

**Essential Services Commission  
RATE CAPPING SUBMISSION:**

*Joe lenzo*

**VICTORIA**  
**MAV: Huge \$, Big Voice**  
**VLGA: Huge \$, Big Voice**  
**Council: Huge \$, Big voice**  
**Ratepayers: No \$**  
**No Voice**

**First**, I would like to present my Financial Competency to support my submission on the subject of Rate Capping for Local Government. I have served in both Financial and Sales/Marketing executive positions within a multibillion dollar company. My Educational and Financial Position Titles speak for themselves without further explanation. In all of these professional financial positions the skills of a forensic accountant were finely sharpened.

- Bachelor of Business Administration: Major, Accounting; Minor, Marketing
- Corporate Auditor
- Division Financial Analysts
- Group Financial Analysts
- Internal Financial Consultant
- Manufacturing Operations Financial Controller
- Manufacturing Division Operations Financial Controller

**Unintended Consequences** is mentioned many times and is the new buzzword and certainly worthy of discussion. Unfortunately the term is used mostly as an excuse for lack of due diligence and the lack of even the most rudimentary elements of prescience (sorry, but I just love that word). Sooooooo, if we call failure an “unintended consequence” we are “off the hook”.

The law of unintended consequences, often cited but rarely defined, is that actions of people—and especially of government—always have effects that are *unanticipated* or unintended. Economists and other social scientists have heeded its power for centuries; for just as long, politicians and popular opinion have largely ignored it. “*Unanticipated*” is the key word here!

There is no reason to have *unintended (unanticipated) consequences* of any significance with proper Risk Assessment Analysis: a technique used to identify and assess factors that may jeopardize the success of a project or achieving a goal. This technique also helps to define preventive measures to reduce the probability of these factors from occurring and identify countermeasures to successfully deal with these constraints when they develop to avert possible negative effects.

In order for Rate Capping to be successful, the issue of *unintended (unanticipated) consequences* must be addressed and every effort is made to identify them and take action to prevent them.

I am suggesting that in the Draft report release, July 2015 that *unintended (unanticipated) consequences* be identified with their solutions and that the report ask for any additional potential unintended consequences and recommended solution.

Some reasons for *unintended (unanticipated) consequences* that I can foresee:

- Most negative *unintended (unanticipated) consequences* in rate capping will be the result of the lack of a skill set necessary to manage multi-million dollar budgets let alone identify the possibilities through Risk Assessment Analysis.
- Special Rate Schemes: will be used to collect additional funds like never before. Any negative changes to these schemes must be considered in the same light as the Process to approve rates in excess of cap
  - municipal charges under LGA1989 section 159;
  - service rates under LGA1989 section 162;
  - service charges under LGA1989 section 162;
  - special rates under LGA 1989 section 163;
  - Special charges under LGA1989 section 163.
- What gets measured gets done! Well kinda, actually what gets done, many times, is to manage the inputs into the measurement so that the answer meets the criteria but nothing changes. This is why proper Management measurements must be acutely defined and a standardized rigidly defined chart of accounts must be developed. It is easy to just reclassify a cost or asset to change the management ratio and “get the right results” i.e. the right ratio which is being measured without anything changing.
- “We have seen that when a people in peril can save themselves only at the cost of a quick and dramatic change in their habits and beliefs, they usually prefer to perish”  
L. Sprague and Catherine de Camp, *Citadels of Mystery*.
- Troglodytes: a person who is regarded as being deliberately ignorant or old-fashioned
- “Faced with the choice between changing one's mind and proving that there is no need to do so, almost everyone gets busy on the proof. ” ~John Kenneth Galbraith

- “The guild navigators, gifted with limited prescience, had made the fatal decision. They’d chosen always the clear, safe course that leads ever downward into stagnation. ”  
~Frank Herbert – Dune

**Corporate budgeting** is directed at getting the most amount of information in great detail to inform management what actions can be taken to improve profits. Bureaucratic budgeting almost seems to be exactly the opposite.

Corporations must budget to meet competition reduced incomes and increasing costs and yet still make a profit. Bureaucratic budgeting seems to not be as concerned, historically local councils simply increase their income level however they want by increasing Rates.

Corporations face the same cost problems as bureaucratic institutions but the approach is quite different. Cost reduction (efficiency improvements) is a key part of corporation budgeting while bureaucratic budgeting seems to ignore this or pay lip service to it only.

Corporate budgets are reviewed by managers who understand budgeting and cost objectives and their value. Bureaucratic budgets are reviewed by councillors who have basically no skills in multimillion budgets let alone any skills to improve efficiencies or economic outcomes, and therefore must accept that what they are told is expert advice (the fox in charge of the henhouse).

### **DOLLERY & WIJEWEERA: Rate-pegging in New South Wales, An assessment of rate-pegging in New South Wales local government:**

The economic rationale for rate-pegging derives from the normative prescriptions of standard economic theory: local government enjoys a monopoly in the provision of essential local services. Accordingly, like all other monopoly providers, it will provide these services at excessive prices and/or inefficiently and thus warrants regulation by higher tiers of government to ensure efficient and equitable outcomes

In terms of the case for rate pegging, four separate arguments are identified:

1. Revenue regulation through rate-pegging prevents the abuse of monopoly power in the provision of basic local services;
2. Rate-pegging assists in controlling ‘cross-subsidization’ and imposes restrictions on the ‘provision of non-core services and infrastructure that might prove unsustainable to ratepayers’;
3. Rate-pegging manages the risk of poor governance in the local government sector; and
4. Rate-pegging limits the ability of councils to divert funds from essential infrastructure to other projects as well as expenditure on ‘marginal services’ that are better provided by the private sector

An additional argument for rate-pegging is adduced later in Revenue Framework for Local Government: Issues Paper (IPART2008:63). This contends that local government accountability is improved through rate-pegging because 'The process of assessing and making determinations on applications for special variation' ensures that the 'reasonableness of all applications is scrutinized' which may 'enhance councils' accountability'. . . Only a small proportion of NSW councils – only 26 councils out of 155 local authorities in 2008/09 (IPART 2008:56, Table 7. 3) – actually applied for special variation ...

Two further implied arguments for rate-pegging were put forward in the Independent Inquiry into the Financial Sustainability of NSW Local Government (Allan et al 2006).

Firstly, rate-pegging had worked well, compared with other Australian local government jurisdictions, if its primary aim was to constrain rises in council rates; an observation supported by both the Productivity Commission (2008) and the NSW Local Government and Shires Association (2008), ...

Secondly, rate-pegging may have forced NSW local government to become more efficient than it would otherwise have been, especially in the domain of corporate overheads and administrative costs.

The PriceWaterhouseCoopers (2006) National Financial Sustainability Study of Local Government found that not only was a large number of local councils in all Australian local government jurisdictions financially unsustainable in the long run, but that most councils confronted a massive local infrastructure backlog, regardless of the rate-setting regime in each state. Moreover, Byrnes, Dollery, Crase and Simmons (2008), Dollery, Byrnes and Crase (2007), and others, have demonstrated that the magnitude of this backlog is so substantial that it is now beyond the present capacity of any Australian local government system to remedy without outside financial intervention.

Since this problem is endemic to all Australian jurisdictions, and does not appear to be comparatively more acute in NSW, it would thus seem that the NSW local infrastructure backlog cannot be ascribed simply to rate-pegging.

In addition, as we have seen, the Associations contended that rate-pegging had several other unintended effects.

They asserted that rate-pegging has reduced investment in infrastructure maintenance and renewal – an argument which does not appear to accord with the evidence garnered by PriceWaterhouseCoopers (2006).

A much more important argument in the present context resides in their claim that the special variation option is under-utilized, which suggests that the rate-pegging system has had a more general 'dampening' effect than the stipulated rate peg itself.

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Concluding Remarks: this paper has considered the nature of rate-pegging, the arguments surrounding its desirability, and its economic effects on NSW local government. We have seen that the case for rate-pegging seems to hinge on three convincing arguments. In the

First place, as we have demonstrated in this paper, rate-pegging has achieved its basic objective of slowing increases in NSW council rates over time relative to other Australian jurisdictions (Allan et al 2006).

Secondly, a prima facie case exists which suggests that the constraints imposed on council revenue by rate-pegging may have enhanced the administrative efficiency of NSW councils and reduced their overheads, at least in comparison with the NSW state government departments (Allan et al 2006).

Finally, rate-pegging has enjoyed ongoing and strong public support (IRIS Research 2005), which appears to demonstrate the operation of an efficient 'political market' in NSW (Dollery, Crase and Byrnes 2006: 397) in the Wittman (1995) sense.

**It is essential that rate capping be introduced in Victoria:** For far too long local government have had little or no restraint on spending and efficient budgeting and cost control. Although lip service to "best practices" is pronounced over and over, any forensic investigation proves this to not necessarily be true which is why rate capping must be legislated. It is essential to force local government to adopt the best practices used every day in the competitive commercial world.

Additionally, the runaway rate increases of local government are putting our most vulnerable at risk. Pensioners on a fixed income are forced with CPI capped increases and must make tough choices as costs always increase faster than the CPI. Continuing these inflationary rate increases will force many of these people to abandon their homes as they will not be able to pay their rates.

Local Government makes the argument that their costs grow in excess of any CPI cap and therefore they should not be subject to financial control. Rate capping will force local government to look at what they are doing and, if they make the right decisions, will stop

doing many things outside their scope. Get back to the basics of local government and providing essential services.

Those local governments that do not invest in proper analysis of their cost and cost structures will certainly deliver all of the worst case self-fulfilling scenarios purported by the fear mongering “it will-not-work fear mongers” who will do anything to avoid change.

**“Essential Services”, “Social Services” and, “Marginal Services” that are better provided by the private sector:** Victorian councils provide 50 to 120 different services to their communities and these need to be differentiated and defined as to the role of local government in delivering these services.

Categories of services must be identified:

- “Essential Services”
- “Social Services”
- “Marginal Services”
- “Services better provided by the private sector”
- Other significant Categories

Within each clearly defined category, Services should be listed from most important to least important. Is a swimming pool more or less important than Child Care, for example? In Fact is a swimming pool a “Social Service” or a “Marginal Service”?

Forcing this analysis will make it clear what “services” can be modified or eliminated to meet financial expectations.

**The Municipal Charge** is just another tax and is a **regressive tax** at that, which makes it the worst kind of tax. A good example of the unfairness of this tax can be seen below with an example from the Mornington Peninsula Shire:

The highest rate for a residential dwelling (excluding municipal charge) is \$48,900  
The lowest rate for a residential dwelling (excluding municipal charge) is \$31.55

The Municipal Charge (\$180) for the highest rate is .37% of the rate while at the other end the spectrum it is 570.52%.

Although the most extreme example, it does point out the disparity and unfairness of the charge and penalizes those who can least afford it.

The Municipal Charge should be discontinued and these costs should be included in the basic Residential Improved Cents on \$ on CIV.

**LGA 1989-SECT 3E (1) (e)** states that a function of council is “to raise revenue to enable the Council to perform its functions” and yet the Mornington Peninsula Shire refuses to even consider the following proposal:

Speaking with Exaggeration (hyperbolically speaking): if there were a two lane muddy track from Melbourne to ThePeninsula you could not stem the increasing flow of tourists by shocking each with a high voltage electrified cattle prod.

In good times and bad, The Mornington Peninsula basks in its proximity to Melbourne. That short hop, skip, and a jump drives Melbournians even more in bad economic times to a visit to ThePeninsula as a low cost alternative for a holiday.

Tourism Victoria, the Victorian Government’s lead tourism agency, lists the Mornington Peninsula as one of 11 campaign areas and their latest 2013 statistics indicate that there are approximately 7.8 million visitor days to The Mornington Peninsula. All statistics forecast a high percentage of growth each year dictating significantly increasing tourist days. An increased international awareness, currently generating a relatively insignificant number of visitors will drive tourist days to even faster growth rates.

Frankly as a ratepayer I am tired of paying for a playground for visitors who do not contribute directly to the cost of their good times. We are not obligated to provide this playground to non-residents at no cost.

The Mornington Peninsula Council has a duty of care to keep rates as low as reasonability possible and should insure that these tourists pay their own way and are not a burden to ratepayers in the annual budgeting process

Net collections of only \$1 per day would add \$7. 8 million \$\$\$ to the annual budget and relieve the burden from ratepayers.

Discounting many innovative ideas like this one goes to ignoring the treasure chest of gold at the end of the rainbow that is available to offset the astounding rate increases we have seen in the past. I am confident that Mornington Peninsula Shire is not alone in this troglodytic thinking.

**Budget Training:** of the 11 councillors of the Mornington Peninsula Shire not one has the skills to understand, analyze and evaluate a multi-million budget let alone take actions to control costs. They are at the mercy of the bureaucrats and their ponderings for un-frank, un-fearless and self-serving advice.

I, from interacting with other ratepayers and community groups, find little evidence that any local council differs much from The Mornington Peninsula Shire.

A comment from a ratepayer group on one of the speakers at the **biased** Victorian Local Government Association: *Rate Capping forum 23 April 2015 - with Chairperson of Essential Services Commission, Dr Ron Ben-David:*

“One of the speakers is a Monash Councillor – Michaela and she doesn’t even know how to read a budget?”

Budget training should be mandatory and after any local election ALL councillors should attend intensive training on the subject. It is essential that even the “rusty” councillors attend this training after each election. Additionally, there should be mandatory training each year on budgeting introducing; tried and true methodology, new techniques, and best practices.

This training should not be left to the local government to achieve. Today there are funds allocated for this kind of training and very few take advantage of it... none that I know of!

**The Capital Programs:** appears to be in total disarray with funds moving around faster than a drug lord laundering his money into hidden bank accounts to keep ahead of the Drug Enforcement Agency. It is a disgrace and money for projects approved in one budget gets allocated to other programs not on the budget and then we get to pay for the original project again in the next year’s budget.

**New Budgeting Models** must be embraced by Local Government in order to meet reasonable rate capping limits which would include:

- **Participative Budgeting**
- **Activity / Zero** based budgeting. (ABB/ZBB)
- LGA 1989 actually comes close to demanding **Activity / Zero** based budgeting. (ABB/ZBB)

*LOCAL GOVERNMENT ACT 1989 - SECT 208D*

Quality and cost standards

- (1) A Council **must** develop quality and cost standards for the provision of any service it provides for its community.
- (2) A quality or cost standard **must** set out the performance outcomes determined by the Council in relation to each service.
- (3) In developing quality and cost standards a Council **must** take into account the factors listed in sections 208C (a), (b), (c), (d) and (e).
- (4) A Council may develop different quality and cost standards for different classes of services.

*LOCAL GOVERNMENT ACT 1989 - SECT 208C:*

In applying the Best Value Principles, a Council may take into account, among other factors—



- (a) The need to review services against the best on offer in both the public and private sectors **and**
- (b) An assessment of value for money in service delivery; **and**
- (c) Community expectations and values; **and**
- (d) The balance of affordability and accessibility of services to the community; **and**
- (e) Opportunities for local employment growth or retention; **and**
- (f) The value of potential partnerships with other Councils and State and the Commonwealth governments; **and**
- (g) Potential environmental advantages for the Council's municipal district.

*LGA 1989 PART 6—PLANNING AND ACCOUNTABILITY REPORTS sec. 127:*

Council must prepare a budget.

- (2) The Council must ensure that the budget contains—
  - (b) A description of the services and initiatives to be funded in the budget;
  - (c) A statement as to how the services and initiatives described under paragraph (b) will contribute to achieving the strategic objectives specified in the Council Plan;
  - (d) Major Initiatives, being initiatives identified by the Council as priorities, to be undertaken during the financial year;
  - (da) for services to be funded in the budget, the prescribed indicators of service performance that are required to be reported against in the performance statement under section 131;
  - (db) the prescribed measures relating to those indicators

**Process to approve rates in excess of cap:** A systematic process must be developed for submissions to the Essential Services Commission. I would suggest an Activity (zero) Based budgeting approach for all submissions. This approach identifies exactly what is happening by activity (service). The process must include prescriptive measures to look at the budget and the process utilized in total before approving any rates in excess of cap.

Community groups must have the opportunity to comment on any requests by council to increase rates in excess of cap.

The broader benefit to this approval process would be that local government must take a new and innovative look at budgeting and how to analyze costs and benefits.

It is interesting that: “only a small proportion of NSW councils – only 26 councils out of 155 local authorities in 2008/09 (IPART 2008:56, Table 7. 3) – actually applied for special variation” : One must wonder if this is because they were able to appropriately manage

their budgets or that they were too financially inept to put together a sound cause for any special variation.

I suspect that the second case (inept) would be more the cause which says all that has to be said about the issue of sky rocketing rate increases each year and a council's ability to properly "manage" them without some form of rate capping.

**Another acceptable method** for submitting approvals would be for "one off" programs where *broad community support* is identified through "Best Practices" independent consultative processes. Two examples of this within the Mornington Peninsula Shire:

- Reducing Debt
- Zero Carbon Footprint

Both instances are important issues to Mornington Peninsula Shire and a submission could be made with documented independent driven *broad community support* to increase rates specifically for these programs.

These programs should be a "one off" program and should be defined in terms of a one-time levy and not included in the \$ rate in CIV. Should be expressed as a % of \$ on CIV not a flat charge (see municipal charge). The revenue should go into a specific "escrow" account and all spending (direct "out of pocket" costs only) must be identified to support the objective as submitted to The Essential Services Commission. These funds must be restricted from ever being transferred into a general account without documental *broad independently generated community support* and reviewed by the authority for review of increases in excess of rate capping.

This would be similar to the USA model where major infrastructure funding must be approved by referendum. Local government cannot just decide to do it and raise rates. These funding's are generally covered by issuing bonds (borrowing). This is how major projects in the USA would be funded: like the \$75 million dollar SPA concept at Mornington Peninsula Shire. A project of this magnitude would need broad community support as the project would be voted on. These "initiatives" are supported by very "robust debate" in the public arena prior to voting on the issue. The process also stimulates partnerships among all of the stakeholders (private and public) to achieve a positive result for all. Many projects are jointly financed among these stakeholders and generate some very creative solutions.

**Chart of Accounts:** must be strictly defined with the intention of making it transparent and easily understood. All councils must be required to adhere to this "Best Practices" chart of accounts. The possibility of a comparison of financial ratios and results should be considered similar to the "**Victorian Local Government Services Report**". Suggested name of course would be: "**Victorian Local Government Financial Report**".

**Cost Shifting:** from federal and state governments to local governments must stop unless permanent funding is shifted with the responsibility. These funding's must be increased each year by the rate capping limit. It is absolutely not rational to cap rates and yet allow cost

shifting to local government without corresponding funding. (Consider it permanent outsourcing).

A report should be developed that shows the list of Cost Shifting over the last five years to local councils. The report should show the cost of this cost shifting and any income “Shifted” to support these programs. Then the cost shifters should “ante up” to support these programs

**Victorian Local Government Association AND Municipal Association of Victoria:** are simply sycophantic arms of local government as can be evidenced by the Auditor General's reports on the Municipal Association of Victoria and their advice should be taken in this context.

This can also be evidenced by the Victorian Local Government Association's *Rate Capping forum 23 April 2015 - with Chairperson of Essential Services Commission, Dr Ron Ben-David - for all local government councillors, CEOs and senior staff*, which excluded any community members from attending this forum, thus eliminating any possible dissent from their stance on rate capping.

Neither of these organizations appears to be taking a positive approach to this issue and are working “full out” to get the best deal for local government rampant rate rises that might be delivered.

Read this VLGA article – Towards a Workable Rate Capping Regime ([http://www.VLGA.org.au/Resources/Library/Towards a Workable Rate Capping Regime.aspx](http://www.VLGA.org.au/Resources/Library/Towards_a_Workable_Rate_Capping_Regime.aspx)) and you can get a glimpse of VLGA rationality for not supporting rate capping. There are lots of flaws in the arguments and you gotta love the part about brainwashing ratepayers to believe rate capping is good for them. And, of course, the report was commissioned by an agency who has a personalized stake in the outcome (the good old fox in the henhouse again). It is akin to carbon emissions reports commissioned by the coal industry.

The VAGO report indicates a very unethical and poor leadership culture of MAV, which is also reflected in VLGA, especially when ratepayers are excluded from that public forum and their engagement is limited in order to gain public support for councils' rating decisions and council's reasoning views. The author fails to realize that rates are property taxes and present practices infuse property taxes and fees for services as payable rates in rate invoices.

### **In Summary:**

There is a treasure chest of budget savings and cost control available to stem the incredible rise in rates we have seen historically which have brought us to this point.

Only through Rate Capping will local governments be forced to change their bureaucratic ways and address the situation with effective cost controls required in the corporate world each and every day.

The framework must require councils to demonstrate that they have assessed options other than rate increases.

Although simplicity, no new work load, and utilizing current reporting structures are a noble goal, it should not be a constraint to effective measurement of results. In fact, it might be better to come up with new and innovative indicators that require new and innovative thinking which might break the chain of sustainable myopic thinking that has propagated local government for eons.