



Consultation paper

South Australian Local Government rate oversight scheme

August 2018

Request for submissions

The Essential Services Commission (**Commission**) invites written submissions on this paper. Written comments should be provided by **28 September 2018**.

It is the Commission's policy to make all submissions publicly available via its website (www.escosa.sa.gov.au), except where a submission either wholly or partly contains confidential or commercially sensitive information provided on a confidential basis and appropriate prior notice has been given.

The Commission may also exercise its discretion not to publish any submission based on length or content (for example containing material that is defamatory, offensive or in breach of any law).

Responses to this paper should be directed to: **South Australian Local Government Rate Oversight Scheme – Consultation Paper**

It is preferred that submissions are sent electronically to: rates@escosa.sa.gov.au

Alternatively, submissions can be sent to:
Essential Services Commission
GPO Box 2605
ADELAIDE SA 5001

Telephone: (08) 8463 4444
Freecall: 1800 633 592 (SA and mobiles only)
E-mail: escosa@escosa.sa.gov.au
Website: www.escosa.sa.gov.au

Contact Officer: Ashley Harbutt – Senior Regulatory Analyst

Table of contents

- Glossary of terms ii
- Summary 1
- 1 Introduction 4
 - 1.1 Purpose and scope of this paper..... 4
 - 1.2 The Commission..... 6
- 2 Overview of the rate oversight scheme..... 7
 - 2.1 The Commission’s role under the scheme..... 7
 - 2.2 Councils’ role under the scheme 7
 - 2.3 Key dates..... 8
 - 2.4 How the scheme fits with current local government financial practices..... 8
- 3 Guidance on applying the Primary Rate Cap 9
 - 3.1 Calculating maximum allowable revenue..... 9
 - 3.2 An example of the scheme over three years..... 12
- 4 Primary Rate Cap determinations 14
 - 4.1 How many Primary Rate Caps should there be?..... 14
 - 4.2 The basis of the Primary Rate Cap 15
 - 4.3 Interstate comparisons 19
- 5 Rate cap variation determinations..... 22
 - 5.1 Applying for a variation..... 22
 - 5.2 Variation applications 22
 - 5.3 Decision on a variation application 25
- 6 Monitoring and reporting 26
 - 6.1 Compliance in the first year..... 26
 - 6.2 The Commission’s reporting requirements..... 27
- 7 Next steps 28
 - 7.1 Timetable for this consultation..... 28
 - 7.2 Next steps following implementation of the scheme 28
- Attachment 1 – Request for advice from the Treasurer of South Australia 29
- Attachment 2 – Local Government (Rate Oversight) Amendment Bill 2018 31
- Attachment 3 – Maximum allowable revenue formula 41
- Attachment 4 – Questions for consultation..... 42

Glossary of terms

ABS	Australian Bureau of Statistics
Base year	The financial year directly preceding the capped year
The Bill	Local Government (Rate Oversight) Amendment Bill 2018
Capped year	The financial year a rate cap applies to
Commission	Essential Services Commission
CPI	Consumer Price Index
Determination	Primary Rate Cap Determination
ESC Act	Essential Services Commission Act 2002
ESCV	Essential Services Commission of Victoria
IPART	Independent Pricing and Regulatory Tribunal of New South Wales
LG Act	Local Government Act 1999
LGCI	Local Government Cost Index (New South Wales)
LGPI	Local Government Price Index
Minister	Minister for Transport, Infrastructure and Local Government
Scheme	Rate oversight scheme
Treasurer	Treasurer of South Australia
WPI	Victorian Wage Price Index

Summary

The Local Government (Rate Oversight) Amendment Bill 2018 (**the Bill**) which has been passed in the House of Assembly proposes a statutory framework for a rate oversight scheme (**scheme**), commonly referred to as a rate capping scheme. In light of the prompt timeframe proposed for implementation of the scheme should the Bill pass into law, the Treasurer of South Australia (**Treasurer**) has sought advice from the Essential Services Commission (**Commission**) on:

- ▶ the preparation of a 'local government rate capping and variation framework,' and
- ▶ the future operational requirements of the scheme.

The Commission must provide the advice to the Treasurer by 1 December 2018.¹

Under the Terms of Reference, the advice is separated into two distinct parts – the formulation of an initial scheme, followed by the design of a full future scheme. This split takes into account the relatively short timeframe for the scheme's implementation in 2019, should the Bill be enacted.

Given the importance of stakeholder input to both elements of the advice, the Commission has released this consultation paper to gain views on the efficient and effective implementation of the essential elements of the scheme, as it currently stands.

The matters discussed in this paper are based on the current terms of the Bill, as passed by the House of Assembly on 24 July 2018,² noting that the Bill may be subject to further change during the Parliamentary process. This paper addresses key elements of the framework, particularly in terms of how certain factors and requirements could be set for the initial transition year (2019-20), and explores what may be necessary to fully establish the framework for future years.

In that context, the Commission emphasises that, should the scheme come into effect, it will review the operation of the scheme during the first year, with a view to refining and settling any ongoing improvements for future years.

Importantly, while the Commission is seeking comments on those matters, any comments on the policy underpinning the Bill or the terms of the Bill are outside of the scope of this consultation process and should be addressed to the Minister. The Minister has indicated that he will consider comments on the Bill, and amend it if deemed necessary. Comments may be sent directly to DPTI.OfficeofLocalGovernment@sa.gov.au.

In preparing the advice, the Commission has had and will have regard to the need to undertake work, analysis and consultation (particularly with the local government sector) in order to achieve a framework that delivers good community outcomes while trying to minimise compliance costs.

In broad terms, the scheme has the following elements:

- ▶ A council calculates its Base Standard Rate, which requires consideration of the immediate prior year's annualised revenue (the base year), which in turn requires consideration of any growth that may have occurred in the council area during that base year (refer section 3.1.1).
- ▶ The council then determines its Capped Standard Rate for the capped year by applying a Primary Rate Cap (the percentage increase or decrease determined by the Commission) to the Base Standard Rate (calculated as above). This determines the average general rates revenue per rateable property that the council can recover in the capped year – the Capped Standard Rate (refer section 3.1.2).

¹ A full copy of the Treasurer's request for advice is provided as Attachment 1 to this paper. It requires this advice to have regard to a number of specific factors, including an emphasis on consulting with key stakeholders

² A copy of the Bill as passed by the House of Assembly is provided as Attachment 2 to this paper

- ▶ A council can then calculate its maximum allowable revenue for the capped year by multiplying the Capped Standard Rate by the number of rateable properties at the start of the capped year (that is, as at 1 July). This will determine the council's maximum allowable revenue recoverable from general rates for that year (refer section 3.1.3).
- ▶ As noted above, the Commission must determine the Primary Rate Cap, which requires consideration of:³
 - whether there should be one or more classes of Council (refer section 4.1)
 - what index might be used (refer section 4.2.1)
 - if efficiency or productivity factors should be employed (refer section 4.2.2), and
 - whether the Commission considers, or the Minister directs, that an adjustment factor or some other matter is required within the Primary Rate Cap (refer section 4.2.3).
- ▶ Councils have access to a variation process, which can provide a different Primary Rate Cap for that council for a year or a series of years. The Bill provides guidance on when a council should apply for a variation. The Commission may make a variation on the application of a council if it is satisfied that the varied rate cap is appropriate, having regard to a number of factors specified in the Bill. For the initial year, the Commission proposes that only single year variations would be appropriate, pending further review and analysis during that initial year (refer Chapter 5).
- ▶ The Commission has a monitoring and reporting function in relation to councils' compliance with the scheme (refer Chapter 6).

Under the Bill, a council's primary legal obligation is to comply with the requirement that its Capped Standard Rate for a financial year must not exceed the Base Standard Rate by more than the Primary Rate Cap (or a varied rate applicable to that council).

The Commission's indicative approach to the various factors and requirements under the scheme is summarised in Table 1, and developed further in the identified sections of this paper.

Table 1 Summary of proposed approach

Key factors and requirements	2019-20	Ongoing framework
Base Standard Rate		
Growth (section 3.1.1.1): <ul style="list-style-type: none"> • Broadly there are the following three components to growth: <ul style="list-style-type: none"> - growth in the number of rateable properties - growth in the capital investment of existing rateable properties, such as commercial investment, and - growth in valuation associated with market forces 	The Commission is seeking stakeholder views as to which of these three components should be included in deriving a value for growth for 2019-20	To be considered following further analysis and evidence, following consultation in 2019
Primary Rate Cap		
Class(es) of councils (section 4.1): <ul style="list-style-type: none"> • Evidence and analysis will be required to determine whether there is a basis for grouping councils and whether multiple council classes will be required for the scheme 	Subject to stakeholder views, it is proposed that there would be a single class for 2019-20	To be considered following further analysis and evidence, following consultation in 2019

³ Refer Local Government (Rate Oversight) Amendment Bill 2018, clause 6, proposed new section 187E (Attachment 2)

Key factors and requirements	2019-20	Ongoing framework
<p>Which index to use (section 4.2.1):</p> <ul style="list-style-type: none"> An indexation approach is likely to be suitable for setting the Primary Rate Cap, given an appropriate index inherently accounts for price movements and is simple to administer This paper discusses the Consumer Price Index (CPI) and Local Government Price Index (LGPI) as potential indices to be used by the Commission This paper also invites stakeholders to suggest some other index (or composite or hybrid) 	The Commission is seeking stakeholder views as to which of these options might be appropriate for 2019-20	To be considered following further analysis and evidence, following consultation in 2019
<p>Efficiency factor (section 4.2.2):</p> <ul style="list-style-type: none"> Evidence and analysis will be required to determine the basis for setting any efficiency factor 	Subject to stakeholder views, it is proposed that an efficiency factor will not be set for 2019-20	To be considered following further analysis and evidence, following consultation in 2019
<p>Adjustment factor (section 4.2.3)</p> <ul style="list-style-type: none"> Information is sought on other cost pressures or matters that should be taken into account when setting the Primary Rate Cap (for example to account for one-off events such as bushfires or a step-change in costs) 	Subject to stakeholder views, it is proposed that an adjustment factor will not be set for 2019-20	To be considered following further analysis and evidence, following consultation in 2019
Variation process		
<p>Variation application process and requirements (Chapter 5):</p> <ul style="list-style-type: none"> This paper presents the proposed administrative approach to handling variations, which seeks to ensure the integrity of the scheme while achieving reasonable associated administrative costs for councils and the Commission 	<p>No application fee</p> <p>One-year variations proposed as a transitional measure.</p> <p>Commission is seeking stakeholder views on proposed application process and requirements for 2019-20</p>	<p>Application fee to cover Commission costs only</p> <p>Variation can apply for up to five years</p> <p>Administrative approach to be considered following further analysis and evidence, following consultation in 2019</p>
Monitoring and reporting		
<p>Compliance requirements (Chapter 6):</p> <ul style="list-style-type: none"> This paper presents the Commission's proposed approach to monitoring and reporting 	<p>Simple compliance reporting by councils</p> <p>Commission is seeking stakeholder views on proposed approach for 2019-20</p>	To be considered following further analysis and evidence, following consultation in 2019

The Commission is committed to engaging with stakeholders to understand key issues, matters of process and other relevant considerations. The positions put in this paper provide a context within which stakeholders can consider relevant issues and prepare any comments; they do not constitute the Commission's final findings or recommendations.

The Commission invites written submissions on this paper by 28 September 2018. It is preferred that submissions are sent electronically to rates@escosa.sa.gov.au addressed to **South Australian Local Government rate oversight scheme – Consultation Paper**.

1 Introduction

In June 2018, the Minister for Transport, Infrastructure and Local Government (**Minister**) released for public consultation the draft Local Government (Rate Oversight) Amendment Bill 2018 (**the Bill**).⁴ The Bill introduces a rate oversight scheme (**scheme**) into the Local Government Act 1999 (**LG Act**).

The scheme establishes a framework for the Essential Services Commission (**Commission**) to set a maximum amount by which South Australian councils can increase their general rate revenue each year. It also provides a process through which councils can apply to the Commission for additional rate revenue above that maximum where supporting evidence of need can be demonstrated.

The scheme has two key elements:

- ▶ **Primary Rate Cap determinations:** The establishment of rate cap(s) by the Commission, which includes provisions that enable caps to be set, determining that the capping scheme applies to council revenue recoverable from general rates, and providing for its calculation on an annual basis.
- ▶ **Variation applications:** Setting out provisions that enable councils to apply to the Commission for a variation to a rate cap for a period of up to five years.

Together, these two elements are designed to meet the objectives of the scheme, which are to ensure:

- ▶ that the financial contribution of ratepayers to the provision of services and infrastructure by local government to meet the present and future needs of local communities is subject to appropriate oversight; and
- ▶ that a council has the financial capacity to perform its duties and functions and exercise its powers.⁵

The Bill also sets out provisions for the Commission to monitor and report to the Minister on the operation of the scheme.

1.1 Purpose and scope of this paper

While the Bill proposes a statutory framework for a rate oversight scheme, the Treasurer of South Australia (**Treasurer**) has sought the Commission's advice on the administrative and regulatory arrangements that would be required to support that scheme should it come into effect. The scope of that advice includes:

- ▶ consulting with key stakeholders on the potential impacts of the rate oversight scheme
- ▶ developing comprehensive guidance material and rate oversight models
- ▶ developing a compliance framework for the rate oversight scheme
- ▶ establishing a monitoring framework that can be used to assess the effectiveness of the rate oversight scheme and provide reports to the Minister as requested
- ▶ identifying the necessary system and process requirements to manage the volume of council submissions under the rate oversight scheme, and
- ▶ providing education and training to operational staff at councils to assist them to meet their requirements under the rate oversight scheme.

⁴ A copy of the Bill as passed by the House of Assembly is provided as Attachment 2

⁵ Refer Local Government (Rate Oversight) Amendment Bill 2018, clause 6, proposed new section 187C (Attachment 2)

The Commission must provide its advice to the Treasurer by 1 December 2018.⁶

Under the Terms of Reference, the advice is to be separated into two distinct parts – the formulation of an initial scheme and the design of a full future scheme.

Given the importance of local government and other stakeholder input to both elements of the advice, the Commission has released this consultation paper to gain views on the efficient and effective implementation of the essential elements of the scheme, as it currently stands (based on the current terms of the Bill, as passed by the House of Assembly on 24 July 2018,⁷ noting that it may be subject to further change during the Parliamentary process).

This paper addresses key elements of the framework, particularly in terms of how certain factors and requirements could be set for the initial transition year (2019-20), and explores what may be necessary to fully establish the framework for future years.

Specifically, the Commission is seeking feedback on the following key elements:

- ▶ the calculation of maximum allowable revenue (Chapter 3)
- ▶ the determination of the Primary Rate Cap (Chapter 4)
- ▶ the variation process (Chapter 5), and
- ▶ the monitoring and reporting framework (Chapter 6).

The Commission is committed to engaging with stakeholders throughout the consultation process, to understand key issues, matters of process, how to minimise any compliance burden and other relevant considerations. Any positions put forward by the Commission in this paper provide a context within which stakeholders can base their comments: they do not constitute the Commission's final findings or recommendations.

To that end, the Commission welcomes comments and information relevant to the scope of the advice requested by the Treasurer. Comments on the policy underpinning the Bill or the terms of the Bill should be addressed to the Minister and are out of scope for this consultation. The Minister has indicated that he will consider comments on the Bill, and amend it if deemed necessary. Any such comments can be sent directly to DPTI.OfficeofLocalGovernment@sa.gov.au.

The Commission invites written submissions on this paper. Written comments should be provided by 28 September 2018. It is preferred that submissions are sent electronically to rates@escosa.sa.gov.au addressed to **South Australian Local Government rate oversight scheme – Consultation Paper**.

The Commission is committed to continual improvement in its regulatory work. Recognising the short lead time for implementing the scheme and any associated practical constraints this may have, should the Bill come into effect then the Commission will consult again with stakeholders following the scheme's first year of operation. This will allow any identified issues to be raised, discussed and addressed, drawing on experience arising from the first year of operation of the scheme.

⁶ A full copy of the Treasurer's request for advice is provided as Attachment 1 to this paper. It requires this advice to have regard to a number of specific factors, including an emphasis on consulting with key stakeholders

⁷ Refer Attachment 2

1.2 The Commission

The Commission is a statutory authority established as an independent economic regulator and advisory body under the Essential Services Commission Act 2002 (**ESC Act**).

The Commission has economic regulatory responsibility in the water, sewerage, electricity, gas, rail and maritime services, and a general advisory function on regulatory and economic matters. The ESC Act and various industry Acts together provide the Commission with those regulatory and advisory powers and functions.

Under the ESC Act the Commission has the primary objective of:

'... protection of the long term interests of South Australian consumers with respect to the price, quality and reliability of essential services.'

As the proposed administrator of the rate oversight scheme, the Commission's functions will be performed in accordance with the LG Act as amended to incorporate the scheme.

2 Overview of the rate oversight scheme

Among the sources of revenue for local government are general rates. The State Government's stated aim for the rate oversight scheme is to provide oversight of the future direction of annual general rates charged by councils.

The scheme does not limit or affect the manner in which councils choose to recover their general rates revenue requirements from individual ratepayers: the question of 'which ratepayers should pay how much?' remains a matter for individual council discretion. Rather, the scheme regulates the rate of increase in the total revenue that councils recover from ratepayers through general rates revenue for the provision of services and infrastructure.

In broad terms, the scheme involves the following steps:

- ▶ The Commission sets a rate cap(s), expressed as a percentage increase or decrease.
- ▶ Local government determines its maximum allowable revenue for a capped year by:
 - calculating its average annualised revenue per property for the base (previous) year
 - applying the cap to this average, and then
 - multiplying this result by the number of rateable properties at the start of the capped year.
- ▶ To comply with the scheme, a council's revenue recovered must not exceed its maximum allowable revenue. Subject to this, a council can choose how this is recovered from its ratepayers/classes.
- ▶ If a council seeks revenue above that allowed by the cap, it can apply for a varied, higher cap. If accepted, the maximum allowable revenue for the financial year (and potentially future years, where a multi-year variation is granted) will be based on that varied cap.

2.1 The Commission's role under the scheme

The Bill grants powers to the Commission to administer the scheme. Each year, the Commission may make a Primary Rate Cap determination (**determination**) setting a cap (expressed as a percentage increase or decrease) on rates to apply for the following financial year (the capped year) (refer Chapter 4). This paper reflects the Commission's preference to set a single Primary Rate Cap to apply to all councils, however, the Bill enables the Commission to set several Primary Rate Caps to apply to different classes of councils (as explained in Chapter 4).

The Commission must assess any application from councils for a variation to a cap (refer Chapter 5).

The scheme also sets out provisions that enable the Commission to monitor and report on the scheme. Those provisions ensure both compliance with the scheme and achieving an understanding of the effect of rate oversight on councils. The Commission must report to the Minister on each council's compliance with the scheme (refer Chapter 6).

2.2 Councils' role under the scheme

A council must comply with the Primary Rate Cap and must calculate its maximum allowable revenue for the capped year in accordance with the legislation. Once the maximum allowable revenue is known, then the council can set individual rates to apply for the capped year, provided the sum of revenue from individual rates does not exceed the maximum allowable revenue. The technical details of the calculation process, how this relates to the terms defined in the Bill, and how growth in rateable properties and property valuations is factored into the process is discussed in Chapter 3.

Any council that considers its revenue needs exceed those based on the application of the Primary Rate Cap, and has the evidence to support that position, can apply to the Commission for a variation of the cap. If the variation is accepted, it is factored into that council's maximum allowable revenue from general rates. That council is then required to comply with that outcome. The variation process is discussed in Chapter 5.

At this stage, the Commission is proposing that each year each council must provide a simple compliance statement to the Commission as evidence it has complied with its cap. The proposed compliance process is discussed in Chapter 6.

2.3 Key dates

Key dates for the first year of the scheme are shown in Table 2 below.

Table 2 Key dates for the scheme

Key date	Scheme process
31 October 2018	Councils must notify the Commission of any new proposed separate rates, service rates or charges
31 December 2018	The Commission must set the Primary Rate Cap by 31 December each year
January to March 2019	Councils prepare and consult with their communities on variation applications
31 March 2019	Variation applications are due to the Commission no later than 31 March each year
31 May 2019	The Commission responds to variation requests
April to August 2019	Councils release and consult on draft Annual Business Plans
1 July 2019	First capped year begins / Councils provide compliance statements to the Commission
31 August 2019	Last day for council's to adopt Annual Business Plans and Budgets

2.4 How the scheme fits with current local government financial practices

A key objective for the local government sector is the achievement and maintenance of financial sustainability, both collectively and individually. Since 2005, councils have adopted more transparent, deliberative and consultative processes when setting their budgets and their rates.⁸ Changes to attain financial sustainability have included increased scrutiny by the community, an expectation to do more with less, accrual accounting, improved infrastructure asset management, performance measurement and benchmarking, and better internal controls and governance arrangements.

Councils already have processes to record and report on their financial performance and position, taking into account long-term financial and asset management planning. The rate oversight scheme relies on those same processes. It is therefore the Commission's view that the scheme, including variations, is unlikely to require additional material planning or work on the basis that councils have fully committed to existing processes and requirements underpinning long-term planning.

⁸ Local Government Association, SA Local Government Sector Financial Indicators Report, 2017, p.1, available at <http://www.lga.sa.gov.au/webdata/resources/files/2017%20Financial%20Indicators%20Report.pdf>

3 Guidance on applying the Primary Rate Cap

This Chapter explains how the Bill proposes that a council can calculate its maximum allowable revenue for a capped year. The Primary Rate Cap, fixed by the Commission, sets the percentage by which a council can increase or decrease its notional average general rates revenue per property from one year to the next.

Importantly, the scheme maintains councils' ability to use the existing rating systems to set individual rates, such as differential rating, minimum rates or fixed charges, provided that the total revenue collected from general rates is not above the maximum allowable revenue.

On that latter point, it is important to emphasise that the Primary Rate Cap applies only to revenue recoverable from general rates. As set out in the LG Act, other rates and charges can only raise sufficient revenue to cover the cost of the relevant purpose or prescribed service. This, however, does not preclude a council from reclassifying services included in its general rates portfolio as a separate service.

Given this, the Bill requires councils to inform the Commission if they are planning to introduce a separate rate or a service rate or charge by 31 October in the year prior to the first financial year in which the new rate or charge is to apply. The Commission may then consider if or how to account for this in the context of applying a Primary Rate Cap and how the Base Standard Rate should be determined.

3.1 Calculating maximum allowable revenue

To calculate maximum allowable revenue, a council will need to determine its:

- ▶ **Base Standard Rate** – which seeks to capture the notional general rates revenue for the previous financial year (the base year), which may include a growth amount (refer section 3.1.1.1) divided by the number of rateable properties at the end of the base year (refer section 3.1.1)
- ▶ **Capped Standard Rate** – applying the Primary Rate Cap (refer Chapter 4) to the Base Standard Rate determines the average general rates revenue per rateable property that a council can recover in the capped year. This produces what is, in effect, the average revenue recoverable per rateable property for the capped year (refer section 3.1.2).
- ▶ **Maximum allowable revenue for the capped year** – multiplying the Capped Standard Rate by the number of rateable properties at the start of the capped year will calculate a council's maximum allowable revenue recoverable from general rates for that year (refer section 3.1.3).

The complete formula for calculating the maximum allowable revenue for a capped year is provided in Attachment 3.

3.1.1 Base Standard Rate

The Base Standard Rate is a nominal rate which forms the base to which the percentage increase or decrease (Primary Rate Cap) is applied. It is calculated by dividing the annualised revenue (refer section 3.1.1.1) recoverable from general rates in the base year (the year preceding the capped year) by the number of rateable properties in the council's area at the end of the base year.

The concept of annualised revenue provides an approach for including the impact of growth within the Base Standard Rate. This is important for ensuring that the maximum allowable revenue calculated for the subsequent capped year is representative.

Each year the scheme is 'reset' and the Base Standard Rate is calculated by using the previous capped year's annualised revenue. This provides a link from one year to the next.

$$BSR = \frac{\text{total annualised revenue at 30 June of base year}}{\text{number of rateable properties at 30 June of base year}}$$

Example: Calculating the Base Standard Rate⁹

Assuming:

- ▶ the capped year is the 2019-20 financial year
- ▶ annualised revenue from general rates for 2018-19 is \$21.63 million, and
- ▶ the number of rateable properties at 30 June 2019 is 12,120.

The Base Standard Rate would be \$21.63m / 12,120 = \$1,784.65.

3.1.1.1 Annualised revenue (growth)

The scheme recognises that growth within a year can result in increasing cost demands on the services provided by councils. The scheme accommodates this by using annualised revenue to calculate the Base Standard Rate; however, the Bill does not prescribe a particular mechanism for capturing growth. This section explains the issues related to growth and explores how they might be encapsulated within the concept of annualised review.

Annualised revenue is a nominal figure which assumes the revenue required for growth during the base year had been recovered in the base year. It can be determined by adding the amount of revenue collected during the base year to revenue which could have been recovered from growth if that was allowed under the LG Act.

This 'theoretical' revenue is called annualised supplementary revenue.¹⁰ As an example, if a council grew by 100 properties in the course of the base year, the value of this additional revenue is added as if these properties had been rated for 12 months. This resets the Base Standard Rate to reflect growth during the base year.

$$\begin{aligned} \text{Annualised Revenue} &= \text{revenue recoverable from general rates in base year} \\ &+ \text{supplementary revenue from growth as at 30 June of base year} \end{aligned}$$

Annualised supplementary revenue can be calculated using the value of land as a proxy, along with the corresponding rate in the dollar (that is, revenue from general rates divided by the total value of land).

$$\begin{aligned} \text{Annualised Supplementary Revenue} &= (\text{total value of land as at 30 June of base year} \\ &- \text{total value of land as at 1 July of base year}) * \text{rate in the dollar for base year} \end{aligned}$$

⁹ Note numbers might be slightly out due to rounding; refer Table 3 for full numbers

¹⁰ In practice, councils are not allowed to recover revenue from new properties arising within a financial year, but must wait until the start of the next financial year. Annualised supplementary revenue accounts for that 'non captured' revenue as if councils could rate those properties for the whole year, to ensure that growth within the base year is captured for the capped year

Example: Calculating annualised supplementary revenue¹¹

Continuing the example from above, assume:

- ▶ the revenue recoverable from general rates at 1 July 2018 is \$21 million
- ▶ the total value of land at 1 July 2018 is \$4 billion
- ▶ the total value of land at 30 June 2019 is forecast as \$4.12 billion, and
- ▶ the rate in the dollar for the base year is \$0.005250

Annualised supplementary revenue would be: $(\$4.12b - \$4.00b) * \$0.005250 = \$630,000$. This annualised supplementary revenue is then added to the revenue recoverable to determine annualised revenue:

- ▶ annualised revenue is $\$21m + \$630,000 = \$21.63$ million (this figure is used to calculate the Base Standard Rate in the example above).

3.1.1.2 Using land values as a proxy for growth

Broadly, there are three components to growth, namely:

- ▶ growth in the number of rateable properties
- ▶ growth in the capital investment of existing rateable properties, such as commercial investment, and
- ▶ growth in valuation associated with market forces.

The Commission's understanding is that these growth components are reflected in valuations performed by the Valuer-General of South Australia and can be separately identified. The change in total land valuation across a council area could be used as the proxy for capturing the growth across a council's area. This would then be incorporated as annualised supplementary revenue.

However, increases in land value which arise solely as a consequence of capital investment in existing rateable properties or market forces may not result in councils facing additional cost pressures, as they may not impact on the demand for the services provided by the council. Therefore, it may be appropriate to exclude growth associated with those factors from the calculation of a council's maximum allowable revenue unless there is a demonstrable impact of service level demand.

- ▶ **Question 1:** The Commission is seeking views from stakeholders as to which components should be included in deriving a value for growth, both for 2019-20 and subsequent years. Should improvements in capital and/or the impact of market forces on property values only be included if there is a demonstrated impact on service costs?

3.1.2 Capped Standard Rate

The Capped Standard Rate is the average revenue recoverable per rateable property for the capped year. It is critical in determining a council's maximum allowable revenue recoverable from general rates for that year. It is calculated by applying the percentage increase or decrease (Primary Rate Cap) to the

¹¹ Note numbers may not sum due to rounding; refer Table 3 for complete calculation

Base Standard Rate. As the Base Standard Rate for a council factors in its growth, it follows that the Capped Standard Rate does as well.

$$CSR = BSR * (1 + \text{primary rate cap})^{12}$$

A council's Capped Standard Rate must not exceed its Base Standard Rate by more than the Primary Rate Cap.

Example: Calculating the Capped Standard Rate

Continuing the example from section 3.1.1, assume:

- ▶ the Primary Rate Cap is 2.5 percent

So the Capped Standard Rate for 2019-20 is $\$1,784.65 * (1.025) = \$1,829.27$.

3.1.3 Maximum allowable revenue for the capped year

Once the Capped Standard Rate is calculated, a council can calculate its maximum allowable revenue from general rates for the capped year. It does this by multiplying its Capped Standard Rate by the number of rateable properties in its area at the start of the capped year.

Example: Calculating maximum allowable revenue

Continuing the example from section 3.1.2:

- ▶ the Capped Standard Rate is \$1,829.27
- ▶ the number of rateable properties at the start of the capped year (2019-20) is 12,120

So the maximum allowable revenue for the capped year is $(\$1,829.27 * 12,120) = \22.17 million.

As noted at the outset of this Chapter, once the maximum allowable revenue is known, councils can use the tools at their disposal, such as differential rating, minimum rates or fixed charges, to set individual rates, as they see fit, as long as total revenue collected is not above the maximum allowable revenue.

3.2 An example of the scheme over three years

Table 3 provides an example of how the scheme would work over three years, using a hypothetical Primary Rate Cap of 2.5 percent. In this example, an increase in the value of land and number of rateable properties is assumed.

The table illustrates how the maximum allowable revenue for one year becomes the revenue to calculate the Base Standard Rate for the following year. For example, the maximum allowable revenue for 2019-20 of \$22.17 million becomes the base revenue to calculate the Base Standard Rate for 2020-21.

However, if a council exceeded its maximum allowable revenue, this would not flow through to the next year. For example, if a council had a variation for three years but exceeded its maximum allowable revenue in its first year, this would not feed through to subsequent years. Moreover, it is possible that the maximum allowable revenue in subsequent years might be adjusted downwards to reflect the over-recovery.

¹² Where the primary rate cap is expressed as a decimal, not percentage (for example, 0.02 not 2 percent)

Table 3 Applying a rate cap over three years

	2018-19	2019-20	2020-21	2021-22
A. Number of rateable properties (start FY)	12,000	12,120	12,240	12,360
B. Number of rateable properties (end FY)	12,120	12,240	12,360	12,480
C. Total value of land (start FY)	\$4b	\$4.12b	\$4.24b	\$4.37b
D. Total value of land (end FY)	\$4.12b	\$4.24b	\$4.37b	\$4.50b
E. Rate in the dollar	\$0.005250	\$0.005381	\$0.005516	\$0.005654
F. Revenue from general rates (start FY)	\$21m	\$22.17m	\$23.41m	\$24.71m
G. Annualised supplementary revenue	\$630,000	\$665,123	\$702,203	\$741,351
H. Total annualised revenue (F + G)	\$21.63m	\$22.84m	\$24.11	\$25.45
I. Base Standard Rate (H / B)	\$1,784.65	\$1,865.68	\$1,950.56	\$2,039.51
J. Primary Rate Cap for capped year	2.50%	2.50%	2.50%	2.50%
K. Capped Standard Rate for capped year (I * J)	\$1,829.27	\$1,912.32	\$1,999.33	\$2,090.49
L. Maximum allowable revenue from general rates for capped year (K * A [capped year])	\$22.17m	\$23.41m	\$24.71m	\$26.09m

4 Primary Rate Cap determinations

Expressed in its simplest form, the scheme caps how much a council can increase its revenue recoverable from general rates per property annually. This cap, the Primary Rate Cap, is set through a Primary Rate Cap determination made by the Commission and is expressed as a percentage. By applying the cap for a capped year, a council can determine the maximum revenue it can recover from general rates (as explained in the previous Chapter).

As set out in the Bill, the Commission may determine a particular index, or any other rate (such as a fixed percentage), will be adopted in fixing the Primary Rate Cap. In doing so, the Commission must consider a range of matters, including the objectives of the scheme, the interactions between the scheme's various components, and the timing of the scheme.

The Primary Rate Cap may also contain values for other factors in addition to the index value, such as a productivity or efficiency factor value or some other adjustment factor (which might be determined by the Commission or directed by the Minister). In that sense, the Primary Rate Cap can be a composite index, comprising different elements – which are explained in this Chapter.

The percentage set for the Primary Rate Cap will impact the extent to which councils need to apply for a variation. For example, a lower Primary Rate Cap means a lower maximum allowable revenue, and a likely increase in the role of the variation process. However, that increased role would assist in meeting the increased transparency/oversight objective of the scheme.

4.1 How many Primary Rate Caps should there be?

The scheme recognises that councils face different circumstances, such as differing infrastructure levels, land and population size and rate of growth. To accommodate this, the Bill allows the Commission to set a specific Primary Rate Cap to apply to all councils, a class of councils, or a particular council.

For the first year of the scheme, and subject to the outcomes of this consultation process, the Commission suggests that a single Primary Rate Cap for all councils may be appropriate. However, through this consultation process, it may also become apparent that there are two or more distinct classes of councils. In this case, in subsequent years, once the appropriate analysis has been undertaken, there could be merit in setting more than one Primary Rate Cap to account for such differences.

The terms of the Bill contemplate that the Commission would only set a Primary Rate Cap for an individual council for specific circumstances. For example, it may set a rate for an individual council in response to:

- ▶ non-compliance with a rate cap (Primary Rate Cap or variation)
- ▶ a council's introduction of a rate or charge outside of general rates, or
- ▶ for any other reason the Commission considers appropriate (for example, if the Commission is of the view that a council is using the application of fees and charges under section 188 of the LG Act unreasonably).

In those cases, the Commission must provide the council with a reasonable opportunity to make submissions in relation to the proposed determination. If a council receives an individual Primary Rate Cap it may not apply for a variation of that cap (refer Chapter 5).

The Commission may also set an individual Primary Rate Cap in the circumstances of a council clearly needing to apply for a variation but being unwilling to do so. This fulfils the scheme's objectives of

ensuring that a council has the financial capacity to perform its duties and functions and exercise its powers.

▶ **Question 2:** Is there a basis for grouping councils into classes and setting multiple Primary Rate Caps for those classes starting 2020-21? If so, please explain why and provide evidence to support your position.

4.2 The basis of the Primary Rate Cap

Before making a Primary Rate Cap determination that is to apply to councils generally or a class of councils, under the terms of the Bill the Commission must consider the following:

- ▶ the basis of the primary rate cap (for example, a relevant price or cost index)
- ▶ whether the primary rate cap should include an efficiency or productivity component
- ▶ the amount of the primary rate cap (including, if relevant, any efficiency or productivity component)
- ▶ any matter that the Minister directs the Commission to consider, and
- ▶ any other matter considered relevant by the Commission.

A cost index approach is likely to be suitable for setting the Primary Rate Cap. This is because an appropriate index inherently accounts for price movements and is simple to administer. However, the Commission also considers that there is merit in considering the inclusion of an efficiency or productivity factor (section 4.2.2) and adjustment factor (section 4.2.3) when setting the Primary Rate Cap.

The proposed basis of the Primary Rate Cap may therefore be expressed as follows:

$$\text{Primary Rate Cap (\%)} = \text{Index} + \text{Efficiency Factor} + \text{Adjustment Factor}$$

The Commission notes that, in conjunction with the variation process, the setting of the Primary Rate Cap meets the scheme's overarching objective to ensure that the council can fund its activities. It also acknowledges that the choice of Primary Rate Cap will influence the likely incidence of variation applications depending on its value.

4.2.1 Index comparison

There are a number of factors to consider when selecting an index to adopt as a basis for the Primary Rate Cap. These include the characteristics and practical factors associated with the index, as well as how the index interacts with the objectives of the scheme, the variation process and issues around an efficiency or productivity factor.

In selecting an initial index to use for the Primary Rate Cap, the Commission has considered two indices:

- ▶ the Consumer Price Index for Adelaide (CPI), and
- ▶ the Local Government Price Index (LGPI)

4.2.1.1 Consumer Price Index for Adelaide (CPI)

CPI is a general measure of price inflation for the household sector. It measures changes in the price of a fixed quantity of goods and services acquired by consumers in metropolitan private households. This group of consumers includes a wide variety of sub-groups such as wage and salary earners, the self-

employed, self-funded retirees, age pensioners, and social welfare beneficiaries.¹³ The most common uses of CPI are as a macroeconomic indicator, for example to monitor levels of inflation; and as a means of maintaining dollar values, for example to adjust fixed payments such as social welfare benefits, rental agreements, insurance cover and child support.¹⁴ The Adelaide CPI is published quarterly by the Australian Bureau of Statistics (ABS).

Using CPI as the Primary Rate Cap would constrain the rate of general rates increases relative to the recent past. This may increase the incidence of variation applications if councils consider they require a greater uplift in general rates revenue.

4.2.1.2 Local Government Price Index (LGPI)

The LGPI is developed by the South Australian Centre for Economic Studies in order to improve the information available to councils, the public and other interested parties. It measures price movements faced by Local Government in South Australia in respect of their purchases of goods and services.¹⁵ As the mix of goods and services purchased by councils is quite different from that typically consumed by households, overall price movements faced by councils may differ markedly from those faced by households.

The LGPI is based on the expenditure patterns of local government. Annual council expenditure data provided by the Local Government Grants Commission is used to produce expenditure weights. These weights are then combined with select ABS price indices (that is, select Consumer Price Indices and Producer Price Indices for Adelaide and Australia) to determine the LGPI.

4.2.1.3 Comparison of the indices over time

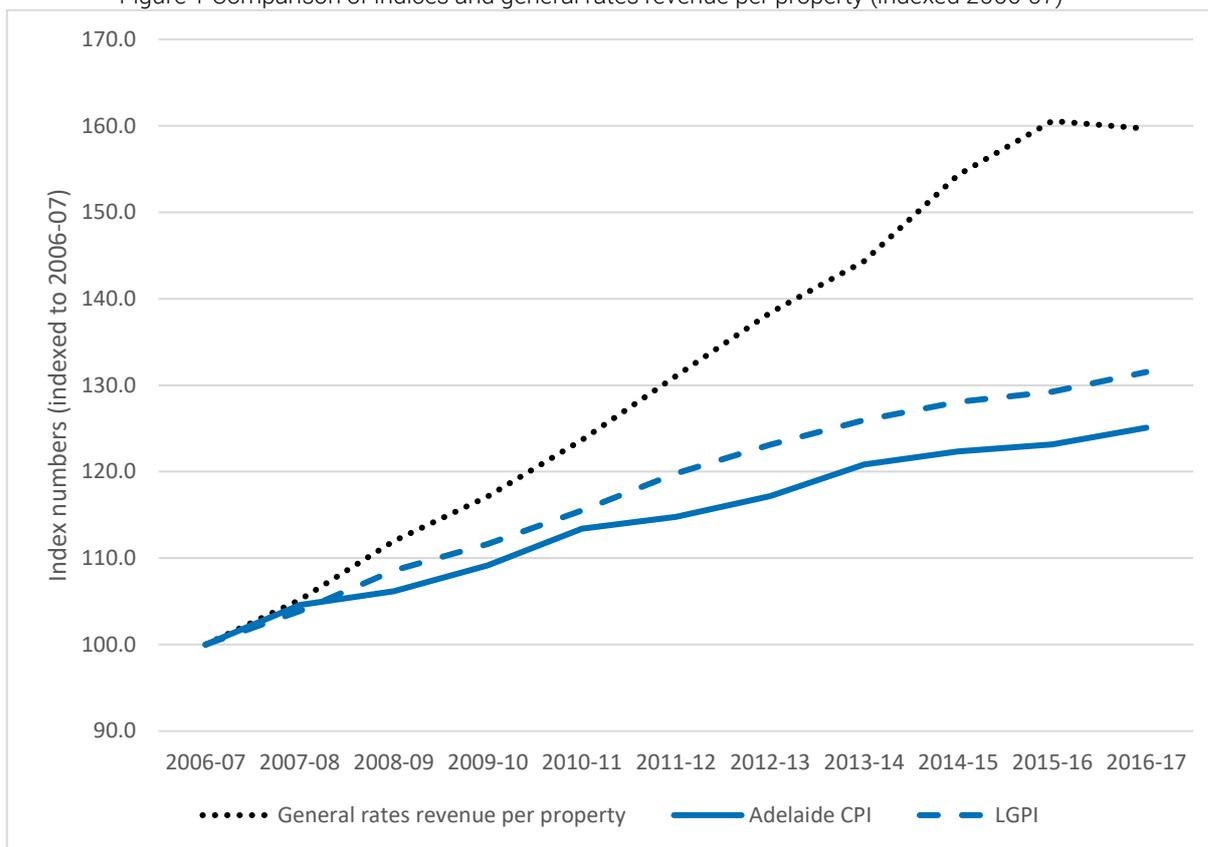
Figure 1 compares the cumulative impact of the Consumer Price Index for Adelaide and the Local Government Price Index against general rates revenue per property across all councils.

¹³ ABS, A Guide to the Consumer Price Index: 17th Series, 2017, accessed 15 August 2018, available at <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/6440.0Main%20Features22017?opendocument&tabname=Summary&prodno=6440.0&issue=2017&num=&view>

¹⁴ ABS, A Guide to the Consumer Price Index: 17th Series, 2017

¹⁵ South Australian Centre for Economic Studies, About the Local Government Price Index, available at <https://www.adelaide.edu.au/saces/economy/lgpi/>

Figure 1 Comparison of indices and general rates revenue per property (indexed 2006-07)



Source data: ABS for Adelaide CPI; South Australian Centre for Economic Studies for LGPI; Local Government Grants Commission for general rates revenue

A recent review of the indices may also provide an example of what might be set for 2019-20. Table 4 provides the latest annual measure of each index, as well as a five-year average of those indices.

Table 4 Recent measures of indices

Index	Annual change (Jun 2016-17 to Jun 2017-18)	Five year average (2012-13 to 2016-17)
Adelaide CPI	2.7 percent	1.9 percent
LGPI	2.9 percent	1.9 percent

4.2.1.4 Other indices

Through consultation, stakeholders may be able to identify another index, apart from the two above, or a composite index comprising two or more indices, that would be suitable to use as a basis for the Primary Rate Cap, given the purpose and objects of the Bill. The Commission would welcome any such suggestions through this consultation process.

4.2.1.5 Assessing the indices

In addition to considering the above interactions between the choice of index for the Primary Rate Cap and the overarching objectives of the scheme, the Commission considers the following assessment criteria relevant to the selection on an index (refer Table 5 for comparison):

- ▶ ability to be understood

- ▶ reliability and independence
- ▶ potential to be influenced
- ▶ transparency and cost to the scheme to produce and administer, and
- ▶ practical implementation and timing considerations.

▶ **Question 3:** Are these secondary criteria suitable for assessing which index to use as a component of the Primary Rate Cap? If not, what other secondary criteria should be used?

Table 5 Comparison of indices

	CPI	LGPI
Ability to be understood	▶ Standard index used across various industries. It is a proxy for the general cost of living and does not directly reflect the cost of any industry/service	▶ A tailored index based on publicly available indices that reflects the underlying costs of the councils more accurately
Reliability and independence	▶ Produced by the ABS, providing high levels of reliability and independence	▶ Produced by the South Australian Centre for Economic Studies. Based on ABS indices. Likely to be reliable and independent
Potential to be influenced	▶ Broad-based consumption index across a basket of goods, so is difficult to influence	▶ The index is based on the direct costs of councils and is therefore influenced by councils' cost composition
Transparency and cost to the scheme to produce and administer	<ul style="list-style-type: none"> ▶ A single index (based on sub-indices) and the ABS provides details of how CPI is derived ▶ Cost to produce the index is not attributable to the scheme 	<ul style="list-style-type: none"> ▶ A single index (based on sub-indices) and the South Australian Centre for Economic Studies provides details of how LGPI is derived ▶ Cost to produce the index is not attributable to the scheme
Practical implementation and timing considerations	▶ Simple to apply and published quarterly at the end of October, January, April, and July	<ul style="list-style-type: none"> ▶ Simple to apply ▶ Annual change data published August

In terms of the characteristics considered in the above table, neither index is significantly more advantageous to use than the other. Given this, the relevance of how the index interacts with the objectives of the scheme, the variation process and the general timing associated with implementation of the scheme is of significance.

▶ **Question 4:** Which of these two indices is more appropriate to use as a component of the Primary Rate Cap for 2019-20 and subsequent years? Is there any other index, or composite or hybrid index, which would be more suitable to use? Why?

4.2.2 Efficiency factor

The Bill provides that the Commission must consider whether the Primary Rate Cap should include an efficiency or productivity component. Such a component would provide incentive for councils to operate more efficiently, while ensuring any efficiency or productivity gains are shared with ratepayers, in the form of lower rates.

An inclusion of an efficiency or productivity factor needs to be considered in the context of the objectives of the scheme and its various components. Inclusion might be dependent on the particular index selected as a component of the Primary Rate Cap.

For instance, an explicit efficiency or productivity factor might be a more likely outcome if the Primary Rate Cap directly reflects the cost base of councils, including a wage index component, as such a factor would seek to encourage councils to improve efficiency/productivity.

At this stage, the Commission proposes not to include an efficiency factor in its Primary Rate Cap for 2019-20, pending further research and consultation. Following further consultation and analysis during the first year of the scheme's operation, the Commission may determine whether or not an efficiency factor is warranted as part of the 2020-21 Primary Rate Cap.

► **Question 5:** Should an efficiency or productivity factor apply from 2019-20? On what basis and what should be the magnitude of the factor? Should it change over time?

4.2.3 Adjustment factor

In setting the Primary Rate Cap the Commission may have regard to specific cost pressures and other matters, such as the wider economic environment (including future trends in the economy). To offset changes that may impact the cost base of all, or a class of, councils, but which are beyond the direct control of – or are exogenous to – local government, the Commission will consider an Adjustment Factor to apply to the Primary Rate Cap.

The type of matters to which the Commission might have regard in considering such factors may include significant changes in the size of government grants, environmental fees and levies, financial funding, or the cost of materials and services. It may also include the impact of natural disasters or macroeconomic changes. It should be noted the factor could be negative or positive.

The Commission notes that the Minister may specify various matters to be taken into account by the Commission in setting the Primary Rate Cap, which may also take the form of additional adjustment factors. The Commission is not aware of any proposal for such additional Ministerial factors at this stage.

The Commission's proposal is to not include a value for an Adjustment Factor in its Primary Rate Cap for 2019-20. Following further consultation and analysis during the first year of the scheme's operation, the Commission may determine whether or not an Adjustment Factor is warranted as part of the 2020-21 Primary Rate Cap – for specific councils or the industry as a whole.

► **Question 6:** Should an adjustment factor apply from 2020-21? If yes, what form should it take and why?

4.3 Interstate comparisons

Both New South Wales and Victoria have enacted local government rate capping schemes. Outlines of their respective approaches to indexing general rates and the adoption of productivity factors are provided below. Noticeably, there is not a consistently adopted approach.

4.3.1 New South Wales

The Independent Pricing and Regulatory Tribunal of New South Wales (**IPART**) sets a rate peg, which determines the maximum percentage amount by which a council in New South Wales may increase its general income for the year.¹⁶ The rate peg is primarily based on the Local Government Cost Index (**LGCI**).

The LGCI is a measure of movements in the unit costs incurred by councils for ordinary council activities funded from general rate revenue. The LGCI is designed to measure how much the price of a fixed 'basket' of inputs acquired by councils in a given period compares with the price of the same set of inputs in the base period.¹⁷ IPART sets the LGCI and reviews the base period costs weights every four years.

IPART previously had regard to a productivity factor as well as movement in the LGCI, but for 2018-19 has set this to zero. Its reasoning is that the ABS adjusts the change in the price of each cost component of the LGCI for improvements in both labour and capital productivity, by adjusting the price downwards for any improvement in the quality of that component.¹⁸ In other words, an improvement in productivity is already reflected in each component of the LGCI.

In 2016, IPART reviewed its methodology for including growth within a council. It used a land valuation methodology based on the unimproved value of a property; that is, excluding capital investment such as structures and improvements but including land improvements such as drainage, filling and clearing.¹⁹ As part of that review, IPART recommended allowing councils to use a capital investment value instead of an unimproved value; to date, the recommendation has not been implemented.

4.3.2 Victoria

The Essential Services Commission of Victoria (**ESCV**) provides advice to the Victorian Minister for Local Government on setting the average rate cap for councils. To date, the Victorian Minister for Local Government has set the rate cap based on the value of forecast changes in the CPI rather than the value advised by the ESCV. The ESCV uses a formula to propose the average rate cap. In the inaugural year, 2016-17, this formula was:

$$\text{Average rate cap} = (0.6 * \text{CPI}) + (0.4 * \text{WPI}) - \text{efficiency factor}$$

The formula applied a 60 percent weighting to the rate of increase in the Melbourne CPI and a 40 percent weighting to the Victorian Wage Price Index (**WPI**). The use of WPI was intended to serve as a proxy for the limited capacity for councils to adjust their costs immediately, not to specifically reflect councils' wage costs.²⁰

¹⁶ IPART, The Rate Peg, 2018, available at <https://www.ipart.nsw.gov.au/Home/Industries/Local-Government/For-Ratepayers/The-rate-peg>

¹⁷ IPART, Local Government Cost Index, 2010, available at https://www.ipart.nsw.gov.au/files/assets/website/local-govt-static-docs/information_paper_-_local_government_cost_index_-_december_2010_-_website_document.pdf

¹⁸ IPART, Rate peg for NSW councils for 2018-19, Fact Sheet, available at <https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/local-government-rate-setting-rate-peg-2017-18-to-2020-21/fact-sheet-rate-peg-for-nsw-councils-for-2018-19-november-2017.pdf>

¹⁹ Valuer General of New South Wales, Review of the Local Government Rating System, p.5, available at https://www.ipart.nsw.gov.au/files/sharedassets/website/shared-files/investigation-section-9-submissions-review-of-the-local-government-rating-system/online_submission_-_office_of_the_valuer_general_-_s_gilkes_-_20_may_2016_183000000.pdf

²⁰ ESCV, A Blueprint for Change, Local Government Rate Capping & Variation Framework Review – Final Report, p.20, available at <https://www.esc.vic.gov.au/local-government/local-government-inquiries-studies-and-reviews/council-rate-capping-and-variation-framework-review-2015#tabs-container2>

ESCV had also applied an efficiency factor to ensure that at least some of the benefits of internal efforts to improve efficiency were shared with ratepayers.²¹ However, after its review into the efficiency factor in early 2018, it removed the efficiency factor. Instead, it determined to gradually lower the weighting placed on the WPI and correspondingly increase the weighting placed on the CPI component, until WPI is phased out (starting 2020-21).

As part of its 2018 review, ESCV has highlighted that the WPI component of its rate cap formula should have been fixed at its value at the time the scheme was introduced (rather than being updated each year). The fixed value would have more accurately represented the prices of goods and services being delivered under medium-term contracts at the time the rate capping regime was introduced.

²¹ ESCV, A Blueprint for Change, Local Government Rate Capping & Variation Framework Review – Final Report, p.22, available at <https://www.esc.vic.gov.au/local-government/local-government-inquiries-studies-and-reviews/council-rate-capping-and-variation-framework-review-2015#tabs-container2>

5 Rate cap variation determinations

The ability for councils to apply for a variation is a critical component of the scheme, and is central to achieving the objectives of providing oversight while at the same time ensuring a council has the financial capacity to perform its duties and functions and exercise its powers. Variations also ensure that council processes are transparent and that the community is afforded the opportunity to better understand the services funded by general rates.

The rate oversight scheme recognises that councils face differing circumstances. Because of those circumstances, some may be able to demonstrate justification for additional revenue above that which is allowed by the Primary Rate Cap. The additional revenue may be required to address long-term planning or structural issues, or for a one-off project. Councils may apply to the Commission to make a variation specifying a varied rate cap, that is, one above the Primary Rate Cap, to apply for up to five years.

As the Commission is proposing a staged approach to implementing the scheme, in the first year the Commission's view is that, for the scheme's first year of operation, any rate cap variation applications should be limited to one-year only. This would allow the Commission to consider variation proposals in the context of the transitional one-year Primary Rate Cap that will be set. Once the Commission has had further opportunity to consult with the local government sector and stakeholders on the implementation of the scheme on an ongoing basis, a council may choose to apply for a variation for a further period of time.

This Chapter explains the Commission's proposed variation process and application requirements with a focus on the scheme's first year.

5.1 Applying for a variation

The Bill provides guidance on when a council should apply for a variation. It provides that a council may seek a variation, after all other viable funding options have been explored, and that the Commission may make a variation to the Primary Rate Cap for that council if it is satisfied that the varied rate cap is appropriate, having regard to:

- ▶ the council's record of compliance regarding previous rate caps
- ▶ whether requirements given by the Commission under section 29 of the ESC Act relating to the council giving information relevant to the application (if any) have been complied with
- ▶ any matter that the Minister directs the Commission to consider
- ▶ if the council has supplied information required by the Commission, and
- ▶ any other matter determined by the Commission.

If a council makes a case and the Commission is satisfied that it meets the scheme's requirements, the council may increase rates higher than the Primary Rate Cap, up to the varied rate cap determined by the Commission.

5.2 Variation applications

A council may apply for a variation by 31 March before the capped year to which the application relates (or another date fixed by the Commission). Although a variation application may be made earlier, the Commission would be in a position to advise the outcome of a variation application following the determination of the Primary Rate Cap for a capped year (which is proposed to occur during or before December each year – refer Chapter 4 above).

The Bill requires that the application must be made in the form and manner described below, and must specify:

- ▶ the council's proposed varied rate cap, and for which years council proposes that it applies (up to five years)
- ▶ the reasons for the variation application
- ▶ the community engagement process that the council has undertaken, to inform and engage with its community on the proposed variation
 - the council does not have to demonstrate explicit community support, but rather to make it clear that it has made every effort to explain to the community the necessity for the variation, and that there is wide understanding of these reasons
- ▶ the council's views of the likely impact of the proposed variation on ratepayers, which may be informed by the community engagement process
- ▶ how the council has considered alternatives to a variation, which may be the reprioritisation of spending, or the use of alternative funding mechanisms (including the appropriate use of debt or council reserves)
- ▶ how the variation represents value for money for the council and its ratepayers, and promotes the efficient use of council resources. This reflects the expectation that councils should seek to make efficiencies across their operations before seeking a variation, and
- ▶ how the proposal is consistent with the council's long-term financial plan and infrastructure and asset management plan.

Councils are also required to publish applications for a variation on their website.

Any application for a variation will need to be accompanied by a fee set by the Commission, which must not exceed the reasonable costs of determining the application. The Commission is not proposing to set a fee for the first year and will consult further on whether or not a fee should be set in future years.

To enable timely assessment of a variation application, the Commission proposes that this information should be presented by councils in the form of a justification statement. This statement should demonstrate that a variation is required to meet the present and future needs of local communities in an efficient and cost effective manner, ensuring the council has the financial capacity to perform its duties and functions and exercise its powers.

The justification statement will need to clearly explain the community engagement processes undertaken and demonstrate that materials have been presented in a transparent way for ratepayers to provide informed feedback on the variation proposal.

Through consultation, ratepayers should develop an understanding of why a rise in general rates above the Primary Rate Cap is required. Councils should inform ratepayers of the expected outcome of the proposal, including timeframes for delivery or implementation. Councils should also provide ratepayers with details on the financial impact the variation will have upon rates (for example, expressed in dollars per year per rate payer).

Overall, the Commission considers that the active participation of ratepayers and the community in the decision making process promotes more focused decisions that incorporate the interests and concerns of those affected.

To avoid complexity for councils, the Commission does not propose to prescribe particular form requirements for those statements – they may be presented in the manner most suitable for councils (provided that the elements above are addressed and readily identifiable).

5.2.1 Supporting information for variation applications

The Commission is mindful that there are benefits in using existing information and processes wherever possible with respect to the practical implementation of the variation process. This is particularly relevant when considering councils' existing obligations under the LG Act.

Under the terms of the Bill, councils will need to provide evidence to support their variation applications. To minimise the cost of preparing variation applications, the Commission considers that councils should submit the relevant documents and information that they are already required to prepare in order to comply with obligations under the LG Act (in the manner and form specified under that Act – to avoid re-presentation of existing materials). This is based on the assumption that a council has developed such documentation and information to a standard sufficient for the variation application to be assessed.

For example, depending on the nature of the variation request, councils may provide various supporting documents as outlined in Table 6 (to the extent that these are directly relevant to the variation application). Please note that these are presented as examples of information that may be provided. Councils may also use their discretion to provide other information to support a variation request. The provision of targeted and relevant information will assist the Commission in providing a timely response to variation applications.

The Commission is mindful that councils' operations differ considerably across the sector and understands that variation applications may vary in nature, depending on the scale and scope of a particular council. The Commission would therefore encourage councils that are considering submitting a variation application to approach the Commission early to discuss information requirements for its particular circumstances and, in any event, prior to formal submission of an application.

Table 6 Examples of supporting documentation for a variation application

Supporting document	Reference
Prudential Management Policy (including any relevant reports)	Section 48 of the LG Act
Contracts and Tenders Policy	Section 49 of the LG Act
Public Consultation Policy	Section 50 of the LG Act
Strategic Management Plan	Section 122 of the LG Act
Long-Term Financial Plan	Section 122(1a) of the LG Act
Infrastructure and Asset Management Plan	Section 122(1a) of the LG Act
Adopted Annual Business Plan (and Adopted Budget) for current financial year	Section 123(3) of the LG Act
Financial Statements covering previous financial years	Section 127 of the LG Act

- **Question 7:** Is the proposed process for variation application appropriate? If not, provide reasons why and suggest alternative arrangements that would better meet the scheme's intent.

5.3 Decision on a variation application

Under the timeframes proposed in the Bill, a complete variation application (including justification statement and supporting information), must be provided by 31 March to be considered by the Commission.

Despite the 31 March date prescribed in the Bill, as noted above, the Commission would encourage councils to approach it well in advance of that date for informal discussions. The Commission is mindful of councils' annual planning processes and, where possible, would try to assist them by providing early responses to variation applications. Where applications are submitted on 31 March, responses can expect to be received by 31 May, provided all necessary information is submitted with the original application.

If further information is required to perform an assessment, the Commission will work with a council to resolve any information gaps, and will keep the council informed on the progress of the variation application.

In principle, and subject to legislative requirements (for example, as specified in the current Bill), variations should be approved provided a council can demonstrate that:

- it has addressed the statutory requirements
- transparent community engagement has occurred
- it is operating in an efficient manner, and
- the required revenue cannot be absorbed through changing operational and financial practices in a manner that does not detrimentally impact the level of service customers expect.

5.3.1 Partial acceptance of a variation

The Bill does not set out whether or not the Commission must accept or reject a variation application in entirety. However, given that the Commission can set a Primary Rate Cap for a particular council, this in effect provides the same opportunity for the Commission to partially accept a variation.

5.3.2 Appealing a variation decision

The Bill does not allow for councils to appeal a variation decision made by the Commission. However, councils can apply more than once if a variation is unsuccessful, providing each application is submitted before 31 March prior to the capped year.

6 Monitoring and reporting

As administrator of the scheme, under the Bill the Commission's functions include the following:

- ▶ annually monitoring and reviewing councils' compliance with the scheme and, in particular, monitoring and reviewing compliance with determinations and variations
- ▶ assessing the effect of determinations and variations on the provision of services and infrastructure by councils and the sustainability of the financial performance and position of councils, and
- ▶ identifying trends across the local government sector arising from the operation of determinations and variations, and any other impacts arising from the operation of the scheme.

6.1 Compliance in the first year

As councils are required to comply with any rate cap determination, the Commission expects that they will have in place systems and processes to ensure that compliance. Further, councils should put in place effective controls to identify any breaches and report those to the Commission at the earliest opportunity.

In broad terms, to demonstrate compliance with the scheme, a council should be able to clearly show and articulate that its approach to rating does not result in its actual revenue from general rates exceeding its maximum allowable revenue (noting that a council's maximum allowable revenue depends on its rate cap).

The Commission considers that for the first year each council should provide a compliance statement to the Commission as evidence that it has complied with its cap, with compliance determined at the start of a capped year (1 July 2019).

Subject to the outcomes of consultation on the proposed scheme elements as set out in this paper, the Commission proposes to publish a template that councils can submit to demonstrate compliance. This should be accompanied by a statement from the council verifying the accuracy of the data provided and confirming that those data have been used by the council in setting rates for the capped year.

For example, the following information would enable the Commission to review individual council's compliance:

- ▶ total revenue at 30 June of base year (as rated)
- ▶ total annualised revenue at 30 June of base year
- ▶ number of rateable properties at 30 June of base year
- ▶ rate cap (primary or varied)
- ▶ number of rateable properties at the start of the capped year (1 July 2019)
- ▶ maximum allowable revenue for capped year (2019-20), and
- ▶ evidence the amount collected from rates will not exceed the maximum allowable revenue.

6.2 The Commission's reporting requirements

The Commission must, in relation to each financial year, provide to the Minister an annual report on the compliance of councils with any determination and variation applying in that year. The compliance information described above would allow it to fulfil that function.

The Commission must also prepare a biennial report on the administration, performance and trends resulting from of the scheme and any other matters that the Commission considers appropriate. The Commission will consult on the best way to approach this report as part of the second round of consultation during the scheme's first year of operation.

The Bill proposes an amendment to section 273 of the LG Act, to enable the Minister to take action on a report made by the Commission under this Chapter 10 Part 1A of the LG Act. It is therefore anticipated that the Minister would make recommendations or directions to a council in instances of non-compliance, and, if the non-compliance is sufficiently serious, to recommend to the Governor that the council be declared defaulting.

7 Next steps

In addition to meeting with stakeholders, the Commission invites written submissions from stakeholders and members of the public on this consultation paper. A summary of the questions posed in this consultation paper is contained in Attachment 4.

Written comments should be provided by 28 September 2018. It is preferred that submissions are sent electronically to rates@escosa.sa.gov.au addressed to **South Australian Local Government rate oversight scheme – Consultation Paper**.

7.1 Timetable for this consultation

Key dates for this consultation are shown in Table 7 below.

Table 7 Key dates for consultation

Key date	Consultation process
August to 28 September 2018	Initial consultation with all stakeholders
28 September 2018	Receive and consider submissions
(31 October 2018)	(Councils must notify the Commission of any new proposed separate rates, service rates or charges)
1 December 2018	Provide advice on the scheme's implementation and regulatory requirements to Treasurer

7.2 Next steps following implementation of the scheme

The Commission has released this consultation paper to gain views on the efficient and effective implementation of the essential elements of the scheme, as it currently stands. It addresses key elements of the framework, particularly in terms of how certain factors and requirements could be set for the initial transition year (2019-20), and explores what may be necessary to fully establish the framework for future years.

In that context, the Commission would emphasise that the operation of the scheme will be further reviewed during its first year (refer Table 8), with a view to refining and settling any ongoing improvements for future years.

Table 8 Key dates for further consultation and analysis

Key date	Consultation/analysis
Q1-2 2019	Review of the index used to set the Primary Rate Cap, including the magnitude of any adjustment and productivity factors
Q3 2019	Review of the first year's implementation
Q4 2019	Consultation on the approach to assess the impact of the scheme on local government and services
1 December 2019	Implementation of scheme administrative enhancements (if identified) based on analysis and stakeholder consultation

Attachment 1 – Request for advice from the Treasurer of South Australia

The Hon Rob Lucas MLC

TRS18D0570

Mr Brett Rowse
Chairperson
Essential Services Commission of South Australia
GPO Box 2605
ADELAIDE SA 5001



**Government
of South Australia**

Treasurer
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
treasurer.dtf@sa.gov.au

Dear Mr ^{Rowse} Rowse

Request for advice on the South Australian local government rate capping scheme

In my capacity as Treasurer I seek advice from the Essential Services Commission of South Australia (Commission) to assist with the development of the rate capping scheme.

Background:

1. The Commission is established under the *Essential Services Commission Act 2002* (ESC Act).
2. Section 5 of the ESC Act establishes the Commission's powers and functions.
3. Section 5 (f) of the ESC Act provides that the Commission must advise 'the Minister on any matter referred to by the Minister'.

Referral:

I, Rob Lucas, Treasurer, request the Commission provide advice pursuant to Section 5(f) of the ESC Act, on the matters set out below in relation to the development of the local government rate capping scheme, subject to the terms of reference set out in this request for an inquiry.

Terms of Reference:

The Commission is to provide the Minister advice into the preparation of a 'local government rate capping and variation framework' and future operational requirements of a local government rate capping scheme in South Australia, having regard to the following:

- i. Consult with key stakeholders on the potential impacts of a rate capping scheme
- ii. Develop comprehensive guidance material and rate capping models
- iii. Develop a compliance framework for the scheme
- iv. Set up a monitoring framework that can be used to assess the effectiveness of the scheme and provide reports to the Minister as requested
- v. Identify necessary system and process requirements to manage the volume of Council submissions under the scheme
- vi. Provide education and training to operational staff at councils on their requirements under the scheme

Requirements for this advice

In providing the advice, the Commission must:

- a) Work collaboratively with the Department of Planning, Transport and Infrastructure, and the Department of Treasury and Finance to obtain costs, data and other information required.
- b) Consult with the local government sector and the community whilst developing the advice
- c) Submit a report to me by no later than 1 December 2018.

Please be advised that in order to provide this advice, arrangements will be made to provide the Commission supplementary funding of \$51,439 in 2017-18 and \$146,257 in 2018-19 (total funding provided of \$197,696) to undertake this work.

If the Commission requires further information in relation to this request for advice, in the first instance please contact Jane Burton, Manager, Budget and Performance Branch, Department of Treasury and Finance on 8429 0595.

Yours sincerely



Hon Rob Lucas MLC
Treasurer

24 May 2018

Attachment 2 – Local Government (Rate Oversight) Amendment Bill 2018

Advance

South Australia

Local Government (Rate Oversight) Amendment Bill 2018

A BILL FOR
An Act to amend the *Local Government Act 1999*.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Amendment provisions

Part 2—Amendment of *Local Government Act 1999*

- 4 Amendment of section 3—Objects
- 5 Amendment of section 123—Annual business plans and budgets
- 6 Insertion of Chapter 10 Part 1A

Part 1A—Rate oversight

- 187C Objects of Part
 - 187D Interpretation
 - 187E Primary rate cap determinations
 - 187F Rate cap variation determinations
 - 187G Rate cap variation determination applications
 - 187H Publication of Ministerial requests and directions
 - 187I Council must notify ESCOSA of certain matters
 - 187J Compliance with rate cap determinations
 - 187K Administration
 - 7 Amendment of section 273—Action on report
 - 8 Amendment of section 303—Regulations
 - 9 Review
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

- 5 This Act may be cited as the *Local Government (Rate Oversight) Amendment Act 2018*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

- 10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Local Government Act 1999*

4—Amendment of section 3—Objects

- 15 Section 3(f)—after "communities" insert:
and to provide for appropriate financial contributions by ratepayers to those services and facilities

5—Amendment of section 123—Annual business plans and budgets

Section 123—after subsection (2) insert:

- (2a) A council must ensure that, if relevant, an annual business plan also contains a statement—
- 5 (a) that the council intends to apply for a rate cap variation determination to increase the primary rate cap determination applying to the council for the financial year under Chapter 10 Part 1A; or
- 10 (b) that the council has made an application to ESCOSA for a rate cap variation determination but that a determination has not been made in relation to the application; or
- (c) that a rate cap variation determination made by ESCOSA for the financial year applies to the council.

6—Insertion of Chapter 10 Part 1A

15 Chapter 10—after Part 1 insert:

Part 1A—Rate oversight

187C—Objects of Part

The objects of this Part are to ensure—

- 20 (a) that the financial contribution of ratepayers to the provision of services and infrastructure by local government to meet the present and future needs of local communities is subject to appropriate oversight; and
- (b) that a council has the financial capacity to perform its duties and functions and exercise its powers.

25 **187D—Interpretation**

(1) In this Part—

base standard rate—see subsection (2);

base year means the financial year before the capped year;

capped standard rate see subsection (3);

30 *capped year* means the financial year specified in a primary rate cap determination;

ESCOSA means the Essential Services Commission established under the *Essential Services Commission Act 2002*;

35 *primary rate cap* means the primary rate cap (expressed as a percentage) specified by ESCOSA in a primary rate cap determination;

primary rate cap determination—see section 187E(1);

rate cap variation determination—see section 187F(1);

varied rate cap means the varied rate cap (expressed as a percentage) specified by ESCOSA in a rate cap variation determination.

- (2) The *base standard rate*, in relation to a council, means the rate calculated in accordance with the following formula:

$$BSR = \frac{Rb}{N}$$

Where—

BSR is the base standard rate;

Rb is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 30 June in the base year;

N is the number of rateable properties within the area of the council as at 30 June in the base year.

- (3) The *capped standard rate*, in relation to a council, means the rate calculated in accordance with the following formula:

$$CSR = \frac{Rc}{N}$$

Where—

CSR is the capped standard rate;

Rc is the total annualised revenue recoverable from general rates on rateable properties within the area of the council as at 1 July in the capped year;

N is the number of rateable properties within the area of the council as at 1 July in the capped year.

187E—Primary rate cap determinations

- (1) ESCOSA may, on its own initiative or at the request of the Minister, by notice in the Gazette, determine that the capped standard rate for a specified financial year must not exceed the base standard rate by more than the primary rate cap specified in the notice (a *primary rate cap determination*).
- (2) A primary rate cap determination may apply to—
- councils generally; or
 - a class of councils; or
 - a particular council.
- (3) Before making a primary rate cap determination that is to apply to councils generally or a class of councils, ESCOSA must consider the following:
- the basis of the primary rate cap (for example, a relevant price or cost index);

- 5
- (b) whether the primary rate cap should include an efficiency or productivity component;
- (c) the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);
- 10
- (d) any matter that the Minister directs ESCOSA to consider;
- (e) any other matter considered relevant by ESCOSA.
- (4) The following provisions apply to the making of a primary rate cap determination that is to apply to a particular council:
- 15
- (a) ESCOSA may only make a primary rate cap determination that is to apply to a particular council if ESCOSA considers it appropriate to do so taking into account—
- (i) the council's record of compliance with 1 or more previous primary rate cap determinations or rate cap variation determinations; or
- 20
- (ii) a proposal by the council to—
- (A) change the basis on which rates are assessed against land under section 148; or
- (B) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155 in relation to a financial year; or
- 25
- (iii) the level of other fees or charges imposed or proposed to be imposed by the council other than under Part 1; or
- (iv) any other matter that ESCOSA thinks fit;
- (b) before making a primary rate cap determination that is to apply to a particular council, ESCOSA must—
- 30
- (i) consider the following:
- (A) the matter or matters set out in subsection (4)(a)(i) to (iv) based on which ESCOSA considers it appropriate to make the determination;
- 35
- (B) if ESCOSA proposes to make a primary rate cap determination that is to apply to councils generally for the relevant financial year, the amount of the primary rate cap (including, if relevant, any efficiency or productivity component);
- 40
- (C) any matter that the Minister directs ESCOSA to consider;
- (D) any other matter considered relevant by ESCOSA; and

- (ii) give the council a reasonable opportunity to make submissions in relation to the proposed determination.
- 5 (5) A primary rate cap determination does not have effect in relation to a capped year unless it is published in the Gazette—
 - (a) on or before 31 December in the financial year before the capped year; or
 - (b) on or before another date specified by ESCOSA by notice in the Gazette in the financial year before the capped year.
- 10 (6) A primary rate cap under a primary rate cap determination may be a positive or negative amount.

187F—Rate cap variation determinations

- 15 (1) ESCOSA may, on application by a council the subject of a primary rate cap determination applying to councils generally or a class of councils, make a determination specifying a varied rate cap (being a cap that is different from the primary rate cap applying to the council under the primary rate cap determination) for 1 or more specified financial years (up to a maximum of 5 years) (*rate cap variation determination*).
- 20 (2) ESCOSA may only make a rate cap variation determination on an application under this section if satisfied that the varied rate cap is appropriate, having regard to—
 - (a) the matters set out in section 187G(2); and
 - 25 (b) the council's record of compliance with any previous primary rate cap determination or rate cap variation determination; and
 - (c) whether requirements given by ESCOSA under section 29 of the *Essential Services Commission Act 2002* relating to the council giving information relevant to the application (if
 - 30 (d) any matter that the Minister directs ESCOSA to consider; and
 - (e) any other matter determined by ESCOSA.
- 35 (3) If ESCOSA makes a rate cap variation determination under this section, ESCOSA must publish a notice in the Gazette specifying—
 - (a) the fact that a rate cap variation determination has been
 - 40 (b) the council to which the rate cap variation determination applies; and
 - (c) the varied rate cap applying under the rate cap variation determination (which may be the varied rate cap proposed by the council or another cap set by ESCOSA); and

(d) each financial year to which the varied rate cap applies.

(4) A varied rate cap under a rate cap variation determination may be a positive or negative amount.

187G—Rate cap variation determination applications

- 5 (1) An application by a council for a rate cap variation determination must—
- (a) be made by—
- 10 (i) 31 March before the first capped year to which the application relates; or
- (ii) by such other date fixed by ESCOSA by notice in the Gazette; and
- (b) be made in the form and manner determined by ESCOSA; and
- 15 (c) be accompanied by the fee determined by ESCOSA, which must not exceed the reasonable costs of determining the application.
- (2) The application must specify—
- (a) the number of financial years (up to a maximum of 5 years) that the council proposes that it be subject to a rate cap variation determination; and
- 20 (b) the proposed varied rate cap for each specified financial year; and
- (c) the reasons the council seeks a varied rate cap; and
- 25 (d) the community engagement process that has been undertaken by the council on the proposed varied rate cap; and
- (e) the likely impact of the proposed varied rate cap on ratepayers, including their capacity and willingness to pay rates in accordance with the proposed varied rate cap; and
- 30 (f) whether consideration has been given to reprioritising proposed spending measures and alternative funding options and, if so, why those options are not adequate; and
- (g) how the varied rate cap represents value for money for the council and its ratepayers and promotes the efficient use of council resources; and
- 35 (h) how the proposal is consistent with the council's long term financial plan and infrastructure and asset management plan under Chapter 8 Part 1; and
- (i) any other information required by ESCOSA.

- (3) A council must, as soon as is reasonably practicable after making an application for a rate cap variation determination, publish a copy of the application (including any accompanying information and documents) on its website.

5

187H—Publication of Ministerial requests and directions

- (1) If the Minister makes a request under section 187E(1), ESCOSA must publish a copy of the request on its website as soon as is reasonably practicable after its receipt.

- (2) If the Minister gives—

10

- (a) a direction under section 187E(3)(d) or (4)(b)(i)(C); or
(b) a direction under section 187F(2)(d),

ESCOSA must publish a copy of the direction on its website as soon as is reasonably practicable after its receipt.

187I—Council must notify ESCOSA of certain matters

15

- (1) A council must not—

- (a) change the basis on which rates are assessed against land under section 148; or
(b) declare a separate rate under section 154 or impose a service rate or an annual service charge under section 155,

20

unless the council notifies ESCOSA, in the manner and form determined by ESCOSA, of the proposal before 31 October of the year before the first financial year in which the change, rate or charge (as the case may be) is to apply.

- (2) If a council notifies ESCOSA under subsection (1) of a—

25

- (a) proposed change of a kind referred to in subsection (1)(a); or
(b) proposed rate or charge of a kind referred to in subsection (1)(b),

the council must provide ESCOSA with any information or document required by ESCOSA in relation to the change, rate or charge (as the case requires).

30

- (3) A failure to comply with this section does not affect the validity of any of the following rates or charges recoverable under this Chapter (or any fine or interest relating to such rates or charges):

35

- (a) a rate or charge assessed against land on a changed basis of a kind referred to in subsection (1)(a); or
(b) a separate rate, service rate or annual service charge of a kind referred to in subsection (1)(b).

187J—Compliance with rate cap determinations

- (1) A council must comply with a primary rate cap determination.

- 5
- (2) If a rate cap variation determination is made in respect of a council—
- (a) the rate cap variation determination applies to the council for the financial year or years specified in the determination (instead of the primary rate cap determination applying during that year or those years); and
 - (b) the council must comply with the rate cap variation determination.
- 10
- (3) A failure to comply with a primary rate cap determination or a rate cap variation determination does not affect the validity of any rate, charge, interest or fine recoverable under this Chapter in respect of the financial year in relation to which the failure occurred.

187K—Administration

- 15
- (1) ESCOSA has such functions and powers as are necessary or expedient to give effect to this Part, including the following functions:
- (a) to monitor and review councils' compliance with this Part and, in particular, to monitor and review compliance with primary rate cap determinations and rate cap variation determinations;
 - 20 (b) to assess the effect of primary rate cap determinations and rate cap variation determinations on the provision of services and infrastructure by councils and the sustainability of the financial performance and position of councils;
 - 25 (c) to identify trends across the local government sector arising from the operation of primary rate cap determinations and rate cap variation determinations, and any other impacts arising from the operation of this Part.
- 30
- (2) ESCOSA must, in relation to each financial year, give an annual report to the Minister on the compliance of councils with any primary rate cap determination and rate cap variation determination applying in that year.
- 35
- (3) ESCOSA must prepare a biennial report on—
- (a) the matters referred to in subsection (1)(b) and (c); and
 - (b) any other matter relating to the operation of this Part that ESCOSA considers appropriate.
- 40
- (4) A report under subsection (3) must be given to the Minister within 3 months after the end of the second financial year to which the report relates.
- (5) The Minister must cause a copy of a report given to the Minister under this section to be laid before both Houses of Parliament within 12 sitting days after receiving the report.

Attachment 3 – Maximum allowable revenue formula

Below is the complete formula for calculating the maximum allowable revenue for a capped year.

This calculation only applies for a Primary Rate Cap – in the case of a variation, the Primary Rate Cap component would be replaced with the approved varied cap.

Note: In this formula the primary rate cap is expressed as a decimal, not percentage (for example, 0.02 not 2 percent).

Maximum allowable revenue for a capped year

$$= \left[\left(\frac{\text{total annualised revenue at 30 June of base year}}{\text{number of rateable properties at 30 June of base year}} \right) \times (1 + \text{primary rate cap}) \right] \\ \times \text{number of rateable properties at the start of the capped year}$$

Below are the formula components for the Base Standard Rate and Capped Standard rate, as defined in the Local Government (Rate Oversight) Amendment Bill 2018. These components form part of the complete formula for calculating the maximum allowable revenue for a capped year (above).

$$\text{Base standard rate} = \left(\frac{\text{total annualised revenue at 30 June of base year}}{\text{number of rateable properties at 30 June of base year}} \right)$$

$$\text{Capped standard rate} = \left[\left(\frac{\text{total annualised revenue at 30 June of base year}}{\text{number of rateable properties at 30 June of base year}} \right) \times (1 + \text{primary rate cap}) \right]$$

Attachment 4 – Questions for consultation

Chapter 3 – Guidance on applying the Primary Rate Cap

Question 1: The Commission is seeking views from stakeholders as to which components should be included in deriving a value for growth, both for 2019-20 and subsequent years. Should improvements in capital and/or the impact of market forces on property values only be included if there is a demonstrated impact on service costs?

Chapter 4 – Primary Rate Cap determinations

Question 2: Is there a basis for grouping councils into classes and setting multiple Primary Rate Caps for those classes starting 2020-21? If so, please explain why and provide evidence to support your position.

Question 3: Are these secondary criteria suitable for assessing which index to use as a component of the Primary Rate Cap? If not, what other criteria should be used?

Question 4: Which of these two indices is more appropriate to use as a component of the Primary Rate Cap for 2019-20 and subsequent years? Is there any other index, or composite or hybrid index, which would be more suitable to use? Why?

Question 5: Should an efficiency or productivity factor apply from 2019-20? On what basis and what should be the magnitude of the factor? Should it change over time?

Question 6: Should an adjustment factor apply from 2020-21? If yes, what form should it take and why?

Chapter 5 – Rate cap variation determinations

Question 7: Is the proposed process for variation application appropriate? If not, provide reasons why and suggest alternative arrangements that would better meet the scheme's intent.



The Essential Services Commission
Level 1, 151 Pirie Street Adelaide SA 5000
GPO Box 2605 Adelaide SA 5001
T 08 8463 4444

E escosa@escosa.sa.gov.au | W www.escosa.sa.gov.au