

28 August 2015

In reply please quote reference:

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Mr Ron Ben-David  
Chairperson  
Essential Services Commission  
Level 37, 2 Lonsdale Street  
MELBOURNE VIC 3000

**By email: [localgovernment@esc.vic.gov.au](mailto:localgovernment@esc.vic.gov.au)**

Dear Mr Ben-David

**RE: A Blueprint for Change - Local Government Rates Capping & Variation Framework Review**

Please find attached Darebin City Council's submission to the Essential Services Commission 2015, *A Blueprint for Change, Local Government Rates Capping & Variation Framework Review*.

Darebin City Council (Darebin) appreciates the limited timeframe that the Essential Services Commission (the ESC) had to develop and make recommendations on the rates capping and variation framework, the consultation undertaken by the ESC throughout the development of the rates capping and variation framework, and the opportunity to put forward a submission.

Darebin would like to make the following general observations on rates capping and the framework proposed by the ESC.

1. The ESC is recommending that a single cap be applied to all councils across Victoria as if they are a homogenous group disregarding councils' submissions highlighting their differences due to:
  - the services required by their communities
  - the state of their infrastructure
  - their cost of delivering services (which may be constrained by location)
  - the availability of other sources of revenue
  - their efficiency of delivery
  - their demographics and economic circumstances of their communities
  - the natural environment in which they operate.
2. There are a number of councils across Victoria that appear to be financially "at risk" due to their specific combination of the factors listed above. It would appear that there needs to be structural reform to provide support and address the needs of these municipalities.

While this issue is not in the terms of reference provided to the ESC, for completeness Darebin recommends that the ESC's report, supporting materials and analysis acknowledge the likely consequences for these communities and their councils under the proposed rates capping framework.

3. Darebin is concerned that the rates capping framework proposed is a blunt instrument to limit the rates raised by councils without any analysis or empirical evidence being provided to demonstrate the net long term net cost/benefit to the whole community of implementing rates capping.

There has been no clear demonstration or explanation of how the proposed rates capping framework will actually facilitate and support the sustainability of local government in Victoria and meet the objective in the ESC's Terms of Reference "to promote rates and charges that are efficient, stable and reflective of services that the community needs and demands, and set at a level that **ensures the sustainability of the councils' financial capacity and council infrastructure, thereby promoting the best outcomes for all Victorians**" (emphasis added).

4. Rates capping is not new, with it being in place in New South Wales since the 1970s and in Victoria during the 1990s. As deterioration in community infrastructure is less visible to the community than changes in service delivery, it is easier for councils to reduce the funding available for the maintenance and renewal of community infrastructure than it is to reduce the funding for service delivery. Where this has occurred, ratepayers under a rates capping regime have enjoyed lower rates at the expense of future generations that had to find or will have to find the funding to address community infrastructure failures.

While the ESC's proposal is to monitor and report the impact that the rates capping and variation framework will have on councils' service delivery, asset management and financial performance, Darebin recommends that the ESC identify potential mechanisms to address any issues that may be identified. To repeat the same actions as the past and expect different outcomes would be unrealistic.

5. Amendments to *Local Government Act 1989* (the Act) will be necessary for the implementation of a rates capping and variation framework as proposed by the ESC and supported by the Victorian Government. Darebin asks that consideration should be given to amendments to the LGA that would:
  - a. Specify that the ESC would have to provide its decision on an application for variation to councils by the end of April to allow councils to meet the legislative requirements under sections 129, 130 and 223 regarding public notice of the proposed budget, the receipt and consideration of submissions to the proposed budget and budget adoption.
  - b. Update and simplify section 154 on what land is rateable so that there is closer alignment with the properties that are included in the fire service property levy.
  - c. Remove the barriers to councils being able to engage in commercial activities so that other revenue streams may be pursued to reduce that rate burden on ratepayers. However, it should be recognised that the need to develop alternate revenue streams could take councils away from core business.
  - d. Remove the barriers to be able to enter into joint venture or partnership opportunities with other councils and not for profit organisations to facilitate shared services and shared infrastructure opportunities that will deliver benefits to communities across municipalities.
  - e. Address the potential conflict rates capping may raise with councils' adherence to sections 3 E 1 (e) which empowers Council to "raise revenue to enable the Council to perform its functions" and 136 regarding the principles of sound financial management.
6. No clear recommendation has been provided by the ESC on where the cost burden of administering the framework should fall. Darebin recommends that the Victorian Government funds the costs of administering the framework in line with the situation in New South Wales. Councils will still incur their own compliance costs associated with the implementation and operation of the proposed framework.

7. The proposed timelines for the 2016/17 rating year do not fit into the existing timelines and legislative requirements of councils' budgetary and planning processes. Darebin recommends that the ESC should assess applications for variation within a statutory period of 28 days from receipt of application with the outcome of all variations to be advised to councils by the end of April. This would enable councils to effectively plan their Council Plan, Strategic Resource Plan and budget consultation process with confidence to meet their legislative requirements.
8. Darebin recommends that the ESC highlights more strongly the importance of the Victorian Government setting statutory fees that properly reflect the cost of service provision.
9. Darebin is in the forefront in Victoria in the provision of aged care services, delivered through an active ageing prevention approach with the aim of assisting older citizens to remain in their homes. In the order of 5,000 residents receive services ranging from home care and respite to personal care and delivered meals. The diversity of residents accessing services is reflected beyond language and ethnicity to the significant Aboriginal population, the LGBTI community and those experiencing significant socio-economic disadvantage.

In Darebin's 2015/16 budget, the amount allocated for aged care services is in the order of \$16 million, 42% of which is provided by Council. Within this context, the impact of rate capping on such a service will be severe. Accordingly, we would recommend the ESC conduct an impact assessment study on Darebin's aged services to fully assess the actual 'on the ground' impact on service delivery of rates capping.

10. Darebin recommends that careful consideration be given to the communication by the Victorian Government, the ESC and councils surrounding the implementation of the rates capping and variation framework as 2016 is a revaluation year, being mindful of the potential community reaction from residents who receive a greater than the rates cap rise in their individual rates notice due to changes in their property valuations.

Should you require any further information regarding Darebin's submission, please contact our Chief Financial Officer, Allan Cochrane on 8470 8619 or at [Allan.Cochrane@darebin.vic.gov.au](mailto:Allan.Cochrane@darebin.vic.gov.au).

Yours sincerely



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The following provides Darebin City Council's responses to the ESC's 11 draft recommendations regarding the design and implementation of a local government rates capping and variation framework contain.

## **Rates Cap**

### Draft Recommendation 1

*The Commission recommends that there should be one rate cap that applies equally to all councils in Victoria.*

The ESC is recommending that a single cap be applied to all councils across Victoria irrespective of the services required by their communities, the state of their infrastructure, the cost of delivering services, the availability of other sources of revenue, their efficiency of delivery, the demographics and economic circumstances of their communities, and the natural environment in which they operate.

The ESC outlines in its paper that it is not practical to design a rate cap that takes into account the diversity, different needs and different legacies faced by individual councils and that the variation process is the most efficient, transparent and participative mechanism for dealing with individual council circumstances where rates revenue under the capped increase is considered insufficient.

If rates capping is to be put in place, Darebin agrees in principle with there being one rate cap that applies equally to all councils across Victoria, particularly for simplicity and transparency, and that the variation process should deal with individual council circumstances.

However, Darebin is concerned that the ESC's paper states that they do not expect a large number of variations each year and the Minister's statement that applications will only be supported in exceptional circumstances undermines the assertion that the variation process will be able to accommodate individual council circumstances.

Darebin recommends that variation applications should be encouraged by the Minister and the ESC to ensure councils are supported in delivering their publically promoted strategic plans, Council Plans and Strategic Resource Plans.

### Draft Recommendation 2

*The Commission recommends that:*

- *Revenue from general rates and municipal charges should be subject to the rate cap*
- *Revenue from special rates and charges, 'revenue in lieu of rates' and the fire services levy should not be included in the rate cap and*
- *Service rates and charges should not be included in the rate cap, but be monitored and benchmarked.*

Darebin agrees and supports this recommendation.

### Draft Recommendation 3

*The Commission recommends that the cap should be applied to the rates and charges paid by the average ratepayer. This is calculated by dividing a council's total revenue required from rates in a given year by the number of rateable properties in that council area at the start of the rate year.*

Darebin agrees and supports this recommendation although we recommend that guidance is provided on how councils should forecast the number of rateable properties at the start of the rates year to ensure consistency across councils.

### Draft Recommendation 4

*The Commission recommends that the annual rate cap should be calculated as:*

$$\begin{aligned} \text{Annual rates cap} &= (0.6 \times \text{increase in CPI}) \\ &+ (0.4 \times \text{increase in WPI}) \\ &- (\text{efficiency factor}) \end{aligned}$$

**With:** *CPI = Department of Treasury and Finance's (DTF) forecast Consumer Price Index published in December each year.*

*WPI = DTF's forecast Wage Price Index published in December each year.*

*The efficiency factor will initially be set at zero in 2016-17 but in increasing by 0.05 percentage points each year from 2017-18. The Commission will undertake a detailed productivity analysis of the sector to assess the appropriate long-term rate for the efficiency factor. (NB: the NSW rates capping regime adopts an efficiency factor of 0.04%).*

Darebin considers the calculation utilising a 60% weighting of the increase in CPI and a 40% weighting of the increase in WPI to be flawed in that it does not accurately reflect the factors driving councils' cost increases but understands the compromise the ESC has struck for the sake of simplicity in setting the annual rates cap.

The indicative forecasts for the annual rates cap as at July 2015 without taking the additional efficiency factor into account would result in Darebin having to deliver a recurrent productivity/efficiency factor of 1.95% in 2016/17, an additional recurrent productivity/efficiency factor of 2.1% in 2017/18 and a further recurrent productivity/efficiency factor of 2.1% in 2018/19 when compared with Council's Strategic Resource Plan for the four years ended 30 June 2019.

Accordingly, Darebin does not agree with the introduction of an additional efficiency factor into the calculation particularly as no empirical evidence or quantitative analysis has been provided by the ESC to support the need for an additional efficiency factor other than that being driven through the implementation of a rates cap.

#### Draft Recommendation 5

*The Commission recommends that the 2015-16 rates (general rates and municipal charges) levied on an average property should be adopted as the starting base for 2016-17.*

Darebin agrees and supports this recommendation.

#### **Variation Process**

#### Draft Recommendation 6

*The Commission recommends that the framework should not specify individual events that would qualify for a variation. The discretion to apply for a variation should remain with councils.*

Darebin agrees and supports this recommendation.

### Draft Recommendation 7

The Commission recommends that the following five matters be addressed in each application for a variation:

- The reason a variation from the rates cap is required
- The application takes account of ratepayers' and communities' views
- The variation represents good value-for-money and is an efficient response to the budgeting need
- Service priorities and funding options have been considered
- The proposal is integrated into the council's long-term strategy.

Darebin agrees and supports this recommendation.

### Draft Recommendation 8

The Commission recommends that in 2016-17, variations for only one year be permitted. Thereafter, councils should be permitted to submit and the Commission approve, variations of the length set out below.

<b>First year of variation</b>	<b>Length of permissible variation</b>
2016-17	One year (ie 2016-17 only)
2017-18	Up to two years (ie 2017-18 only or 2017-18 and 2018-19)
2018-19	Up to three years (ie up to 30 June 2021)
2019-20 and beyond	Up to four years (ie up to 30 June 2023)

Darebin does not agree with this recommendation as it will limit councils' ability to undertake community supported multi-year strategies, plans, and associated delivery through contractual arrangements in the early stages of implementation of the rates capping framework, leading to potential higher costs for the community and councils.

Additionally with council elections in October 2016, the implementation of a rates capping framework should not prevent the new council from being able to develop with the community the Council Plan for their term of council and then seek a variation to the rates cap that supports the delivery of that Council Plan.

### Draft Recommendation 9

The Commission recommends that it should be the decision-maker under the framework, but only be empowered to accept or reject (and not vary) an application for variation.

Darebin recommends that for transparency and to allow the ESC to make decisions in a timely manner (recommend 28 day turnaround from lodgement of application to decision), objective criteria for assessing applications for variations covering at least the items listed in *Draft Recommendation 7* should be developed within a weighted scoring matrix and published by the ESC prior to councils making applications.

Councils' applications for variations and the ESC's assessments of those applications should be published so the community is fully informed about the decisions that are being made on their behalf.

Darebin recommends also that a formal appeals process for a review of the ESC's determination where the community and council views are in conflict with the ESC's.

## **Monitoring and Reporting**

Draft Recommendation 10

*The Commission recommends that it monitors and publishes an annual rates report on councils' adherence to the cap and any approved variation conditions.*

Darebin agrees and supports this recommendation.

Draft Recommendation 11

*The Commission recommends that it monitors and publishes an annual monitoring report on the overall outcomes for ratepayers and communities.*

While Darebin agrees and supports this recommendation, it should also outline mechanisms to address any issues that may be identified.