

ESC RATE CAPPING CONSULTATION PAPER – BANYULE CITY COUNCIL SUBMISSION (MAY2015)

THE FORM OF THE CAP

While a cap based on Consumer Price Index (CPI) is simple to understand and apply, are there any issues that we should be aware of?

Banyule Council, like most councils and other industry bodies, is of the opinion that the use of a simplistic measure such as CPI to cap municipal rates is inappropriate.

Banyule Council supports the views of the Municipal Association of Victoria (MAV), which has always argued that Councils do not deliver electricity, bread and milk, the common household goods and services which are measured by the CPI. Councils in Victoria deliver more than 100 community services and fund construction and material costs to maintain \$73 billion in community facilities.

Like all councils, Banyule has been subject to reduced funding from both Federal and State Governments. In addition, the factors driving up Council costs are different from those affecting the increase in prices of common household goods and services, measured by the CPI.

The argument repeated throughout the industry is that the growth in costs, the cost to maintain the scale of infrastructure under council control, cost shifting from other tiers of Government, the costs of compliance under a growing regulatory environment and the growing demands of communities, all require a level of rate revenue in excess of an index which is based on typical consumer goods costs.

The current proposal to cap council rates to the CPI is a knee jerk reaction that does not give voracity to the complex nature of the local government industry.

There is a flawed base assumption that the level of rating undertaken by local government has not been appropriate and there is a problem that needs to be fixed.

A global assumption seems to have been made that all councils are rating too highly and that councils will be able to operate effectively within a capped environment.

Banyule would like to understand the evidence that supports this base premise and understand the evidence that exists to support a global cap.

Despite these challenges, Banyule Council is an efficient, well managed and financially sound organisation.

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

Each municipality enters a rate capped environment with pre-existing and differing financial conditions.

Each Council should be able to present its justification for a rate set on the needs of its local community. This rate should be based on the evidence of the efficiency of its current core service provision, the extent of costs shifted to maintain current levels of service provided on behalf of the community and other levels of government and on the condition and required

spend to renew local infrastructure under its control and required to be maintained for its community.

A rate cap as proposed will significantly impact on the local community through the reduction in services to the community, the risk of failing local infrastructure and a far higher long term cost to communities through the eventual renewal gap caused (generational impact).

Should a rate cap be required it should be done so on the review of local conditions and should take into account the views of the community and their expectations of service levels as outlined within Best Value principles.

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?

Councils are required at a minimum to provide a four year strategic resource plan. It is critical for the Essential Service Commission to set a four year estimate as a minimum to ensure consistent strategic resource planning in councils.

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

The rate cap should not be based on CPI. If a rate cap is introduced it should be on a forecast index (based on key local government cost factors) that reasonably allow councils to provide the services and infrastructure required by their communities. The cap should allow for the management of long term significant infrastructure initiatives.

Should a single cap apply equally to all councils?

No, as mentioned earlier a rate cap should not be a blunt instrument. Any cap introduced should recognise the current financial position and other key local government factors of a Council, the future infrastructure renewal commitments of the Council, and reflect those costs actually incurred by Council operations including cost shifting.

THE BASE TO WHICH THE CAP APPLIES

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

An appropriate cap if applied should be applied to all rates and charges as defined in the Local Government Act.

General fee for service revenue, for goods and services provided in an open market, should not be capped.

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

Any appropriate cap should be levied on the average rates and charges per assessment.

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

Supplementary rates should be excluded from calculations in the year they are derived and included in subsequent years' assessments.

It is important that whatever base is selected to measure the cap it is consistent between all councils and can reasonably be projected. Supplementary rates are not usually known for the current year until after the following year's strategic budget has been endorsed.

If estimates used differ significantly from actual results this could distort the results and the ability to make an informed assessment of the actual rate charged against the expected rate capped. This may result in greater effort in providing reconciliations and substantiation of variances.

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

The current cycle of two year re-valuations leads to a significant increased administrative cost for Councils. The redistribution of rates every two years from revaluation destroys any correlation a rate cap has with the rate paid by an individual assessment. A return to a four year valuation cycle would allow more time for the message of a capped rate to be understood. A four year cycle deals better with localised aberrations in the property market cycle. A capped environment with forecast caps, without redistributions every two years, would allow for property owners to budget appropriately. Revaluations every four years at the beginning of a Council's term would provide stability and reduce confusion for the full term of a Council.

The period in which the valuations are being undertaken should also be considered to align with the budget process and allow adequate time and resources to finalise prior to the completion of the budget documentation for community consultation.

What should the base year be?

If a cap is introduced, the base year should be the 2018- 2019 financial year, as a new Council would have carriage of the capped environment. This would allow the appropriate time for the research to be concluded as to what an appropriate rate cap for each council should be having regard to key local government factors.

THE VARIATION PROCESS

How should the variation process work?

Any variation process should take local community needs into account but not so onerous as to add significant administrative burden. If the cap is set at an appropriate level, the majority of councils would be able to manage their long term finances. This would reduce the need to seek ongoing variations.

In the event that Council does require variations there should be an as of right exemption for demonstrated cost shifts within the process.

It would be beneficial if councils were able to seek variations if their financial situation or infrastructure needs were demonstrated to be outside of key sustainability indicators.

An initial levelling period may be appropriate for some councils so that the relative position of councils on key sustainability index measures could be established and maintained.

The current proposal for rate capping works on a premise that councils are relatively alike.

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

Any reasonable request for assessment of a variation should be granted. Councils are responsible authorities managing billions of dollars of the community's assets and services. It is reasonable to assume they would not waste the Commission's time on minor matters.

The variation application should be judged on the clear criteria of a community benefits test: including

- Demonstrated community demand and support
- Financial sustainability
- Infrastructure Sustainability
- Change management
- Regional significance
- Cost shift
- Market forces
- Historical liabilities

It should be noted that local government is responsible for long term planning and financial management of the Community's investments. Seeking a variation needs to be for circumstances deemed significant.

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?

A funding call for Council to make a contribution to the Local Authorities Superannuation Fund - Defined Benefit Scheme. As per previous question.

There must be inbuilt considered approaches to ensure councils continue to maintain their assets. How will the Commission differentiate between a Council that has maintained its asset renewal ratio but not had the capacity to invest into new assets; against a Council that has continued to invest in new infrastructure through exemption requests but not invested in asset renewal?

A Council's growth cycle must be considered. The needs and reasons for exceptions across the various Councils may differ considerably.

Council needs to be in a position to manage efficiently and provide the much needed services across its community at whatever growth cycle it happens to be in.

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.

The information required as a baseline is reasonable. The issue however, lies in the subjectivity of the information and at what threshold would the Commission consider a submission.

A clear set of weightings and locally relevant KPIs needs to be established (based on key local government factors) so as to justify variation requests in a municipality to relative local need.

The exercise of rate capping should not result in local communities becoming homogenised. Local character and identity should remain important factors for consideration.

COMMUNITY ENGAGEMENT

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

Councils undertake extensive community engagement exercises on an ongoing basis. These processes occur throughout the year with key stakeholders and inform the strategic planning of the organisation to meet the needs of the community, and articulate the priorities around resource allocation. Banyule has an extensive community engagement and planning process that it undertakes and feeds back to its community in an iterative cycle. This engagement process helps to establish the key themes, initiatives and priorities for the short, mid and long term future of the municipality.

The current Banyule City Plan is a key exemplar of this work.

INCENTIVES

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?

Incentives are a reasonable tool in a rate capped environment to provide future flexibility such as a series of rate credits for future major infrastructure projects. However, the premise exists that there is excess capacity to begin with. An incentives system benefits organisations that either have a larger cash base or have been less efficient in the past.

Financial incentives need to be funded by the State Government not from local government funds.

TIMING AND PROCESS

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.

A four year forecast of the capped rate would aid greatly in the strategic budgeting.

The Commission would assess the 4 year strategic budget on a rolling basis. Any significant variation to the 4 years would require an amended assessment. This would provide a longer term outlook and maintain ongoing business functionality and expectations.

The current Council elections cycle prevents good strategic management as new Councillors do not have sufficient time to assess the strategic needs of the organisation. There is little time to submit variation submissions or assess the new priorities a Council may have been elected to implement in time to inform the budget cycle for the following financial year.

The criteria for lodgement of applications should be fair across councils to ensure all information provided is relevant (directly and indirectly impacting on the request) and can be carefully assessed – full disclosure. This would be best suited at a point in time prior to endorsement of the Strategic Resource Plan each year.

TRANSITIONAL ARRANGEMENTS

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?

There is merit in this and it would be most beneficial if the phasing started with a new Council term.

Timing – consideration of the timing of the assessment of rates variations is critical in delivering business continuity. Consideration of the timing of Local Government elections and the ability for elected Councillors to be in a position to influence the budget including stakeholder consultation noting a requirement to deliver an approved budget and City Plan prior to 30 June 2015 each year.

Where decisions are pending the Council needs to be in a position to continue its business of delivering quality services and infrastructure to its community.

ROLES

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 Commission's role should be determinative.

OTHER MATTERS

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

There is a critical requirement for a comprehensive review of the program post implementation. This review should include both the quantitative and qualitative effects on Councils upon review. A base line study should be undertaken at the outset of rate capping to determine the level of economic activity undertaken currently by councils and look at the underlying sustainability of current council finances, infrastructure and services. The study should examine any shifts in these factors across the study period as a result of the rate capping.

How should the costs of administering an ongoing framework be recovered?

The framework is a State initiative, any funding for the administration of the framework, the review of its effectiveness, or reporting associated with the scheme should be borne by the State possibly in consultation with the MAV so as not to create a further cost shift to local government

OTHER MATTERS RAISED IN EARLIER CHAPTERS

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**

The Principles should recognise the need to have a sound understanding of the economic and social context in which local governments operate including provision of community need into the long term future. The rate capping framework must be well developed, carefully applied, and its impacts transparently, independently, and robustly evaluated.

Banyule notes Principle 1 that “Local communities differ in their needs, priorities and resourcing”, which is fundamental to the role of local governance across Victorian communities. Rate capping will be a further ongoing consideration in how councils manage limited resources (and State imposts) impacting the community. Council stewardship decisions in the interests of the community and ratepayers (Principle 3) is endorsed, as is transparency (Principle 2) in setting rates. Any further proposed further demonstration however must recognise existing requirements, current best practice, local usefulness, and regulatory burden. (The LGPRF for example has been significant resource burden with limited usefulness.) To this end the burden of proof in cap variation (Principle 4) needs to be clear, commensurate in scope to the variation sought, contextually fair, and take into account the self-determination of each local government community.

Where such principles are held, it should therefore follow that burden-of-proof requirements should also apply to State government regulation and decision making. The “Other viable options” and “Best practice planning” (Principles 5 and 6) will be complex to apply in practice and in activity areas already requiring significant resourcing. Principles 7 and 8 require the State to undertake strong evidence gathering in the application of any rate capping regime.

Other issues relating to the design or implementation of rate capping are noted as:

- Impact of reduced resources and services, for ratepayers
- The changing and growing demands of residents for continuation of existing services and further expectations.
- The ongoing local role of councils in enabling community well-being and ability to work effectively in partnership with State and Federal Governments.
- Recognition of timely infrastructure provision, rather than lagging behind community need. (i.e. provision now for communities in the future)
- Population growth is one factor to be considered, as is also demographic changes (e.g. aging communities) and these impacts on services relied upon by the community.
- Consideration to also allow for rate capping increases linked to State and Federal Government funding decreases.
- Further information to be provided by the State Government as to workable, cost effective, and sustainable suggestions for any alternative income sources.
- Funding for the increased (and ongoing increasing) administrative burdens.
- Consideration given to State-funded independent monitoring of impacts and sustainability as a result of a rate capping regime on Victorian communities.
- Clear approaches developed as to how introduction of rate capping will unduly skew Council reporting and resource spending, and particularly in relation to experiences in States with rate capping schemes.
- That the base issue leading to the State response to impose a rate capping system be addressed. i.e. If weaknesses in rating practices have been found, that systems and

practices be introduced to address this, rather than a potentially short and longer term community-damaging system.

- That the economic and social impacts of such a system should be independently and transparently investigated by the State first.