

15 May 2015

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

Dear Dr Ben-David

Local Government Rates Capping and Variation Framework Review

Thank you for the opportunity to comment on the Local Government Rates Capping and Variation Framework Review.

The Bass Coast Shire Council is committed to providing a responsible, responsive and sustainable level of government that supports and enhances our community. For that reason, we have prepared a submission that addresses the questions outlined in the consultation paper.

With regard to the comments contained within our submission, we would be happy to discuss the points raised. Should you wish to make contact concerning the submission or if we can assist the Essential Services Commission in any other way throughout the development and implementation of the framework, please contact Brett Exelby, Manager Finance or Mark Brady, General Manager Governance and Organisational Development.

Yours sincerely



Brett Exelby
Manager Finance

Encl: Submission to Local government Rates Capping & Variation Framework Consultation Paper



Submission to Local government Rates Capping &
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Introduction

The Bass Coast Shire Council is encouraged by the level of feedback being sought from all stakeholders in the development and implementation of a state-wide capping and variation framework for council rates by the Essential Services Commission of Victoria.

This paper contains Council's responses to a series of questions that the Essential Services Commission has posed to all interested stakeholders. Council has taken the time to provide responses due to the criticality of establishing a robust, yet flexible regime to ensure that Council is able to provide for a viable and livable community for the long term future and not just with respect to immediate short term demands and desires.

Such a framework must enable and support the use of Long Term Financial Planning frameworks and adopted council policies. Bass Coast Shire Council remains committed to the principles of accountability and in containing operating costs to live with an appropriate rate capping or containment regime. Such a regime must allow for the flexibility to deal with issues such as; unforeseen events; changes in responsibilities and levels of service and the increasing need to both renew our community and to deliver facilities and infrastructure for a growing community.

The following section provides responses to each of the questions posed by the Essential Services Commission.

The questions posed by the review

The questions posed by the review have been grouped into ten (10) themes:

1. The form of the cap
2. The base to which the cap applies
3. The variation process
4. Community engagement
5. Incentives
6. Timing and process
7. Transitional arrangements
8. Roles
9. Other matters
10. Other matters raised in earlier chapters

Responses to the questions

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?**

Although a cap based on CPI appears to be a simple concept, the practical application of said cap has the potential to have significant adverse impacts on communities, most particularly to smaller and rural communities. Careful consideration and design will be required to ensure that the capping and

variation mechanism initially applied does not have such adverse impacts or the trust in the mechanism will be permanently damaged.

Rather than provide a detailed response to this question specifically, the issues associated with the cap are addressed throughout the submission.

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

Council strongly supports the argument that Consumer Price Index (CPI) does not accurately reflect the price movements faced by local government because this index (generally reflective of household costs) has a significantly different composition of expenses compared to local government. The industry has however regularly referenced a Local Government Cost Index (LGCI) in setting budgets which generally equated to the equivalent of the CPI plus 1%. Another realistic and viable alternative measure would be to utilise the Reserve Bank of Australia (RBA) underlying inflation figure. A further challenge for the simplistic CPI is that, on average, local government operational expenditure consists of 40% in staffing costs. Growth in these costs via Enterprise negotiations has historically remained in excess of CPI, so rendering the CPI as an unrealistic measure.

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?

Council supports the notion that allowable rate increases should be established in line with its Strategic Resource Plan and Long Term Financial Plan. That is, Council is required to produce a SRP that identifies its future financial position over a four (4) year period. It should do so with some level of certainty to enable planning and preparation. Councils have many years ago ceased to operate on a year by year basis with projects being conceived, developed, planned, funded, constructed and finalised all within a single annual budget cycle. As such, a level of certainty is required to enable the delivery of projects and programs over a longer period.

Council is then seeking, at a bare minimum, an in principle support on an annual basis of the SRP as part of the annual budgetary cycle. This should provide an indicative approval for rating levels over the period of the SRP with annual review supported

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

Notwithstanding Council's view that CPI should not be used, the use of historical or forecast figures is largely irrelevant if Council can justify the required rating effort. However, given that all Councils, will be using historical trends to forecast future cost increases and the Strategic Resource Plan and Long Term Financial Plan utilise forecasts that Council will seek the Essential Services Commission to support in principal, the use of forecasts is most appropriate.

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

Council is of the view that so long as the ability to justify rating levels is available and accepted within prudent guidelines then a single cap could apply to all 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?

Council supports the notion of accountability in all of its budgetary matters and is satisfied with the opportunity to demonstrate responsible fiscal management. Therefore, Council is of the view that the cap should apply to rates revenue and municipal charges only.

The basis of this position is that special charges or special charge schemes are already covered by regulation and require support from the affected community prior to being implemented. These are specific charges for specific benefited areas and should not be subject to any capping regime. In a similar fashion, service charges are based on the cost to deliver the service and should not be limited to a rate capping regime.

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

As this should apply only to rate revenue and the municipal charge, Council is of the view that the cap be applied to total adjusted revenue arising from rates and municipal charge only.

The total adjusted revenue should exclude annual growth in income from property growth and development. The cap is in effect applied to the annualised rates and municipal charges. Any cap should only be applied to the annualised rate base (i.e. includes full year impact of supplementary growth from that year), meaning that future rate revenue growth would be determined by: annualised existing base + cap + growth in subsequent year.

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

Supplementary rates should not form part of the annual rate cap until after they have occurred. There is far too much variability and too many unknowns in including the supplementary valuations within the rates cap as there is both the potential to have both increase and decreases in income arising from the application of a supplementary valuation.

The amount and value of supplementary income derived from supplementary valuations is extremely variable and whilst will vary within any one council depending upon the growth or shrinkage of the population or market, there is also considerable variability between councils in the level of growth or shrinkage. As such, supplementaries should not form part of any discussion in setting a rate cap for any given year until the following year when they will form part of the new annualised base.

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

Council does not view the re-valuation process as relevant to the notion of capping as this is only relevant to the issue of how the rate and municipal charge taxation burden is distributed or shared amongst the various types and classes of ratepayers.

10. What should the base year be?

In the context of developing the base or annualised rates and municipal charge, the annualised amount is calculated by applying prior year (e.g. 2014-2015) rates in the dollar to the capital improved value (CIV) of the rateable properties at the time of establishing the budget or another particular date. This will then include the additional properties that have been created through the course of the (e.g. 2014-2015) financial year. This establishes the base position from which to apply any change to the rates for the coming (e.g. 2015-2016) financial year.

The Variation Process

11. How should the variation process work?

Council's response to this question is covered in responses to subsequent questions.

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

Council is of the view that the reason for the variation should be an irrelevance if the appropriate process to request the variation has been undertaken. The reasoning behind this is that in providing an exhaustive list of circumstances there will always be an exception. For this reason the circumstances concept should be broad and allow scope for the community to accept or request a variation for any circumstance that the community and council deem necessary.

In simple terms the circumstances are for the most part covered in both the question and response to the following question (13). However, for most councils, the single most pressing financial viability issue is in addressing the existing (and growing) infrastructure gap. Councils need to be able to renew assets in line with asset management plans and councils should be able to justify income levels to reduce the infrastructure gap. This financial viability issue simply cannot be addressed within the constraints of an imposed cap.

Council again states its support for accountability and believes that a cap such as LGCI or an adjusted underlying RBA index is sound for the purposes of dealing with operational expenditure and that few exceptions would apply for operations. However, strong justification will be provided for variations beyond the cap for other issues such as asset new renewal and the provision of new facilities as required (and demonstrated) by the community.

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?

There are other factors, depending upon the model that have the potential to have significant impact and should be considered, such as:

- Defined benefits superannuation calls
- Shifts of responsibility via legislation or regulation – for example, changes in EPA expectations concerning landfill management, imposing roadside management and so on.
- Other large non-capital projects such as landfill rehabilitation costs or works on projects that are not council assets
- Changes to agreed service levels
- Additional regulatory or reporting burdens placed upon Local Government.
- Other extraordinary items that may be relatively unique to specific councils, for example requirement to set aside funds to address the liability for perpetual maintenance funding for Cemeteries.

It is for reasons such as these that the circumstances must be broad enough to accommodate any reason for a variation.

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:

- a. the council has effectively engaged with its community
- b. there is a legitimate case for additional funds by the council
- c. the proposed increase in rates and charges is reasonable to meet the need
- d. the proposed increase in rates and charges fits into its longer term plan for funding and services
- e. the council has made continuous efforts to keep costs down.

We would like stakeholders' views on whether the above requirements are adequate.

Council supports each of the above requirements. In addition, Council is of the opinion that:

- The fit with, and existence of, a robust long term financial planning framework must be a minimum requirement to demonstrate the long term impacts of decisions. This framework should also reference funding asset renewal activities.
- When variations are for new, expanded or upgraded facilities they must establish how such facilities meet a demonstrated community need.
- Where variations are for changes to service levels, council must demonstrate a framework that considers the decision behind such changes.
- An initial baseline must be set to measure future movement against with a view to arriving at a future point of parity between councils.
- Current financial position and track record should be a consideration.
- Clear benchmarks and performance indicators are readily available that indicates Councils financial position. That is, a Council that has demonstrated sound financial management and has consistently had a low rating effort and can demonstrate a track record of operational efficiency should not be adversely treated in comparison with like Councils who have higher rate and spending levels.

Community Engagement

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

Council supports the use of IAP2 principles in regard to engagement. In terms of engagement on significant financial matters such as long term financial planning, rating strategies and budgets Council is of the view that engagement should include but not be limited to:

- Public notice
- Media release
- Community forums
- On line surveying
- Written and verbal submissions

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?

The presence of a cap in itself will provide Councils with additional motivation to deliver efficiencies. It should be noted, however, that local government is already far more accountable and transparent than any other level of government or government organisation within the Australian Federation. There are already accountability measures to encourage and force Councils to deliver best value through legislation, performance reporting and indicators, benchmarking and community expectations. Additionally, any associated implication that Councils can only deliver efficiencies via “incentives” is strongly refuted. Local government has a proud track record of delivering more with less as it strives to meet community demand, deliver services on behalf of other levels of government and renew aging infrastructure. This is even more evident for Councils outside the metropolitan area, where resource limitations force Councils to be more responsive and creative in the manner in which the community is supported. Any insinuation or claim that a cap is required to drive efficiency is false, local government is extremely accountable for its rating and spending efforts.

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.

Timing is a critical issue in the ability of Council to continue to undertake normal business without an additional layer of bureaucracy and delay being placed upon it.

Council is required to adopt a budget by 30 June each year after a public consultation process of at least 28 days. In order to achieve this requires that draft budgets are completed and published for consultation by late April at the latest. Council is of the view that the draft budget must reflect the indicative rate income and therefore any approved level above any cap must be approved prior to the draft budget being considered. It would not be appropriate for the rate level to be reduced during the formal consultation process as this would require further consultation on reductions in services and/or capital spending. The likely outcome of such a process would be for Councils to fail to adopt a budget by 30 June each year.

In order for the capping mechanism to be effective and timely would require that any decision on the cap would need to be set or established by no later than 31 December each year. This would enable the budgetary process to establish a rate base from which to make decisions for the budget to then be adopted at 30 June the following year. The process for seeking a variation must then occur during the period from 1 July each year, culminating in the decision by 31 December in that same year. This six (6) month window provides time to develop a case for a variation, have adequate consultation the community, submit a variation and provide sufficient time for the Essential Services Commission to assess a possible 79 variation submissions.

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?

Council is of the opinion that not only is there merit in a two year phasing in of the rate capping regime but that it is essential. It is simply not possible to deliver a rate capping regime in time for the 2016-2017 financial year without posing a significant risk to the public perception of the rate capping framework nor is there adequate time for Councils to develop a submission (with adequate consultation) and have approval provided prior to 31 December in order to develop a budget. To achieve such deadlines will require the legislation in place (and associated guidelines) by 30 June 2015, which we note is unachievable. Council is greatly concerned that there will not be sufficient time for considered implementation if legislation is not in place until early 2016 as currently proposed.

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?

Council is of the view that the imposition and determination of any rate cap should be the role of the independent Essential Services Commission. It is also Council's view that the Commission should not provide advice to the Minister of Local Government or any other Minister in order for that Minister to make a determination. The opinion of the Commission is likely to be viewed by the community as an independent assessment, which will engender a greater level of trust in both the framework and in the outcome. The broader community will also place more trust in the framework should it be removed from the realm of politics.

Other Matters

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

The framework should be the subject of an annual review with a particular focus on process. The framework fundamentals and principals can then be further reviewed on a three (3) year cycle.

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

Council is strongly against the concept of the costs of the framework being imposed upon Council. As this is a State Government imposed regime, the State Government must meet the costs of administering the framework. Any suggestion that each Council funds the State's costs of assessment and administration are strongly refuted. Additionally, Council is concerned about the ongoing cost of compliance and the costs associated with seeking variations. Councils have differing capacity to invest in such a process and there is no economy of scale for different sized Councils.

Council is concerned that those with the capacity to fund strong applications for variations will be advantaged over councils who are more fiscally challenged. On the surface, such an outcome would be detrimental to the intent of the process, i.e. those that have the funding capacity and increased ability to fit within a cap would gain or profit from a variation whilst those Councils that would benefit most from a variation may not be able to afford to participate in the process.

Other Matters Raised In Earlier Chapters

22. We are interested in hearing from stakeholders on:

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

One principle that has not been adequately addressed is the starting point of reference for the cap system. Council acknowledges that there must be a starting point but the simple fact is that councils will arrive at that starting point in vastly different financial positions. It is extremely inequitable for all Councils to be judged equally at that time. To do so would be akin to granting a moratorium to high rating high spending Councils and penalizing councils who have demonstrated tighter fiscal control over a period of time. For this reason, Council earlier highlighted the need to include performance indicators and benchmarking as criteria in assessing variations.

From an industry and State economy view, Council is deeply concerned that the system will result in less spending within the community and perhaps more specifically on the renewal of assets and the provision of upgraded or new facilities. Local governments annual contribution to capital investment across the state of Victoria is in the order of \$2 billion per annum and a subsequent cap in income will result in a reduction in capital expenditure. There needs to be some form of oversight to ensure that councils don't fail to meet their asset obligations otherwise we will simply be creating a massive financial burden for future generations. Council also notes the role of all levels of government in helping, supporting and growing the economy, as evidenced by the nation-building program during the most recent global financial crisis. Capital spend has enormous flow on effect and any reduction in capital spend or operational spend by local government will adversely affect the State's economy, but most keenly the local economy, in particular rural communities.

Local Government in Australia has responsibility for 38% of the nation's assets yet collects only 3% of all taxes. A cap will reduce the tax collected in real terms and further affect local government's ability to maintain and renew its asset base. Council is of the view that local government has a significant role in building and investing for the future and is concerned that any cap may lead to a contain/maintain culture where only the community is the loser.

Conclusion

The Bass Coast Shire Council, although not in support of the imposition of a rate capping regime, is focused on remaining a low cost and low rating Council that seeks to use efficiencies and growth to further maintain and develop the Bass Coast community. Council will continue to use a long term financial planning framework to enable the assessment of the impacts of decisions made by Council. This framework will enable more informed decisions to be made and will form part of Council's future requests for a variation to any cap imposed on revenue derived from rates and municipal charges.

Council is keen to be an active participant in the development of the rate capping and variation framework and is eager to work with the Essential Services Commission to ensure the best possible outcome for the Bass Coast community.