations, as would occur during the redevelopment of major shopping centres or other large value improvements under deconstruction and reconstruction.

8. ***How should we treat supplementary rates? How do they vary from council to council?***

- Refer to response to question 7 for comments also applicable to supplementary rates.
- Supplementary rates are raised at the same rate in the dollar as other properties in that class, and should not need to be brought into the calculations provided the rate levy increase applicable is within the capping limits, or approved variation.

9. *What are the challenges arising from the re-valuation of properties every 2 years?*

- The obvious issue is that the year that the Minister proposes to introduce a cap on rates is also a general valuation year.
- Ratepayers looking for a movement in rates according to the index will be unable to readily reconcile the indexed cost movement due to mingling of the index and the change in property values.
- In the years where there is no general valuation an index value applied could readily be calculated and confirmed by the ratepayer.
- However, this is not practical in a revaluation year where there are differential rates applied as there is no guarantee that there will be uniformity in property value changes between differential rate differential classes, and therefore a uniformly applied index variation to a rate levy is improbable. Hence, support for indexation to be applied to the total rates and charges in all years.

10. *What should be the base year?*

- The base year proposed for 2016/17 has issues with also being a general valuation year and therefore ratepayers not readily being able to reconcile the percentage change stipulated in the cap with their own rate bill variation.
- A further issue is that the ESC report to the Minister is scheduled in October 2015 with no commitment by the Minister as to when a determination will be made on the many questions posed in the ESC discussion paper, nor the timeframe for public consultation.
- Further, to instigate the change in an election year for Local Government would mean that the incoming council would need to develop their Council Plan, first SRP and Budget, and deal with the initiation of the rate capping and variation framework in the same short 6 month period.
- The Minister should be aware of these considerations and schedule a phased introduction, commencing in 2016/17, with a scope that is capable of achievement by a newly elected council.

11. *How should the variation process work?*

- Variation applications should be encouraged by the Minister to ensure that councils are supported in delivering their publicly promoted and adopted Council Plan and SRP.

- The Minister could consider a business case system for all major projects of a certain scope or scale. This would alleviate the burden on existing capital programs through proportional funding from capex with additional funds secured through justifiable rate increases over a mutually agreed term. This would also enable a degree of certainty for state level funding or approvals.
- The lesson learned from other States' experience of open criticism of variation applications demonstrates a lack of understanding of the Council Plan, and that councils do choose to respond to community needs in different ways in order to match their actions to the ethos and values of the community.
- Variation should not be required where there are costs incurred stemming from Commonwealth or State legislated changes, and the other exemptions contained in ESC's text in question 13 ("*new infrastructure needs from a growing population, changes in funding levels from the Commonwealth Government, changes in State Government taxes and levies, increased responsibilities, and unexpected incidents such as natural disasters).*
- In such exempt circumstances the self-assessment of cost should be left with the council and treated as an "as of right" variation to the Minister's advised cap.
- The capacity of ESC and the Minister's Office to process and advise on the outcomes of variation applications from councils in a timely manner - which enables councils time to review their Council Plans, SRP and budgets - is essential.
- The Minister should therefore require ESC to make a finding of their position on an application or business case within a statutory time period so that councils are able to effectively plan their Council Plan, SRP and Budget consultation program with confidence. A Statutory period of 28 days for the ESC to respond would be appropriate.
- The variation arrangements must include a formal appeals process which enables councils to refer for review any ESC recommendation or determinations which, in the council's view, the ESC is unable to reasonably justify to the council.

12. Under what circumstances should councils be able to seek a variation?

- Councils must be able to lodge a variation request on any matters where the council believes that the imposed rate cap is insufficient to ensure that council is able to realise the outcomes specified in its Council Plans and policies.
- Such matters may include, but not be limited to financial stability, liquidity, benchmark performance in asset renewal, or that which would otherwise restrict

council from achieving its Council Plan.

- As mentioned in the response to Q11, a business case system could be implemented for variations related to major projects.

13. ***Apart from the exceptions identified by the Government (namely, new infrastructure needs from a growing population, changes in funding levels from the Commonwealth Government, changes in State Government taxes and levies, increased responsibilities, and unexpected incidents such as natural disasters), are there any other circumstances that would justify a case for above cap increases?***

- It is understood that the several exceptions noted in question 13 are those for which ESC has said it will “develop working definitions and the criteria to be applied for the exceptional circumstances specified by the Government in our terms of reference”.
- Clearly, where there are shortfalls in State Grants then these should be treated in the same way as is proposed for Commonwealth Government Grants.
- Other exception should be made for special rate and special charge schemes as discussed earlier in this submission, and if capping is to apply on average rates per assessment, for any reductions in income caused by negative outcomes for supplementary valuations/supplementary rates where this is material. Councils can demonstrate where rate income reductions in six figures arise during major redevelopments of shopping centres and the like.
- ESC Principle 4, contained on page 17 of the Consultation Paper, listed only two criteria that would warrant consideration of an application to vary rate capping.
- Principle 4 does not require the preparation of an application to vary the cap where any of the several listed exceptions are applicable.
- Principle 4 states that only two criteria require an application being made: “more or improved services that the community wants and for which it is willing to pay and/or the closing of any critical infrastructure gap”.
- The role of ESC, if any, in assessing council’s revenue needs to address circumstances on the exceptions list is unclear.
- The exceptions should also relate to pre-existing contracts where unavoidable price increases are beyond the cap set by the Minister.

14. ***What should councils need to demonstrate to get a variation approved? What baseline information should be required for councils to request a variation? A possible set of requirements could include:***

- ***the council has effectively engaged with its community***
- ***there is a legitimate case for additional funds by the council***
- ***the proposed increase in rates and charges is reasonable to meet the need***
- ***the proposed increase in rates and charges fits into its longer term plan for funding and services***
- ***the council has made continuous efforts to keep costs down.***
- ***We would like stakeholders' views on whether the above requirements are adequate.***

- As discussed above, a sound business case for major projects would be appropriate.
- The ESC requires the Council to provide "proof" that the "community wants and is willing to pay in regards to "more or improved services".
- The ESC further states that it will provide councils with "guidelines and fact sheets on key requirements" in relation to applications to vary the cap.
- The capacity of ESC and the Minister's Office to process and advise the outcomes of variation applications from councils in a timely manner - which enables councils time to review their Council Plans, SRP and budgets - is essential.
- The Minister should therefore require ESC to make a finding of their position on an application within a statutory time period so that councils are able to develop their Council Plan, etc programs with confidence.
- A Statutory period of 28 days would be appropriate.

COMMUNITY ENGAGEMENT

15. ***What does best practice in community engagement, process and information look like? Are there examples that we can draw from?***

- Darebin has a well-developed Community Engagement Framework, including tools to ensure that traditionally marginalised groups in the community are heard.

- Darebin's recent Citizen Jury project successfully sought input from the community on how to best allocate $2M for community capital development over two years. The process resulted in a range of projects currently being implemented across the municipality.
- Similarly, the Local Solutions to Local Issues campaign conducted at Darebin, where submissions are sought directly from the community on matters of concern before the budget is prepared, is another example to be considered.
- Overall, the engagement in the community by our Councillors, staff and supported organisations, in both formal engagements and ad-hoc discussions is a valuable source of community sentiment.

INCENTIVES

16. How should the framework be designed to provide councils with incentives to pursue ongoing efficiencies and respond to community needs? How could any unintended consequences be minimised?

- It is not necessary to provide incentives for good governance and sound financial management as both are statutory requirements for councils.
- What is required is a framework that will facilitate the achievement of those objectives, and not disadvantage the community through the inability of councils to properly develop and maintain their services and infrastructure in the longer term.
- Such an arrangement would enable councils to be responsive and responsible to their communities, develop and deliver Council Plans, and importantly ensure the City is sustainable.
- In a capped environment, councils need to be run like a business, requiring a cultural shift for some to meet this discipline.
- A capped environment could also force councils into revenue-raising via different means – pushing councils into spaces they may not have the expertise to occupy successfully, and in a highly governed environment that limits entrepreneurial approaches. The need to develop alternate revenue streams could take councils away from core business, unless core business is reduced accordingly.
- The Minister has a role in determining and publicly stating what constitutes core business so that the public understands why and how necessary efficiencies will be found at the municipal level.

- Highly efficient councils who have driven out inefficiencies in past years and rate at the minimum levels may have very little room to move when reviewing viable alternatives to raising rates. An unintended consequence then is that those councils who are lean in their operations will now have very little fat to shed and be the most impacted councils by rate capping.

TIMING AND PROCESS

17. ***A rates capping and variation process should ensure there is enough time for councils to consult with their ratepayers and for ratepayers to provide feedback, and for us to review councils' applications. To ensure the smooth functioning of the rates capping and variation framework, it is particularly important that it aligns with councils' budget processes. We are interested in stakeholders' views on how this can be achieved.***

   - The capacity of ESC and the Minister's Office to process and advise on the outcomes of variation applications from councils in a timely manner - which enables councils time to review their Council Plans, SRP and budgets - is essential.
   - The Minister should therefore require ESC to make a determination of their position on an application within a statutory time period so that councils are able to effectively plan their Council Plan, budget development and consultation with confidence.

TRANSITIONAL ARRANGEMENTS

18. ***What transitional arrangements are necessary to move to the new rates capping and variation framework? Is there merit in phasing in implementation over a two year period to allow for a smooth transition?***

   - As stated previously, the proposed introduction year coincides with a general valuation.
   - The Minister should be mindful that in 2016/17 ratepayers will invariably see changes above and below the rate cap assigned to a particular council. This will arise from rate burden redistribution arising from the general valuation, and approved variations.

- The pre-requisite obligations on council before council can make an application for variation criteria essentially make the variation process tantamount to a “last resort” option.
- Requiring council to demonstrate proof of ratepayer willingness to pay may well be an enormous hurdle for council on complex issues that require “the greater good” to be put ahead of self-interest.
- The combination of the first year of rate capping and the newly elected councils occurring simultaneously in 2016/17 would benefit from a phasing of the implementation.
- In the first year the Minister’s approval to grant some latitude in relation to proof of all other viable options and ratepayer willingness to pay would be sensible, and sensitive to the newly elected councillors’ learning curve.
- It is considered to be sufficient for the Minister to issue guidelines to enable councils to self-assess variations less than a predetermined value, say up to a further 1.0% of rates, and for the proof of ratepayer willingness to pay to be evidenced by the particular matter’s inclusion in the publicly advertised Council Plan.

ROLES

19. ***What are stakeholders’ views on the respective roles of the key participants? Should the Commission’s assessment of rates variations be advisory or determinative*?**

- The Minister, through the imposition of rate capping is effectively governing the resources available to council, and therefore the ability of councils to independently acquire the resources required to achieve and maintain levels of service and sustainability.
- The ESC should have only an advisory role to the Minister.
- It is not viewed as appropriate that the ESC make final determinations on matters as such public servant interference in the autonomous governance by elected officers would be untenable.
- Whatever the approach taken, and as previously stated, there must be a formal process which enables councils to refer for review any ESC recommendation/determinations which the ESC is unable to reasonably justify to the satisfaction of council.

OTHER MATTERS

20. Is there a need for the framework to be reviewed to assess its effectiveness within three years time?

- The Government's stated objectives of: *"The State Government's objective is to contain the cost of living in Victoria while supporting council autonomy and ensuring greater accountability and transparency in local government budgeting and service delivery"* will need some quantitative KPIs for there to be a valid assessment made.
- The financial ratios mandated for council reporting and community satisfaction surveys may be appropriate quantitative assessment indicators.
- However, in regards to measuring the effectiveness of the Minister's objectives on public policy matters, council autonomy and efficient operation of the rate capping and variation system, a broader set of qualitative criteria is also required.
- If the rate capping and variation arrangements were implemented in 2016/17 this would see ratepayers having two years in which the rate cap arrangements and valuation movements intertwined. This factor alone may mean that a 2 or 4 year review of public sentiment may be more appropriate.

21. How should the costs of administrating an ongoing framework be recovered?

- The rate capping and variation arrangement is a State Government initiated project.
- There are additional costs that will be incurred by the State and by councils in administering, and implementing, the rate capping and variation framework requirements.
- If Councils were required to meet both their own additional costs, and a share of ESC's costs, then the same rules applicable to Local Government should apply to State Government.
- As the cost imposition on councils (directly or as a share of the State's costs) brought about by the regulatory rate cap and variation framework stem from new regulatory requirements then these costs should be in the "exempt" category and treated as an as of right add-on to the cap set by the Minister.

OTHER MATTERS RAISED IN EARLIER CHAPTERS

22. We are interested in hearing from stakeholders on:

- ***whether we have developed appropriate principles for this review***
- ***whether there are other issues related to the design or implementation of the rates capping and variation framework that stakeholders think are important***
- ***supporting information on the major cost pressures faced by councils that are beyond their control and the impact on council rates and charges.***

- In the past 20 years Local Government in Victoria has been subject to a host of State Government legislation changes which resulted in council amalgamations, State appointed Commissioners, CCT, Best Value, rate-capping, massive liabilities for defined benefits superannuation, and legislative changes in consequence of natural disasters, and public policy changes.
- The lessons to be learnt from NSW's instigation of rate capping, and the attitudes of the State and councils to the variation process are enlightening.
- The potential for councils to become unsustainable in the longer term, together with unacceptable changes to service levels and quality are inevitable if rate capping were pegged to CPI alone.
- The latest Melbourne CPI of 1.0% just needs to be considered to visualise the impact on labour intensive services, such as HACC, where labour represents upward of 80% of costs, government grants are below wages growth, and user charges are capped. Even a modest growth in salaries at say, 3.0% including incremental movements, will result in significant funding shortfalls over the period of the Strategic Resource Plan.
- Darebin is the largest aged care provider in local government with over 5000 diverse clients who are able to stay at home thanks to the service we deliver. The outgoings associated with HACC services amount to some $14.55 million. With net cost after grants and user charges of $5.51 million, a CPI 1% increase in allowable ratepayer subsidy would mean an additional $56,000 in available funding. A modest 3% increase in labour costs would add $436,000, leaving a $380,000 gap in the first year, and over $1.28 million in a three year period. Rate capping should not affect those labour intensive services subject to EBA increases (the current reality is 4%). The HACC sector is poorly paid to begin with and staffed by predominantly female workers – if rate capping puts pressure

on available funds to run the service, there should be an allowance to enable pay increases to catch up, let alone remain equitable.

- Darebin Council presently forecasts achieving around 60% asset renewal (based on a 5% increase in rates each year), against a benchmark low risk rating of 100%. The years of under resourcing renewal now mean that money is required to be spent in both upgrade and renewal when replacing older assets. A cap on rates that has capacity for variation to facilitate renewal programs is welcome.